1998

HOUSE RULES

MINUTES

HOUSE COMMITTEE ON

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE

EXTRA SESSION
1998

REPRESENTATIVE RICHARD T. MORGAN
COMMITTEE CHAIR

DIXIE EPPS
COMMITTEE CLERK

ATTENDANCE

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

EXTRA SESSION - 1998

DATES	4/29														
MORGAN, CHAIRMAN	P														
BOWIE, VICE-CHAIR															
CRAWFORD															
CULP	P														
DOCKHAM															
ESPOSITO	P														
GULLEY	P														
HILL	P														
MCMAHAN															
MINER															
MITCHELL	P														
NEELY	P														
THOMPSON	P														
WILSON, C.															
DAUGHTRY															
HOWARD	P														
WOOD															

MINUTES
RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
April 29, 1998
6:00 P.M.

The North Carolina House of Representatives Rules, Calendar, and Operations of the House met on April 29, 1998, at 6:00 P.M. in Room 421 of the Legislative Office Building. Representative Morgan, Chairman, called the meeting to order.

Those in attendance were Representatives Morgan, Culp, Esposito, Gulley, Hill, Mitchell, Neely, Thompson, and Howard. A list of visitors is attached.

The following Joint Resolution was discussed:

HJR 5 A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 1998 EXTRA SESSION

Representative Neely was recognized to send forth a proposed committee substitute and moved it be adopted for purpose of discussion; motion passed. A copy of the proposed committee substitute is attached.

Mr. Linwood Jones, Committee Counsel, was recognized to explain the proposed committee substitute.

Representative Neely moved for a favorable report as to committee substitute joint resolution, unfavorable as to original bill; motion passed.

The meeting was adjourned at 6:04 P.M.

Respectfully submitted,

Representative Richard T. Morgan, Chair

Betty Harrison, Acting Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1998

H D

HOUSE JOINT RESOLUTION 5
Proposed Committee Substitute H5-PCS6337

Sponsors:

Referred to:

March 24, 1998

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 1998 EXTRA SESSION.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. When the House of Representatives and the Senate, constituting the 1998 Extra Session of the General Assembly, do adjourn on Thursday, April 30, 1998, at 10:00 a.m., they stand adjourned sine die.

Section 2. This resolution is effective upon ratification.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.J.R. 5 A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE 1998 EXTRA SESSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute ~~bill (#), ☐ which changes the title,~~ Joint Resolution
unfavorable as to original ~~bill.(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~ Joint Resolution

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE **APRIL 29, 1998**

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Richard Barnett	Gov. Office
Joe [illegible]	McClellanson
Don Lyon	" "
Paula A. Hoey	Covenant W/ NC's Children

HOUSE COMMITTEE ON

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE

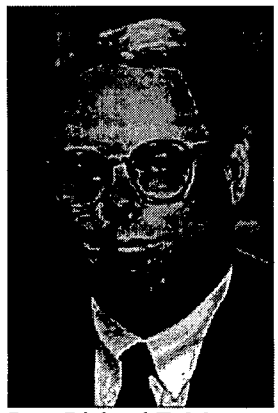
1997-1998 SESSION

REPRESENTATIVE RICHARD T. MORGAN
COMMITTEE CHAIR

DIXIE EPPS
COMMITTEE CLERK

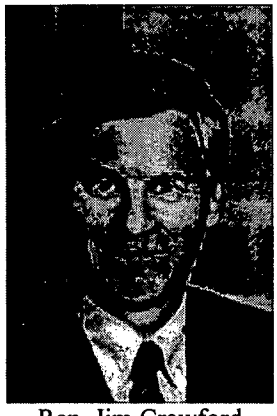
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE

	ROOM #	TELEPHONE #
REPRESENTATIVE RICHARD MORGAN CHAIRMAN	404	5-3028
REPRESENTATIVE JOANNE BOWIE VICE-CHAIR	1206	3-5853
REPRESENTATIVE JAMES CRAWFORD	1301	3-5824
REPRESENTATIVE ARLIE CULP	1010	3-5865
REPRESENTATIVE JERRY DOCKHAM	1106	3-5822
REPRESENTATIVE THERESA ESPOSITO	634	5-2530
REPRESENTATIVE JIM GULLEY	1307	3-5860
REPRESENTATIVE DEWEY HILL	1309	3-5830
REPRESENTATIVE W. ED MCMAHAN	2213	3-5732
REPRESENTATIVE DAVID MINER	2219	3-5749
REPRESENTATIVE FRANK MITCHELL	638	3-5959
REPRESENTATIVE CHARLES NEELY, JR.	420	5-3001
REPRESENTATIVE GREG THOMPSON	1002	3-5828
REPRESENTATIVE CONNIE WILSON	529	3-7663



Rep. Richard T. Morgan
Chairman

Rep. Joanne W. Bowie
Vice-Chair



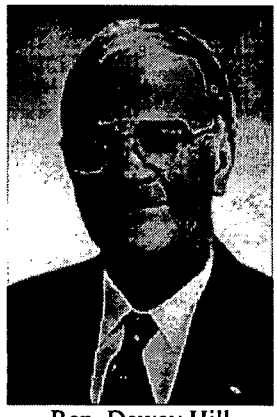
Rep. Jim Crawford

Rep. Arlie Culp

Rep. Jerry Dockham

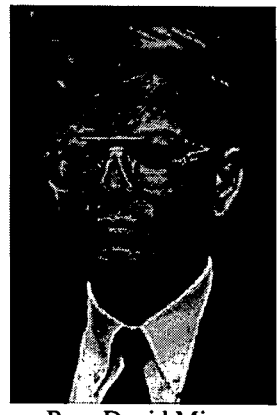
Rep. Theresa Esposito

Rep. Jim Gulley

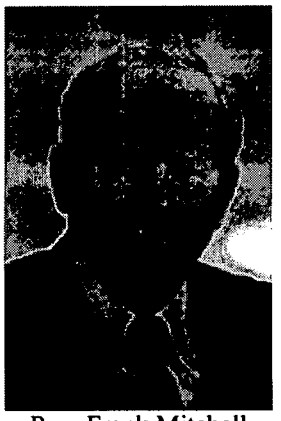


Rep. Dewey Hill

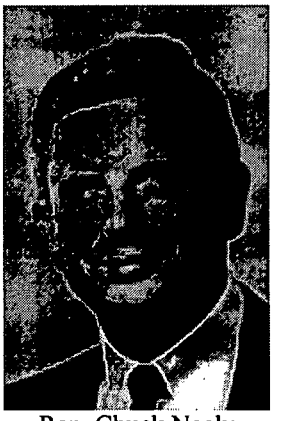
Rep. Jim Crawford



Rep. David Miner



Rep. Frank Mitchell



Rep. Chuck Neely

Rep. Greg Thompson

Rep. Connie Wilson

ATTENDANCE

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

1998

DATES	5/14	5/19	5/26	5/27	6/2	6/3	6/16	6/23	6/30	7/15	7/28	8/12	9/2	9/9	9/23
MORGAN, CHAIRMAN	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
BOWIE, VICE-CHAIR	✓	—	✓	✓	✓	✓	✓	✓	✓	✓	✓	—	✓	✓	✓
CRAWFORD	✓	—	✓	✓	✓	✓	—	✓	✓	✓	✓	✓	✓	—	✓
CULP	✓	—	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	—	✓
DOCKHAM	✓	—	✓	✓	✓	✓	✓	✓	✓	—	✓	✓	✓	✓	✓
ESPOSITO	✓	—	✓	✓	✓	✓	—	—	✓	✓	✓	✓	✓	✓	✓
GULLEY	✓	✓	✓	✓	✓	—	✓	✓	✓	✓	✓	✓	✓	✓	✓
HILL	✓	—	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	—	—	✓
MCMAHAN	✓	—	✓	—	✓	✓	—	✓	✓	✓	✓	✓	✓	✓	✓
MINER	—	✓	—	—	✓	✓	✓	—	✓	—	✓	✓	—	—	—
MITCHELL	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	—	✓
NEELY	✓	✓	✓	✓	—	—	—	—	—	✓	—	✓	✓	✓	—
THOMPSON	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
WILSON, C.	—	✓	—	—	✓	✓	✓	—	✓	—	—	✓	✓	—	—
DAUGHTRY															
HOWARD															
WOOD	✓														

ATTENDANCE

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

(Name of Committee)

DATES	1:00 pm 9/29	2:25 pm 9/29	4:30 pm 9/29	11:45 pm 9/30	10/7	10/13	5:35 10/26	7:30 10/26	1:00 10/27	3:40 10/27	5:30 10/27	11:30 10/28	11:00 10/29		
MORGAN, CHAIRMAN	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
BOWIE, VICE-CHAIR	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
CRAWFORD	✓	✓	✓	—	—	—	—	✓	—	✓	✓	✓	—		
CULP	✓	✓	✓	✓	✓	✓	—	✓	✓	✓	—	—	✓		
DOCKHAM	✓	✓	—	✓	✓	—	✓	✓	✓	✓	✓	✓	✓		
ESPOSITO	✓	✓	✓	✓	✓	—	✓	✓	✓	✓	✓	✓	✓		
GULLEY	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	—	✓	✓		
HILL	✓	✓	✓	✓	—	✓	—	—	—	✓	✓	✓	✓		
MCMAHAN	✓	✓	—	✓	✓	✓	✓	—	✓	✓	✓	✓	—		
MINER	—	✓	✓	✓	✓	✓	—	—	—	—	—	—	—		
MITCHELL	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
NEELY	✓	✓	✓	✓	—	✓	✓	✓	—	✓	✓	—	—		
THOMPSON	✓	✓	✓	✓	✓	—	✓	✓	✓	✓	✓	✓	✓		
WILSON, C.	—	✓	—	✓	✓	—	—	—	—	✓	—	—	✓		
DAUGHTRY															
HOWARD															
WOOD				✓		✓							✓		

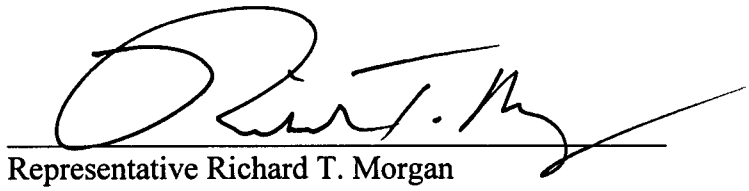
MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
May 14, 1998

The Committee on Rules, Calendar, and Operations of the House met May 14, 1998, at 10:00 a.m. in Room 421 in the Legislative Office Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair and Representatives Crawford, Culp, Dockham, Esposito, Gulley, Hill, McMahan, Mitchell, Neely, Thompson, and Wood.

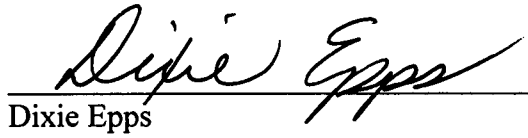
SB 905 - A BILL TO BE ENTITLED AN ACT TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS, introduced by Senator Hoyle, was brought before the Committee. Senator Hoyle was recognized and explained that the bill sets out two constitutional questions. The first is session limits, and the second is four year terms for members of the Senate. Chairman Morgan announced that the bill would not be voted on today but it would be brought before the Committee again next week. After some discussion, Representative Mitchell moved for adoption of a committee substitute for the purpose of discussion and the vote was unanimous. Committee Counsel Linwood Jones was recognized and explained that the 4 year term for Senators had been taken out of the bill, a provision in Section 5 that related to the four year term was taken out, and the organizational session in December was taken out. Left in the bill was a session length limit and that was changed from 135 calendar days to 120 days for the long session, and the short session of 60 calendar days stays the same. The extension does allow for 10 days by joint resolution, which was in the original bill and it also remains in the committee substitute. Legal Counsel Gerry Cohen was recognized to give an overview as it relates to the committee substitute. Mr. Cohen had two handouts (see attachments 1 and 2) which were distributed to committee members and he explained that the handouts show what other states are doing that have session limits. After further discussion, the bill was temporarily displaced.

H.B. 989 - A BILL TO BE ENTITLED AN ACT TO REMOVE THE FEE FOR THE SCHOOL ADMINISTRATORS' EXAM, introduced by Representative Rogers was next before the committee. Committee Counsel Linwood Jones was recognized and explained that the bill is back from the Senate for concurrence and the effective dates have passed. Representative McMahan moved that the Rules Committee recommend that the House do not concur and the motion passed.

The Committee adjourned at 10:45 a.m.



Representative Richard T. Morgan
Committee Chair



Dixie Epps
Committee Clerk

Attachments:
Committee Report
Bills
Attachments 1 and 2
Visitor's Sheet

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 905
Select Committee on Session Limits Committee Substitute Adopted 4/30/97
Third Edition Engrossed 5/1/97
Corrected Copy 10/22/97

PROPOSED HOUSE COMMITTEE SUBSTITUTE
S905-CSRN-002

Short Title: Session Length Limits. (Public)

Sponsors:

Referred to:

April 16, 1997

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 11(1) of Article II of the Constitution of North Carolina reads as rewritten:

"(1) **Regular sessions.** The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Beginning with the regular session in 1999, during an odd-numbered year the General Assembly shall remain in session for no more than 120 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days. If the regular session meets in even-numbered years, the General Assembly shall remain in session for no more than 60 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days. Any reconvened session called under Section 5 of Article III of this Constitution shall

be excluded from the calculations of this section. Neither house shall proceed upon public business unless a majority of all of its members are actually present. No valid action, other than a resolution of adjournment, may be taken by the General Assembly after the time limits prescribed in this section have expired."

Section 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election in November 1998, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment limiting the length of the legislative session."

Section 3. If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 4

SENATE BILL 905
Select Committee on Session Limits Committee Substitute Adopted 4/30/97
Third Edition Engrossed 5/1/97
Corrected Copy 10/22/97

Short Title: Session Length Limits. (Public)

Sponsors:

Referred to:

April 16, 1997

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS AND TO PROVIDE FOUR-YEAR TERMS FOR MEMBERS OF THE SENATE.

The General Assembly of North Carolina enacts:

Section 1. Section 11(1) of Article II of the Constitution of North Carolina reads as rewritten:

"(1) **Regular sessions.** The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Beginning with the regular session in 1999, during an odd-numbered year the General Assembly shall remain in session for no more than 135 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days. The month of December following the beginning of the term is also included in the calculation. If the General Assembly upon convening of the regular session meets for not more than two consecutive calendar days and then adjourns for not less than 30 days, that period of adjournment shall be excluded from the 135 days. If the regular session meets in even-numbered years, the General Assembly shall remain in session for no more than 60 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days, but the month in December following the election is excluded from the calculation. Any reconvened session called under Section 5 of Article III of this Constitution shall be excluded from the calculations of this section. Neither house shall proceed upon public

business unless a majority of all of its members are actually present. No valid action, other than a resolution of adjournment, may be taken by the General Assembly after the time limits prescribed in this section have expired."

Section 2. Section 9 of Article II of the Constitution of North Carolina reads as rewritten:

"**Sec. 9. Term of office.**

The term of office of Senators and Representatives shall commence on the first ~~day of January~~ Monday in December next after their election."

Section 3. Section 2 of Article II of the Constitution of North Carolina reads as rewritten:

"**Sec. 2. Number of Senators.**

The Senate shall be composed of 50 Senators, ~~biennially~~ quadrennially chosen by ballot."

Section 4. Section 8 of Article II of the Constitution of North Carolina reads as rewritten:

"**Sec. 8. Elections.**

The election for members of the ~~General Assembly~~ House of Representatives shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law. The election for members of the Senate shall be held for the respective districts in 1998 and every four years thereafter, at the places and on the day prescribed by law."

Section 5. Section 14(1) of Article II of the Constitution of North Carolina reads as rewritten:

"(1) **President Pro Tempore - ~~succession to~~ acting presidency.** The Senate shall elect from its membership a President Pro Tempore, who shall become Acting President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve as Acting President of the Senate ~~until the expiration of his term of office as Senator.~~ until:

(a) That person ceases to be President Pro Tempore; or

(b) The qualification of a new Lieutenant Governor

whichever comes first."

Section 6. The amendments set out in Sections 1 through 5 of this act shall be submitted to the qualified voters of the State at the general election in November 1998, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendments limiting the length of the legislative session and making the term of members of the Senate four years, beginning with members elected in 1998."

Section 7. If a majority of votes cast on the question are in favor of the amendments set out in Sections 1 through 5 of this act, the State Board of Elections shall certify the amendments to the Secretary of State. The constitutional amendments shall apply to members of the Senate elected in the 1998 general election so that they shall serve four-year terms. The Secretary of State shall enroll the amendments so certified among the permanent records of that office.

Section 8. This act is effective when it becomes law.

Attachment 1

budget covered 468 pages of which only sixteen were devoted entirely to making appropriations. The remaining 452 pages included hundreds of special provisions. All of these provisions are related in some manner to the budget in the sense that they have a fiscal impact, but many of them could have been the subject of separate legislation.

Table 1-1. Statistical Comparisons among Recent Odd-Year Sessions

	1987	1989	1991	1993	1995	1997
Date convened	Feb. 9	Jan. 11	Jan. 30	Jan. 27	Jan. 25	Jan. 29
Date adjourned	Aug. 14	Aug. 12	Jul. 16	Jul. 24	Jul. 29	Aug. 28
Senate legislative days	125	128	99	109	109	123
House legislative days	134	128	106	110	108	123
Senate bills introduced	1,557	1,337	966	1,299	1,103	1,089
House bills introduced	2,166	2,038	1,314	1,499	1,070	1,245
Total bills introduced	3,723	3,375	2,280	2,798	2,173	2,334
Session Laws Enacted	879	802	761	563	546	528
Vetoes						0
Joint resolutions ratified	37	34	30	31	15	33
Simple resolutions adopted	9	24	7	7	7	11
Total measures passed	925	860	798	601	568	572
% measures passed	24.8%	25.5%	35.0%	21.5%	26.1%	24.5%

Major Legislation Enacted by the 1997 General Assembly

The 1997 General Assembly enacted a number of significant pieces of legislation, some of which are listed below.

- **Brownfields Property.** The 1997 General Assembly enacted two pieces of legislation to promote the use of "brownfields" property (i.e., abandoned property that has been contaminated by industrial or commercial activity). S.L. 1997-357 (H 1121) and S.L. 1997-394 (S 125) are discussed in Chapter 14 (Land Use Regulation, Planning, Code Enforcement, and Transportation) and other chapters of this publication.
- **Campaign Finance Reform.** The Full Disclosure Act, S.L. 1997-515 (S 1), makes a number of changes in North Carolina's campaign finance reporting laws. The act is discussed in Chapter 8 (Elections).
- **Charter Schools.** S.L. 1997-430 (S 297) amends the charter school laws enacted by the 1996 General Assembly to deal with issues left unresolved by the original legislation and respond to problems charter schools and local boards of education faced in implementing the charter school program. The charter school amendments are discussed in Chapter 9 (Elementary and Secondary Education).
- **Child Care.** Section 11.55 of S.L. 1997-443 (S 352) authorizes the continued expansion of the Smart Start Program. S.L. 1997-506 (S 929) makes numerous substantive changes to the state's laws regarding licensing and regulation of child care. Both of these laws are discussed in Chapter 4 (Children and Families).
- **Child Support Enforcement.** S.L. 1997-433 (H 301), discussed in Chapter 4 (Children and Families), adopts a number of new laws and procedures to comply with

Jan. 2, 1997

The effort to curtail the duration of the 1994 regular session by fixing its adjournment date ne year in advance proved futile, for the session actually concluded its work on July 17, 1994.

Resolution 31 also fixed introduction deadlines for several of the categories of eligible bills. deadlines were:

May 26	Last day to submit study commission bills for drafting
May 31	Last day to introduce study commission bills
May 31	Last day to submit local bills for drafting
May 31	Last day to submit pension and retirement bills for drafting
June 2	Last day to introduce local bills
June 7	Last day to submit money bills for drafting
June 9	Last day to introduce pension and retirement bills
June 9	Last day to introduce money bills

The regular session convened on May 23 and adjourned *sine die* on July 17, 1994. The Sen thirty-six legislative days and the House of Representatives for thirty-four, significantly briefer pe for even-year sessions of 1990 and 1992.

The statistics of the 1994 session compare with those of its recent counterparts as follows:

	1984	1986	1988	1990	1992	1994
Legislative days	23	29	27	55	42	36
Bills introduced	525	1,170	801	668	683	1,062
Session Laws	187	238	232	279	283	215
Joint resolutions	51	24	11	41	46	16
Simple resolutions	7	8	3	5	12	5
Total approved	245	270	246	337	341	230

The work of the extra session of 1994 was largely confined to issues of crime and p concern that drew members to Raleigh for the session. At Governor James B. Hunt, Jr. session also enacted C. 10 (S151), reducing the unemployment insurance tax rate paid by North Carolina. The session directed that numerous studies be made by temporary co Legislative Research Commission, or administrative agencies of state government, wit General Assembly. (See Chapter 24, secs. 25 through 60 [S150].) General Fund cur appropriations were also increased by $450,000 for 1993-94 and by $193,153,009 for 19 meet the added costs of the crime-related programs augmented or initiated by the General A improvements expenditures of $26,358,914 for 1993-94 and $36,625,400 for 1994-95 we prisons and related facilities.

The regular 1994 session addressed most of its attention to fiscal matters, especially appropriations made in 1993 for the 1994-95 fiscal year. Improving yields of state taxes from appropriations for 1993-94 made possible substantial appropriations increases fo increases (and decreases) are described at length in the article on The State Budget. The (Chapter 969, S1505) served again, as it has in all recent sessions, as the omnibus on legislative actions not obviously related to appropriations.

Chapter 769 (S 906), the Workers' Compensation Reform Act of 1994, culmina effort to revise that Act. The North Carolina Professional Teaching Standards Commiss to prepare a plan for establishing high standards for teachers an The Open Meetings Act was rev

Observations From Legislators and Staff, cont'd

- Interim Work Becomes Essential
  - Florida uses to extend session
  - Colorado, Louisiana and Oklahoma use less
  - Variation among states in interim effectiveness
- Potential for More Special Sessions
  - Florida and Louisiana have had more
  - Colorado and Oklahoma have not

Observations From Legislators and Staff, cont'd

- Focus on Methods to Streamline Process
  - Use Technology
  - Special calendars for Local Bills in Florida
  - Deadline systems in Colorado and Florida
  - Bill limits or Pre-filing Incentives
- Effect on Power Relationships
  - Governor
  - Lobbyists

Jan. 2, 1997
Jan 24, 1997

Comparison Among Southern States

- NC -- None
- AL -- 30 L in 105 C
- AR -- 60 C
- FL -- 60 C
- GA -- 40 L
- KY -- 60 L
- MS -- 125 C*
  90 C
- LA -- 60 L in 85 C
  30 L in 45 C
- MD -- 90 C
- TN -- 90 L
- SC -- 1st Thurs. in June
- VA -- 60 C even
  30 C odd

* 1st year of New Gov.

Observations From Legislators and Staff

- Absolute Limit Forces Decisions
- Limit Helps Schedule Non-Legislative Life
- Increases Pressure on Leadership
- Absolute Limit Reduces Flexibility
- Important to Define Limits
  - Calendar vs. Legislative Day
- Authority to Extend Session Helps

Jan. 2, 1997

States That Recently Limited Session Length

- Alaska -- Unlimited to 120 calendar day limit
- Colorado -- 120 day limit on both years of biennium (calendar days)
- Oklahoma -- 90 legislative day limit to a date certain:
  - Last Friday in May or about 160 calendar days
  - Averages about 65 legislative days
- Louisiana -- 60 legislative day limit on second session to 30 legislative days and restricted the subject matter

Methods of Limiting Sessions

- 13 States -- No Limits on Session Length
- 32 States -- Constitutional Limits
- 5 States -- Other Limits
  - Statutory
  - In rules
  - Indirect limits such as pay or per diem limits

Jan. 2, 1997

Jan [illegible], 1997

Attachment # 4

Gerry Cohen (Bill Drafting, Director)

From: Gerry Cohen (Bill Drafting, Director)
Sent: Wednesday, August 14, 1996 4:34 PM
To: Norma Ware (Pres Pro Temp's Office)
Subject: Legislative Session Length Limits
Importance: High

I am attaching to a hard copy of this memo four documents:

1) Legislative Sessions: Legal Provisions from Book of the States, 1996-97

2) Constitutional Provisions Relating to Legislative Sessions, NCSL Constitutional Search, November, 1995

3) Inside the Legislative Process, American Society of Legislative Clerks and Secretaries, 1991 Edition, tables on Extension of Regular Sessions and on Extra Sessions.

4) Understanding the Diversity of American State Legislatures, by Karl T. Kurtz, NCSL, June 1992. This categorizes legislatures by status as full-time, in-between, and part-time. (North Carolina is rated in the latter category) The article has a chart on average months in session.

The Book of the State Article indicates that the following states have no session limits in their constitutions: California, Idaho, Illinois, Kansas (no limit in even-numbered year), Massachusetts, Michigan, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Vermont and Wisconsin.

Limits range from 30 legislative days (Alabama, Virginia) to 160 calendar days (Oklahoma), although some states have fixed dates for adjournment, such as Maine (3rd Wednesday in June) or South Carolina (1st Thursday in June). Differences in legislative and calendar day limits can be substantial, if the legislature meets only four of the seven days in a week.

All the other states have session length limits, but in Iowa, Nevada, Rhode Island, and Tennessee the limit merely reduces or eliminates members per diem according to the Book of the States table.

Many states allow the limitation to be extended: Alaska, Arizona, Arkansas, Kansas, Maine, Mississippi, Nebraska, South Carolina, and Virginia allow a legislative vote to extend the session, this can be anywhere from a majority of those present (Arizona) to 4/5 of those elected (Nebraska). In Hawaii and West Virginia, join action of the legislature and Governor is required.

I would be glad to expand on this summary if desired.

Attachment 2

THE BOOK OF THE STATES

1996-97 EDITION
VOLUME 31

The Council of State Governments
Lexington, Kentucky

Headquarters: (606) 244-8000
Fax: (606) 244-8001
Email: info@csg.org
Internet: www.csg.org and gopher.csg.org

Table 3.2
LEGISLATIVE SESSIONS: LEGAL PROVISIONS

State or other jurisdiction	Regular sessions: Year	Regular sessions: Legislature convenes: Month	Regular sessions: Legislature convenes: Day	Regular sessions: Limitation on length of session (a)	Special sessions: Legislature may call	Special sessions: Legislature may determine subject	Special sessions: Limitation on length of session
Alabama	Annual	Jan. Apr. Feb.	2nd Tues. (b) 3rd Tues. (c, d) 1st Tues. (e)	30 L in 105 C	No	Yes (f)	12 L in 30 C
Alaska	Annual	Jan. Jan.	2nd Mon. 3rd Mon. (g)	120 C (h)	By 2/3 vote of members	Yes (i)	30 C
Arizona	Annual	Jan.	2nd Mon.	(j)	By petition, 2/3 members, each house	Yes (i)	None
Arkansas	Biennial-odd year	Jan.	2nd Mon.	60 C (h)	No	Yes (f,k)	(k)
California	(l)	Jan.	1st Mon. (d)	None	No	No	None
Colorado	Annual	Jan.	2nd Wed.	120 C	By request, 2/3 members, each house	Yes (i)	None
Connecticut	Annual (m)	Jan. Feb.	Wed. after 1st Mon. (n) Wed. after 1st Mon. (o)	(p)	Yes (q)	(q)	None (r)
Delaware	Annual	Jan.	2nd Tues.	June 30	Joint call, presiding officers, both houses	Yes	None
Florida	Annual	Feb.	Tues. after 1st Mon. (d)	60 C (h)	Joint call, presiding officers, both houses	Yes (f)	20 C (h)
Georgia	Annual	Jan.	2nd Mon.	40 L	By petition, 3/5 members, each house	Yes (i)	(s)
Hawaii	Annual	Jan.	3rd Wed.	60 L (h)	By petition, 2/3 members, each house	Yes	30 L (h)
Idaho	Annual	Jan.	Mon. on or nearest 9th day	None	No	No	20 C
Illinois	Annual	Jan.	2nd Wed.	None	Joint call, presiding officers, both houses	Yes (i)	None
Indiana	Annual	Jan.	2nd Mon. (d, t)	odd-61 L or Apr. 30; even-30 L or Mar. 15	No	No	30 L or 40 C
Iowa	Annual	Jan.	2nd Mon.	(u)	By petition, 2/3 members, both houses	Yes (i)	None
Kansas	Annual	Jan.	2nd Mon.	odd-None; even-90 C (h)	Petition to governor of 2/3 members, each house	Yes	None
Kentucky	Biennial-even year	Jan.	Tues after 1st Mon. (d)	60 L (v)	No	No	None
Louisiana	Annual	Mar. Apr.	last Mon. (d, n) last Mon. (m, o)	odd-60 L in 85 C; even-30 L in 45 C	By petition, majority, each house	Yes (i)	30 C
Maine	(l,m)	Dec. Jan.	1st Wed. (b) Wed. after 1st Tues. (o)	3rd Wed. of June (h) 3rd Wed. of April (h)	Joint call, presiding officers, with consent of of majority of members of each political party, each house	Yes (i)	None
Maryland	Annual	Jan.	2nd Wed.	90 C (g)	By petition, majority, each house	Yes	30 C
Massachusetts	Annual	Jan.	1st Wed.	(w)	By petition (x)	Yes	None
Michigan	Annual	Jan.	2nd Wed. (d)	None	No	No	None
Minnesota	(y)	Jan.	Tues. after 1st Mon. (n)	120 L or 1st Mon. after 3rd Sat. in May (y)	No	Yes	None

LEGISLATIVE SESSIONS: LEGAL PROVISIONS — Continued

State or other jurisdiction	Regular sessions: Year	Regular sessions: Legislature convenes: Month	Regular sessions: Legislature convenes: Day	Regular sessions: Limitation on length of session (a)	Special sessions: Legislature may call	Special sessions: Legislature may determine subject	Special sessions: Limitation on length of session
Mississippi	Annual	Jan.	Tues. after 1st Mon.	125 C (h, z); 90C (h, z)	No	No	None
Missouri	Annual	Jan.	Wed. after 1st Mon.	May 30	By petition, 3/4 members, each house	Yes	30 C (aa)
Montana	Biennial-odd year	Jan.	1st Mon.	90 L	By petition, majority, each house	Yes	None
Nebraska	Annual	Jan.	Wed. after 1st Mon.	odd-90 L (h); even-60 L (h)	By petition, 2/3 members	Yes	None

LEGISLATIVE SESSIONS: LEGAL PROVISIONS — Continued

State or other jurisdiction	Regular sessions: Year	Regular sessions: Legislature convenes: Month	Regular sessions: Legislature convenes: Day	Regular sessions: Limitation on length of session (a)	Special sessions: Legislature may call	Special sessions: Legislature may determine subject	Special sessions: Limitation on length of session
Mississippi	Annual	Jan.	Tues. after 1st Mon.	125 C (h, z); 90C (h, z)	No	No	None
Missouri	Annual	Jan.	Wed. after 1st Mon.	May 30	By petition, 3/4 members, each house	Yes	30 C (aa)
Montana	Biennial-odd year	Jan.	1st Mon.	90 L	By petition, majority, each house	Yes	None
Nebraska	Annual	Jan.	Wed. after 1st Mon.	odd-90 L (h); even-60 L (h)	By petition, 2/3 members	Yes	None
Nevada	Biennial-odd year	Jan.	3rd Mon.	60 C (u)	No	No	20 C (u)
New Hampshire	Annual	Jan.	Wed. after 1st Tues. (d)	45 L	By 2/3 vote of members, each house	Yes	15 L (u)
New Jersey	Annual	Jan.	2nd Tues.	None	By petition, majority, each house	Yes	None
New Mexico	Annual (m)	Jan.	3rd Tues.	odd-60 C; even-30 C	By petition, 3/5 members, each house	Yes (i)	30 C
New York	Annual	Jan.	Wed. after 1st Mon.	None	By petition, 2/3 members, each house	Yes (i)	None
North Carolina	(y)	Jan.	3rd Wed. after 2nd Mon. (n)	None	By petition, 3/5 members, each house	Yes	None
North Dakota	Biennial-odd year	Jan.	Tues. after Jan. 3, but not later than Jan. 11 (d)	80 L (bb)	No	Yes	None
Ohio	Annual	Jan.	1st Mon.	None	Joint call, presiding officers, both houses	Yes	None
Oklahoma	Annual	Feb.	1st Mon. (cc)	160 C	By vote, 2/3 members, each house	Yes (i)	None
Oregon	Biennial-odd year	Jan.	2nd Mon. after 1st Tues	None	By petition, majority, each house	Yes	None
Pennsylvania	Annual	Jan.	1st Tues.	None	By petition, majority each house	No	None
Rhode Island	Annual	Jan.	1st. Tues.	60 L (u)	No	No	None
South Carolina	Annual	Jan.	2nd Tues. (d)	1st Thurs. in June (h)	No	Yes	None
South Dakota	Annual	Jan.	2nd Tues.	odd-40 L; even-35 L	No	No	None
Tennessee	Annual	Jan.	(dd)	90 L (u)	By petition, 2/3 members, each house	Yes	30 L (u)
Texas	Biennial-odd year	Jan.	2nd Tues.	140 C	No	No	30 C
Utah	Annual	Jan.	3rd. Mon.	45 C	No	No	30 C (ee)
Vermont	(y)	Jan.	Wed. after 1st Mon. (n)	None	No	Yes	None
Virginia	Annual	Jan.	2nd Wed.	odd-30 C (h); even-60 C (h)	By petition, 2/3 members, each house	Yes	None
Washington	Annual	Jan.	2nd Mon.	odd-105 C; even-60 C	By vote, 2/3 members, each house	Yes	30 C
West Virginia	Annual	Feb. Jan.	2nd Wed. (c, d) 2nd Wed. (e)	60 C (h)	By petition, 3/5 members, each house	Yes (ff)	None
Wisconsin	Annual (gg)	Jan.	1st Mon. (n)	None	No	No	None

See footnotes at end of table.

LEGISLATIVE SESSIONS: LEGAL PROVISIONS — Continued

State or other jurisdiction	Regular sessions: Year	Legislature convenes: Month	Legislature convenes: Day	Limitation on length of session (a)	Special sessions: Legislature may call	Special sessions: Legislature may determine subject	Special sessions: Limitation on length of session
Wyoming	Annual (m)	Jan. Feb.	2nd Tues. (n) 3rd Mon. (o)	odd-40 L; even-20 L	No	Yes	None
Dist. of Columbia	(hh)	Jan.	2nd day	None			
American Samoa	Annual	Jan. July	2nd Mon. 2nd Mon.	45 L 45 L	No	No	None
Guam	Annual	Jan.	2nd Mon. (ii)	None	No	No	None
No. Mariana Islands	Annual	(jj)	(d, jj)	90 L (jj)	Upon request of presiding officers, both houses	Yes (i)	10 C
Puerto Rico	Annual	Jan.	2nd Mon.	Apr. 30 (h)	No	No	20 C
U.S. Virgin Islands	Annual	Jan.	2nd Mon.	None	No	No	None

Sources: State constitutions and statutes.

Note: Some legislatures will also reconvene after normal session to consider bills vetoed by governor. Connecticut–if governor vetoes any bill, secretary of state must reconvene General Assembly on second Monday after the last day on which governor is either authorized to transmit or has transmitted every bill with his objections, whichever occurs first; General Assembly must adjourn *sine die* not later than three days after its reconvening. Hawaii–legislature may reconvene on 45th day after adjournment *sine die*, in special session, without call. Louisiana–legislature meets in a maximum five-day veto session on the 40th day after final adjournment. Missouri–if governor returns any bill on or after the fifth day before the last day on which legislature may consider bills (in even-numbered years), legislature automatically reconvenes on first Wednesday following the second Monday in September for a maximum 10 C sessions. New Jersey–legislature meets in special session (without call or petition) to act on bills returned by governor on 45th day after *sine die* adjournment of the regular session; if the second year expires before the 45th day, the day preceding the end of the legislative year. Utah–if 2/3 of the members of each house favor reconvening to consider vetoed bills, a maximum five-day session is set by the presiding officers. Virginia–legislature reconvenes on sixth Wednesday after adjournment for a maximum three-day session (may be extended to seven days upon vote of majority of members elected to each house). Washington–upon petition of 2/3 of the members of each house, legislature meets 45 days after adjournment for a maximum five-day session.

Key:

C — Calendar day

L — Legislative day (in some states called a session day or workday; definition may vary slightly, however, generally refers to any day on which either house of legislature is in session).

(a) Applies to each year unless otherwise indicated.

(b) General election year (quadrennial election year).

(c) Year after quadrennial election.

(d) Legal provision for organizational session prior to stated convening date. Alabama–in the year after quadrennial election, second Tuesday in January for 10 C. California–in the even-numbered general election year, first Monday in December for an organizational session, recess until the first Monday in January of the odd-numbered year. Florida–in general election year, 14th day after election. Indiana–third Tuesday after first Monday in November. Kentucky–in odd-numbered year, Tuesday after first Monday–in January for 10 L. Louisiana–in year after general election, second Monday in January, not to exceed 3 L. Michigan–held in odd-numbered year. New Hampshire–in even-numbered year, first Wednesday in December. North Dakota–in December. South Carolina–in even-numbered year, Tuesday after certification of election of its members for a maximum three-day session. West Virginia–in year after general election, on second Wednesday in January. No. Mariana Islands–in year after general election, second Monday in January.

(e) Other years.

(f) By 2/3 vote each house.

(g) Following a gubernatorial election year.

(h) Session may be extended by vote of members in both houses. Alaska–2/3 vote for 10-day extension. Arkansas–2/3 vote. Florida–3/5 vote. Hawaii–petition of 2/3 membership for maximum 15-day extension. Kansas–2/3 vote. Maine–2/3 vote for maximum 10 L. Maryland– 3/5 vote for maximum 30 C. Mississippi–2/3 vote for 30 C extension, no limit on number of extensions. Nebraska–4/5 vote. South Carolina–2/3 vote. Virginia–2/3 vote for 30 C extension. West Virginia–2/3 vote (or if budget bill has not been acted upon three days before session ends, governor issues proclamation extending session). Puerto Rico–joint resolution.

(i) Only if legislature convenes itself. Special sessions called by the legislature are unlimited in scope in Arizona, Georgia, Maine, and New Mexico.

(j) No constitutional or statutory provision; however, legislative rules require that regular sessions adjourn no later than Saturday of the week during which the 100th day of the session falls.

(k) After governor's business has been disposed of, members may remain in session up to 15 C by a 2/3 vote of both houses.

(l) Regular sessions begin after general election, in December of even-numbered year. In California, legislature meets in December for an organizational session, recesses until the first Monday in January of the odd-numbered year and continues in session until Nov. 30 of next even-numbered year. In Maine, session which begins in December of general election year runs into the following year (odd-numbered); second session begins in next even-numbered year.

(m) Second session limited to consideration of specific types of legislation. Connecticut–individual legislators may only introduce bills of a fiscal nature, emergency legislation and bills raised by committees. Louisiana–fiscal matters. Maine–budgetary matters; legislation in the governor's call; emergency legislation; legislation referred to committees for study. New Mexico–budgets, appropriations and revenue bills; bills drawn pursuant to governor's message; vetoed bills. Wyoming–budget bills.

(n) Odd-numbered years.

(o) Even-numbered years.

(p) Odd-numbered years–not later than Wednesday after first Monday in June; even-numbered–years not later than Wednesday after first Monday in May.

(q) Constitution provides for regular session convening dates and allows that sessions may also be held "... at such other times as the General Assembly shall judge necessary." Call by majority of legislators is implied.

(r) Upon completion of business.

(s) Limited to 40 L unless extended by 3/5 vote and approved by the governor, except in cases of impeachment proceedings.

LEGISLATIVE SESSIONS: LEGAL PROVISIONS — Continued

(t) Legislators may reconvene at any time after organizational meeting; however, second Monday in January is the final date by which regular session must be in process.

(u) Indirect limitation; usually restrictions on legislator's pay, per diem, or daily allowance.

(v) May not extend beyond April 15.

(w) Legislative rules say formal business must be concluded by Nov. 15th of the 1st session in the biennium, or by July 31st of the 2nd session for the biennium.

(x) Joint rules provide for the submission of a written statement [illegible] special session [illegible]

in January and recessing not later than the first Monday in February of that year. Limited constitutional duties can be performed.

(dd) Commencement of regular session depends on concluding date of organizational session. Legislature meets, in odd-numbered year, on second Tuesday in January for a maximum 15 C organizational session, then returns on the Tuesday following the conclusion of the organizational session.

(ee) Except in cases of impeachment.

December. South Carolina–in even-numbered year, Tuesday after certification of election of its members for a maximum three-day session. West Virginia–in year after general election, on second Wednesday in January. No. Mariana Islands–in year after general election, second Monday in January.

(s) Limited to 40 L unless extended by 3/5 vote and approved by the governor, except in cases of impeachment proceedings.

LEGISLATIVE SESSIONS: LEGAL PROVISIONS — Continued

(t) Legislators may reconvene at any time after organizational meeting; however, second Monday in January is the final date by which regular session must be in process.

(u) Indirect limitation; usually restrictions on legislator's pay, per diem, or daily allowance.

(v) May not extend beyond April 15.

(w) Legislative rules say formal business must be concluded by Nov. 15th of the 1st session in the biennium, or by July 31st of the 2nd session for the biennium.

(x) Joint rules provide for the submission of a written statement requesting special session by a specified number of members of each chamber.

(y) Legal provision for session in odd-numbered year; however, legislature may divide, and in practice has divided, to meet in even-numbered years as well.

(z) 90 C sessions every year, except the first year of a gubernatorial administration during which the legislative session runs for 125 C.

(aa) 30 C if called by legislature; 60 C if called by governor.

(bb) No legislative day is shorter than a natural day.

(cc) Odd number years will include a regular session commencing on the first Tuesday after the first Monday in January and recessing not later than the first Monday in February of that year. Limited constitutional duties can be performed.

(dd) Commencement of regular session depends on concluding date of organizational session. Legislature meets, in odd-numbered year, on second Tuesday in January for a maximum 15 C organizational session, then returns on the Tuesday following the conclusion of the organizational session.

(ee) Except in cases of impeachment.

(ff) According to a 1955 attorney general's opinion, when the legislature has petitioned to the governor to be called into session, it may then act on any matter.

(gg) The legislature, by joint resolution, establishes the session schedule of activity for the remainder of the biennium at the beginning of the odd-numbered year.

(hh) Each Council period begins on January 2 of each odd-numbered year and ends on January 1 of the following odd-numbered year.

(ii) Legislature meets on the first Monday of each month following its initial session in January.

(jj) 60 L before April 1 and 30 L after July 31.

Table 3.4
MEMBERSHIP TURNOVER IN THE LEGISLATURES: 1994

State	Senate			House		
	Total number of members	*Number of membership changes*	*Percentage change of total*	*Total number of members*	*Number of membership changes*	*Percentage change of total*
Alabama	35	16	46	105	37	35
Alaska	20	3	15	40	10	25
Arizona	30	10	33	60	18	30
Arkansas	35	7	20	100	28	28
California	40	7	18	80	27	34
Colorado	35	8	23	65	5	35
Connecticut	36	8	22	151	30	19
Delaware	21	5	24	41	7	20
Florida	40	4	10	120	30	18
Georgia	56	8	14	180	25	29
Hawaii	25	9	36	51	18	35
Idaho	35	7	20	70	13	19
Illinois	59	2	3	118	24	20
Indiana	50	3	6	100	18	18
Iowa	50	10	20	100	29	29
Kansas	40 (a)	22	55	125	35	28
Kentucky	38	7	18	100	19	19
Louisiana	39 (a)	4	10	105 (a)	1	0.9
Maine	35	15	43	151	68	45
Maryland	47	20	43	141	60	43
Massachusetts	40	6	15	160	27	17
Michigan	38	12	32	110	19	17
Minnesota	67	2	3	134	22	16
Mississippi	52 (a)	1	2	122 (a)	1	0.8
Missouri	34	9	26	163	36	22
Montana	50	13	26	100	38	38
Nebraska	49	7	14	Unicameral		
Nevada	21	5	24	42	19	45
New Hampshire	24	6	25	400	139	35
New Jersey	40 (a)	13	33	80 (a)	2	3
New Mexico	42 (a)	17	40	70	18	26
New York	61	3	5	150	11	7
North Carolina	50	17	34	120	38	32
North Dakota	49	10	20	98	20	20
Ohio	33	4	12	99	17	17
Oklahoma	48	2	4	101	19	19
Oregon	30	5	17	60	21	35
Pennsylvania	50	9	18	203	22	11
Rhode Island	50	11	22	100	15	15
South Carolina	46 (a)	1	2	124	11	9
South Dakota	35	9	26	70	21	30
Tennessee	33	5	15	99	24	24
Texas	31	5	16	150	20	13
Utah	29	6	21	75	16	21
Vermont	30	7	35	150	45	30
Virginia	40 (a)	15	38	100 (a)	25	25
Washington	49	10	20	98	41	42
West Virginia	34	12	35	100	35	35
Wisconsin	33	1	3	99	12	12
Wyoming	30	10	33	60	12	20

Note: Turnover calculated after 1994 legislative elections. Data were obtained from the 1995 edition of *State Elective Officials and the Legislatures*, published by The Council of State Governments.

(a) No election in 1994.

Table 3.9
LEGISLATIVE COMPENSATION: REGULAR SESSIONS
(As of March 1995)

State or other jurisdiction	Salaries: Regular sessions: Per diem salary (a)	Salaries: Regular sessions: Limit on days	Salaries: Annual salary	Travel allowance (as of January 1995): Cents per mile	Travel allowance (as of January 1995): Round trips home to capital during session	Per diem living expenses
Alabama	$10	105C	. . .	(b)	One	$2,280/m plus $50 three times/w for committee meetings attended (V). Out-of-state travel, actual expenses.
Alaska	. . .	. . .	$24,012	. . .	. . .	$151 (U).
Arizona	. . .	. . .	$15,000	29	. . .	$35/C during session ($60 during session for out-of-Maricopa Cty. member). Per diem is for every calendar day during session (U).
Arkansas*	. . .	. . .	$12,500	29 (c)	Weekly	$82 for members more than 50 miles from capitol. Senate (U); House (V).
California	. . .	. . .	$72,000	18	. . .	$109 (W).
Colorado	. . .	. . .	$17,500	20	. . .	$45 ($99 for members outside Denver metro area) (V).
Connecticut	. . .	. . .	$16,760	21	. . .	None.
Delaware	. . .	. . .	$26,000	(d)	. . .	None.
Florida	. . .	. . .	$23,244	(e)	. . .	$75 for first 40 days up to $3,000 (V); $75 for last 20 days (U).
Georgia	. . .	. . .	$10,854	21	. . .	$59 (committee and session days) (U) plus $4,800/y expense allowance (V).
Hawaii	. . .	. . .	$32,000	. . .	. . .	$80 for members living outside Oahu. $130 for official business out-of-state. When in recess more than 3 days, Oahu legislators receive $10; non-Oahu legislators, $80 (V).
Idaho	. . .	. . .	$12,360	(f)	. . .	$75 ($40 for legislators who do not establish a second residence in Boise and up to $25 mileage) (U except mileage). $500/y expense allowance (U).
Illinois	. . .	. . .	$42,265	25	. . .	$81 (U).
Indiana	. . .	. . .	$11,600	25	. . .	$105 (U); tied to federal per diem.
Iowa	. . .	. . .	$18,800	21	. . .	$60 ($45 for Polk Cty. members) (U). Limited to 110 C in odd y; 100 C in even y.
Kansas	$63	. . .	. . .	28	. . .	$73 (U).
Kentucky*	$100	. . .	. . .	30	. . .	$75/C (U).
Louisiana	. . .	. . .	$16,800	26	. . .	$75 (U).
Maine (g)	. . .	. . .	$9,975 (1995) $7,500 (1996)	22	. . .	For legislative session days and authorized committee meetings (V): $38 lodgings or mileage in lieu of lodging. $32 meals.
Maryland	. . .	. . .	$28,840	27	. . .	Lodging not to exceed $76; meals cannot exceed $30 (V).
Massachusetts	. . .	. . .	$46,410	. . .	. . .	$13-50 depending on distance from capitol (U) plus $2,400/y (U) expense allowance.
Michigan	. . .	. . .	$49,155	. . .	. . .	None
Minnesota	. . .	. . .	$29,675	29	. . .	House: $48 (U); up to $650/m housing during session. Senate: $50 (U); up to $600/m housing during session.
Mississippi	. . .	. . .	$10,000	30	. . .	$83 expense allowance (V).
Missouri	. . .	. . .	$24,313.32	26	. . .	$35 (V).
Montana*	$57.06	90L (odd y)	. . .	29	. . .	$50 (U).
Nebraska	. . .	. . .	$12,000	27.5	. . .	$73 ($26 if member resides within 50 miles of capitol) (V).
Nevada*	$130/L	60C + 15 interim	. . .	30	. . .	$66/C (V).
New Hampshire	. . .	2 yr. term	$200	38 for first 45 miles, 19 thereafter	. . .	None.

LEGISLATIVE COMPENSATION: REGULAR SESSIONS — Continued

State or other jurisdiction	Salaries — Regular sessions: Per diem salary (a)	Salaries — Regular sessions: Limit on days	Salaries — Regular sessions: Annual salary	Travel allowance (as of January 1995): Cents per mile	Travel allowance (as of January 1995): Round trips home to capital during session	Per diem living expenses
New Jersey	...	...	$35,000	...	...	None.
New Mexico	...	...	...	25	One	$75 (V). Limit of 60 L in odd y.
New York	...	...	$57,500	29	...	$89 ($130 in New York City metro area and out-of-state travel); $45/partial L (V).
North Carolina	...	...	$13,951	29	...	$104 subsistence allowance (U).
North Dakota	$90/C	...	$2,160	20	...	$35 housing allowance; maximum of $600/m during session (V).
Ohio	...	...	$42,426.90	20.5	...	None.
Oklahoma	...	...	$32,000	20.5	...	$35 for those unable to reside at home (U).
Oregon*	...	...	...	22	...	$1,093/m; plus $75 (U).
Pennsylvania	...	...	$47,000	20	...	$733/m from 11/1/95-11/30/96 and $8,800/y from 12/1/96-11/30/97
Rhode Island	$5	60L	...	8 (h)	One/L (V) (h)	
South Carolina	...	...	$10,400	25.5	...	$83 (V).
South Dakota	...	...	$4,267 (odd y) $3,733 (even y)	24	...	$75 (U).
Tennessee	...	...	$16,500	24	...	$90 (U).
Texas*	...	...	$7,200	...	...	$95 (U).
Utah	$85	...	...	28	...	$35 (U).
Vermont	...	...	(i)	30	...	$50 for rent and $37.50 for meals; commuters: $32 for meals (U).
Virginia	...	...	Senate- $18,000 House- $17,640	24	(j)	$93/C (U); subject to taxation if member lives within 50 miles of capitol.
Washington	...	...	$25,900	28	...	$66 (U).
West Virginia	...	...	$15,000	28.5	...	$85 (U); noncommuters $45 (U).
Wisconsin	...	...	$38,056	26	...	$75 (U). Members must certify number of days they are in Capitol each month.
Wyoming	$125 (k)	...	...	35	...	$80 (U).
Dist. of Columbia	...	...	$80,605	...	...	None.

Source: National Conference of State Legislatures.

Note: In many states, legislators who receive an annual salary or per diem salary also receive an additional per diem amount for living expenses. Consult appropriate columns for a more complete picture of legislative compensation during sessions. For information on interim compensation and other direct payments and services to legislators, see Table 3.10, "Legislative Compensation: Interim Payments and Other Direct Payments."

* — Biennial session. In Arkansas, Oregon and Texas, legislators receive an annual salary.

Key:
C — Calendar day
L — Legislative day
(U) — Unvouchered
(V) — Vouchered
d — day
w — week
m — month
y — year
... — Not applicable

(a) Legislators paid on a per diem basis receive the same rate during a special session.

(b) Tied to state employee mileage rate.

(c) Mileage at .30/mile for legislators residing more than 50 miles from the capitol.

(d) Official business only.

(e) Varies - Funds come from office expense allowance.

(f) Up to $25 during session.

(g) Legislator's salary for 1st regular session reflects a 5% decrease from statutory salary.

(h) Limit of 60 L.

(i) Annualized salary will be $7,680 - $8,160 depending on weeks in session in 1995.

(j) Senators also receive one round trip/w and one round trip/session at .24/mile.

(k) Includes non-business days.

Table 3.10
LEGISLATIVE COMPENSATION: INTERIM PAYMENTS AND OTHER DIRECT PAYMENTS

State or other jurisdiction	Per diem compensation and living expenses for committee or official business during interim (as of February 1995)	Other direct payments or services to legislators (as of January 1995)
Alabama	$40	$1,900/m for direct expenses (U).
Alaska	$65 (U); must work at least 4 hrs. or attend public meeting.	$6,000/y for postage, stationary and other legislative expenses.
Arizona	$35 ($60 for out-of-Maricopa Cty. members plus one round trip/w at .25 1/2 mile).	None.
Arkansas	Senate: $76 for select committee meetings + .25/mile (U); House: $82 for committee + .29/mile (V).	$9,000/y for legislators residing more than 50 miles from the Capitol, $13,800/y for legislators residing within 50 miles of the Capitol.
California	$109 for authorized travel; may receive more if lodging portion exceeds $109.	$n/r. Senate has an allowance for district offices. The Assembly allowance covers both Capitol and district expenses.
Colorado	$99 plus all actual and necessary travel and subsistence expenses (V).	None.
Connecticut	None.	Office allowance; Senate, $4,500/y; House, $3,500/y. No staffing allowance.
Delaware	None.	$5,500/y for office expenses. No staffing allowance.
Florida	$50 or up to actual amount for single occupancy room and meals (V).	$1,500 to $2,000/month for Senate; $1,500/month for House. Covers district office expenses except for staff, computers and fax. The House provides one aide and one secretary per Representative. Senate provides three to four staff positions per Senator.
Georgia	$59 plus .21/mile for in-state travel (V); actual expenses for out-of-state travel (V).	$4,800/y reimbursable expense account. If the member requests and provides receipts, the member is reimbursed for personal services, office equipment, rent, supplies, transportation, telecommunications, etc.
Hawaii	$10 on island residence; $80 on another island; $130 for out-of-state travel (V).	No office allowance. staff allowance of $4,500/m for House; Senate amount depends on size and responsibility of committee.
Idaho	None.	$500/y for unvouchered constituent expense. No staffing allowance.
Illinois	$79 (V). Senate: two round trips/m; House: one round trip/y. Mileage at .25/mile for one additional round trip each session.	Senators, $57,000/y and Representatives $47,000/y for office expenses, including district offices and staffing.
Indiana	$95 (V).	Office expense allowance of $25/d seven days/w during interim only.
Iowa	$60 salary ($60 in 1995) plus .21/mile, meals and lodging if necessary.	$125/m for postage, travel, telephone, and district constituent relations. No staffing allowance.
Kansas	$61.50 salary; $74 expenses + .26/mile (V).	$600/m during interim; secretarial staff provided during session.
Kentucky	Actual expenses (V).	District office allowance of $950/m.
Louisiana	$75 (V).	$625/m for rent and/or vouchered, reimbursable expenses. New legislators receive $1,500/m with possible yearly increase up to $2,500.
Maine	$55 salary; $100 salary special sessions. $32 maximum for meals; actual mileage and tolls; actual expenses for lodging (V).	None.
Maryland	Lodging can not exceed $76; meals can not exceed $30. (V)	Senators $16,765/y. Delegates $15,507/y for office rent, supplies, postage, etc. Members must document expenses. No additional staffing allowance.
Massachusetts	$5-50 depending on distance from capitol.	$300/m office expenses; $25,458 staffing allowance for one aide.
Michigan	None.	$8,925/y for 1994.
Minnesota	.28/mile. House: $48 (V). Senate: $50 (V); meals cannot be claimed if per diem is taken.	None.
Mississippi	$800/m (U).	None.
Missouri	None.	$600/m to cover all office expenses, Capitol and district. $300/m staffing allowance during interim (June to December).

LEGISLATIVE COMPENSATION: INTERIM PAYMENTS AND OTHER DIRECT PAYMENTS — Continued

State or other jurisdiction	Per diem compensation and living expenses for committee or official business during interim (as of February 1995)	Other direct payments or services to legislators (as of January 1995)
Montana	Actual expenses (V) up to statutory limit.	None.
Nebraska	Actual expenses for travel, meals, lodging.	Two full-time staff provided to each member.
Nevada	$130/authorized meeting day. Actual travel expenses, $58 for in-state meetings (U); $24 (U) plus lodging (V) for out-of-state travel.	None.
New Hampshire	None.	None.
New Jersey	Some reimbursement for authorized conference travel.	$750/y for supplies. $70,000/y for district office personnel.
New Mexico	$75 + .25/mile for committee meetings.	None.

LEGISLATIVE COMPENSATION: INTERIM PAYMENTS AND OTHER DIRECT PAYMENTS — Continued

State or other jurisdiction	*Per diem compensation and living expenses for committee or official business during interim (as of February 1995)*	*Other direct payments or services to legislators (as of January 1995)*
Montana	Actual expenses (V) up to statutory limit.	None.
Nebraska	Actual expenses for travel, meals, lodging.	Two full-time staff provided to each member.
Nevada	$130/authorized meeting day. Actual travel expenses. $58 for in-state meetings (U); $24 (U) plus lodging (V) for out-of-state travel.	None.
New Hampshire	None.	None.
New Jersey	Some reimbursement for authorized conference travel.	$750/y for supplies. $70,000/y for district office personnel.
New Mexico	$75 + .25/mile for committee meetings.	None.
New York	$89 ($130 for New York City and out-of-state travel); $45/half session d (V).	$165,000 base allowance for Senate staff covers both district and Capitol; geographic location, seniority and leadership responsibilities will cause variations; only one district office is permitted.
North Carolina	$13,026 annual salary and $522/m expense allowance.	$6,708/y (effective 1/25/95).
North Dakota	$62.50/actual days spent on committee work. Mileage, lodging and meals: based on state employee rate.	None.
Ohio	Actual travel expenses.	None.
Oklahoma	$25 for meeting (U); mileage for interim meetings.	$350/y for unvouchered office supplies plus seven rolls of stamps.
Oregon	$73 for committees and task force meetings (V). Interim expense allowance of $400-$500/m depending on district size.	May use $400-$500/m expense allowance for office expenses during interim. Staffing allowance: $3,465/m during session; $1,100/m during interim.
Pennsylvania	$88 for meals and lodging (V).	District expenses: Senate, $27,500/y; House, $800/m for rent, equipment and utilities, $200/m for phone and utilities, + $10,000/y for additional district expenses. No separate staffing allowance.
Rhode Island	None.	None.
South Carolina	$35 (V) plus mileage.	$300/m for in-district expenses; $500/y for postage and mailings. Senate: $2,400/y for postage and telephone and additional $1,000 for committee chairs. House: $1,800/y for telephone; $600 for postage.
South Dakota	$75/meeting (U); travel expenses at state rates (V).	None.
Tennessee	$90 (U in-state; V out-of-state).	District office expenses of $525/m (U). For office assistance, telephone, postage, etc.
Texas	$95 when in capital; limited to 10 days/m (V).	$25,000/m Senate staffing allowance includes secretarial and other staff and interstate travel for members' staff.
Utah	$35 (V) .28/mile from home to Capitol. (outside Salt Lake and Davis Cty. members, additional $50 if overnight stay).	None.
Vermont	Actual expenses (V). Capped at state employee rates.	None.
Virginia	$100 salary. Actual expenses (V).	$750/m; Leadership receives $1,000/m. Covers any costs related to operation of the district office. This allowance is unvouchered and subject to federal and state income taxes. Legislators receive a staffing allowance of $18,000/y; leadership receives additional funds for staff.
Washington	$66 (U).	Maximum $1,350/quarter for district office, supplies and equipment not furnished by legislatures. No staffing allowance.
West Virginia	$100, not to exceed $3,000/y; $85 per diem, $45 for non-commuters (U).	None.
Wisconsin	$73 (U); Senators $75/m; Assemblymen $25/m; .26/mile anytime legislature is in session fewer than three days/m.	Senators receive $26,585 for a 2-year session. Covers district mailings, mileage, supplies, postage, etc. Senators receive $142,230 for a 2-year session for staffing. Assembly members receive $13,000 office account for 2-year session; covers same expenses as Senate.
Wyoming	$125 (V); $80 per diem (V).	None.
Dist. of Columbia	$118 for out-of-town travel (V).	None.

See footnotes at end of table.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

X Senate Committee Substitute for
HB 989 A BILL TO BE ENTITLED AN ACT TO REMOVE THE FEE FOR THE SCHOOL ADMINISTRATORS' EXAM.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☒ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 4

HOUSE BILL 989*
Committee Substitute Favorable 4/23/97
Committee Substitute #2 Favorable 5/12/97
Senate Finance Committee Substitute Adopted 6/19/97

Short Title: School Administrator's Exam Fee. (Public)

Sponsors:

Referred to:

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE FEE FOR THE SCHOOL ADMINISTRATORS' EXAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-290.5(a) reads as rewritten:

"(a) The Standards Board shall administer this Article. In fulfilling this duty, the Standards Board shall:

(1) In accordance with subsection (c) of this section, develop and implement a North Carolina Public School Administrator Exam, based on the professional standards established by the Standards Board.

(2) Establish and collect an application fee not to exceed fifty dollars ($50.00). ~~($50.00), and an exam fee not to exceed one hundred fifty dollars ($150.00).~~ Fees collected under this Article shall be credited to the General Fund as nontax revenue.

(3) Review the educational achievements of an applicant to take the exam to determine whether the achievements meet the requirements set by G.S. 115C-290.7.

(4) Notify the State Board of Education of the names and addresses of the persons who passed the exam and are thereby recommended to

be certified as public school administrators by the State Board of Education.

(5) Maintain accounts and records in accordance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

(6) Adopt rules in accordance with Chapter 150B of the General Statutes to implement this Article.

(7) Submit an annual report by December 1 of each year to the Joint Legislative Education Oversight Committee of its activities during the preceding year, together with any recommendations and findings regarding improvement of the profession of public school administration."

Section 2. G.S. 115C-290.7(a) reads as rewritten:

"(a) The Standards Board shall recommend for certification by the State Board an individual who submits a complete application to the Standards Board and satisfies all of the following requirements:

(1) Pays the application fee established by the Standards Board.

~~(2) Pays the exam fee established by the Standards Board.~~

(3) Has a bachelors degree from an accredited college or accredited university and (i) has a graduate degree from a public school administration program that meets the public school administrator program approval standards set by the State Board of Education, or (ii) has a masters degree from an accredited college or accredited university and has completed by December 31, 1999, a public school administration program that meets the public school administration approval standards set by the State Board of Education.

(4) Passes the ~~exam.~~ exam adopted by the State Board."

Section 3. Section 2 of this act is effective January 1, 1998, and the remainder of this act is effective July 1, 1997.

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, MAY 14, 1998

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mari Smith	NCSA
Dave Lowe	Smith Anderson
Ann Belcher	SBE
DWIGHT EISENHOWER	MILITARY – INDUSTRIAL COMPLEX
Mark Mann	Everett Gaskins Hancock & Stevens
Michelle Cook	Wallace Nelson
John L. Kelly	NCFPC
John Policastro	AT&T

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
May 19, 1998

The Committee on Rules, Calendar, and Operations of the House met May 19, 1998, at 3:00 p.m. in Room 421 in the Legislative Office Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representatives Gulley, Miner, Mitchell, Neely Thompson , and Wilson.

House Committee Substitute for SB 905 - A BILL TO BE ENTITLED AN ACT TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS, introduced by Senator Hoyle was brought before the Committee. Chairman Morgan recognized Gerry Cohen to explain changes in the bill. The Senate bill proposed to have a limit of 135 days for the long session and this bill has a limit of 120 days. The Senate had a provision allowing an organizational session where if it does not exceed two days and then recess those two days does not count against the limit plus a separate provision allowing the session term to begin in December so the organizational session could take place in December. Those two provisions were deleted. The Senate bill also had 4 year terms for members of the Senate. That is also deleted from the Committee Substitute. The House Committee Substitute has 120 days limit for the long session, 60 days for the short session, it can be extended once by joint resolution by majority vote but not to exceed 10 days for each of the long and short sessions, subject to referendum in November of 1998.

Chairman Morgan recognized Phil Kirk, Director of the North Carolina Citizens for Business and Industry. He spoke in favor of the bill. He stated that NCCBI has been on record for 10 years to having a reasonable limit on how long the legislature should meet.

Representative Mitchell asked how NCCBI felt about shortening the length of campaign time?

Mr. Kirk responded that NCCBI does not have a written, formal position that has been passed but he would think they would pass anything to shorten the session or reduce the cost of campaigning.

Representative Gulley was recognized and stated that he opposed this bill. He said there may be earlier session, earlier Monday sessions, later Thursday sessions, and Friday sessions. He stated that this would impact time that many members use to make a living on a weekly basis and there would be a chance of more special sessions between sessions.

Representative Thompson asked if there were plans to vote on the bill today and Representative Morgan replied that he would do the pleasure of the Committee.

Representative Thompson asked if a committee substitute could be discussed and he asked Gerry Cohen to explain it. Mr. Cohen stated that the substitute has a limit of 125 days for the long session. It allows up to two extensions of ten days. It allows an organizational session not to exceed two days in January. The bill has four year terms for both House and Senate members. It has term limits of three consecutive terms in a particular house with terms beginning in the 1999 session.

Gerry Cohen explained responses he received from Tennessee, South Carolina, Oklahoma, and Virginia concerning the number of appropriations and finance committee meetings held during the interim. (See Attachment 1)

Chairman Morgan stated that the bill will be left intact. The committee substitute is still before the Committee. Representative Thompson's substitute was received under advisement only. The Chair displaced the bill and announced that the Committee would continue to meet about this bill.

The committee adjourned at 3:35 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Bill
Committee Substitute
Attachment 1
Visitor's Sheet

Thompson

LEGISLATIVE
MAY 18 1998
DRAFTING

DRAFT
FOR REVIEW ONLY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 905
Select Committee on Session Limits Committee Substitute Adopted 4/30/97
Third Edition Engrossed 5/1/97
Corrected Copy 10/22/97
Proposed House Committee Substitute S905-CSLB-1

Short Title: xxxxxxxxx. (Public)

Sponsors:

Referred to:

April 16, 1997

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS, TO PROVIDE TERM LIMITS FOR THE GENERAL ASSEMBLY, AND TO PROVIDE FOUR-YEAR TERMS FOR MEMBERS OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. Section 11(1) of Article II of the Constitution of North Carolina reads as rewritten:

"(1) **Regular sessions.** The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Beginning with the regular session in 1999, during an odd-numbered year the General Assembly shall remain in session for no more than 125 calendar days, except that this period may be extended by joint resolution not more than twice per regular session for not more than 10 days each extension. If the General Assembly upon convening of the regular session meets for not more than two consecutive calendar days and then adjourns for not less than 30 days, that period of adjournment shall be excluded from the 135 days. If the regular session meets in even-numbered years, the General Assembly shall remain in session for no more than 60 calendar days, except that this period may be

extended by joint resolution twice per regular session for not more than 10 days each extension. Any reconvened session called under Section 5 of Article III of this Constitution shall be excluded from the calculations of this section. Neither house shall proceed upon public business unless a majority of all of its members are actually present. No valid action, other than a resolution of adjournment, may be taken by the General Assembly after the time limits prescribed in this section have expired."

Section 2. Article II of the Constitution of North Carolina is amended by adding a new section to read:

"**Sec. 25. Limitation of consecutive terms.**

(1) No person shall be eligible for election to more than three consecutive terms as a member of the House of Representatives, nor to more than three consecutive terms as a member of the Senate. If a person is not elected to a full term, service caused by filling of a vacancy shall be considered as a term for the purpose of this section if the person takes office during the first two calendar years of the term.

(2) Terms of office beginning before January 1, 1999, shall not be considered for the purpose of this section.

(3) A person disqualified by this section from election to the next succeeding term as a member of the House of Representatives or Senate may not fill a vacancy in that succeeding term."

Section 3. Section 2 of Article II of the Constitution of North Carolina reads as rewritten:

"**Sec. 2. Number of Senators.**

The Senate shall be composed of 50 Senators, ~~biennially~~ quadrennially chosen by ballot."

Section 4. Section 4 of Article II of the Constitution of North Carolina reads as rewritten:

"**Sec. 4. Number of Representatives.**

The House of Representatives shall be composed of 120 Representatives, ~~biennially~~ quadrennially chosen by ballot."

Section 5. Section 8 of Article II of the Constitution of North Carolina reads as rewritten:

"**Sec. 8. Elections.**

The election for members of the General Assembly shall be held for the respective districts in ~~1972~~ 1998 and every ~~two~~ four years thereafter, at the places and on the day prescribed by law."

Section 6. Section 14(1) of Article II of the Constitution of North Carolina reads as rewritten:

"(1) **President Pro Tempore - ~~succession to~~ acting presidency.** The Senate shall elect from its membership a President Pro

Tempore, who shall become Acting President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve as Acting President of the Senate ~~until the expiration of his term of office as Senator.~~ until:

(a) That person ceases to be President Pro Tempore; or

(b) The qualification of a new Lieutenant Governor

whichever comes first."

Section 7. Section 2(1) of Article III of the Constitution of North Carolina reads as rewritten:

"(1) **Election and term.** The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in ~~1972~~ 1998 and every four years thereafter, at the ~~same time and places as members of the General Assembly are elected~~ at the places and on the day prescribed by law. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified."

Section 8. Section 7 of Article III of the Constitution of North Carolina reads as rewritten:

"**Sec. 7. Other elective officers.**

(1) **Officers.** A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in ~~1972~~ 1998 and every four years thereafter, at the same time and places as ~~members of the General Assembly are~~ the Governor is elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) **Duties.** Their respective duties shall be prescribed by law.

(3) **Vacancies.** If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly or Governor, whichever comes first, that occurs more than 60 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office

of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) **Interim officers.** Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

(5) **Acting officers.** During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) **Determination of incapacity.** The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.

(7) **Special qualifications for Attorney General.** Only persons duly authorized to practice law in the courts of this State shall be eligible for appointment or election as Attorney General."

Section 9. Section 9(3) of Article V of the Constitution of North Carolina reads as rewritten:

"(3) **Clerks.** A Clerk of the Superior Court for each county shall be elected for a term of four years by the qualified voters thereof, at the same time and places as members of the General Assembly or the Governor are elected. If the office of Clerk of the Superior Court becomes vacant otherwise than by the expiration of the term, or if the people fail to elect, the senior regular resident Judge of the Superior Court serving the county shall appoint to fill the vacancy until an election can be regularly held."

Section 10. Section 18(1) of Article IV of the Constitution of North Carolina reads as rewritten:

"(1) **District Attorneys.** The General Assembly shall, from time to time, divide the State into a convenient number of prosecutorial districts, for each of which a District Attorney shall be chosen for a term of four years by the qualified voters

thereof, at the same time and places as members of the General Assembly or the Governor are elected. Only persons duly authorized to practice law in the courts of this State shall be eligible for election or appointment as a District Attorney. The District Attorney shall advise the officers of justice in his district, be responsible for the prosecution on behalf of the State of all criminal actions in the Superior Courts of his district, perform such duties related to appeals therefrom as the Attorney General may require, and perform such other duties as the General Assembly may prescribe."

Section 11. Section 19 of Article IV of the Constitution of North Carolina reads as rewritten:

"**Sec. 19. Vacancies.**

Unless otherwise provided in this Article, all vacancies occurring in the offices provided for by this Article shall be filled by appointment of the Governor, and the appointees shall hold their places until the next election for members of the General Assembly or Governor, whichever comes first, that is held more than 60 days after the vacancy occurs, when elections shall be held to fill the offices. When the unexpired term of any of the offices named in this Article of the Constitution in which a vacancy has occurred, and in which it is herein provided that the Governor shall fill the vacancy, expires on the first day of January succeeding the next election for members of the General Assembly or Governor, whichever comes first, the Governor shall appoint to fill that vacancy for the unexpired term of the office. If any person elected or appointed to any of these offices shall fail to qualify, the office shall be appointed to, held and filled as provided in case of vacancies occurring therein. All incumbents of these offices shall hold until their successors are qualified."

Section 12. The amendments set out in Sections 1 through 11 of this act shall be submitted to the qualified voters of the State at the general election in November 1998, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendments limiting the length of the legislative session, limiting members to three consecutive terms in the Senate or House of Representatives, making the term of members of the General Assembly four years beginning with members

elected in 1998, and making conforming amendments concerning the election of other officers and the filling of vacancies."

Section 13. If a majority of votes cast on the question are in favor of the amendments set out in Sections 1 through 11 of this act, the State Board of Elections shall certify the amendments to the Secretary of State. The constitutional amendments shall apply to members of the Senate elected in the 1998 general election so that they shall serve four-year terms. The Secretary of State shall enroll the amendments so certified among the permanent records of that office.

Section 14. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 905
Select Committee on Session Limits Committee Substitute Adopted 4/30/97
Third Edition Engrossed 5/1/97
Corrected Copy 10/22/97

PROPOSED HOUSE COMMITTEE SUBSTITUTE
S905-CSRN-002

Short Title: Session Length Limits. (Public)

Sponsors:

Referred to:

April 16, 1997

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 11(1) of Article II of the Constitution of North Carolina reads as rewritten:

"(1) **Regular sessions.** The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Beginning with the regular session in 1999, during an odd-numbered year the General Assembly shall remain in session for no more than 120 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days. If the regular session meets in even-numbered years, the General Assembly shall remain in session for no more than 60 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days. Any reconvened session called under Section 5 of Article III of this Constitution shall

be excluded from the calculations of this section. Neither house shall proceed upon public business unless a majority of all of its members are actually present. No valid action, other than a resolution of adjournment, may be taken by the General Assembly after the time limits prescribed in this section have expired."

Section 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election in November 1998, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment limiting the length of the legislative session."

Section 3. If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 4

SENATE BILL 905
Select Committee on Session Limits Committee Substitute Adopted 4/30/97
Third Edition Engrossed 5/1/97
Corrected Copy 10/22/97

Short Title: Session Length Limits. (Public)

Sponsors:

Referred to:

April 16, 1997

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS AND TO PROVIDE FOUR-YEAR TERMS FOR MEMBERS OF THE SENATE.

The General Assembly of North Carolina enacts:

Section 1. Section 11(1) of Article II of the Constitution of North Carolina reads as rewritten:

"(1) **Regular sessions.** The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Beginning with the regular session in 1999, during an odd-numbered year the General Assembly shall remain in session for no more than 135 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days. The month of December following the beginning of the term is also included in the calculation. If the General Assembly upon convening of the regular session meets for not more than two consecutive calendar days and then adjourns for not less than 30 days, that period of adjournment shall be excluded from the 135 days. If the regular session meets in even-numbered years, the General Assembly shall remain in session for no more than 60 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days, but the month in December following the election is excluded from the calculation. Any reconvened session called under Section 5 of Article III of this Constitution shall be excluded from the calculations of this section. Neither house shall proceed upon public

business unless a majority of all of its members are actually present. No valid action, other than a resolution of adjournment, may be taken by the General Assembly after the time limits prescribed in this section have expired."

Section 2. Section 9 of Article II of the Constitution of North Carolina reads as rewritten:

"**Sec. 9. Term of office.**

The term of office of Senators and Representatives shall commence on the first ~~day of January~~ Monday in December next after their election."

Section 3. Section 2 of Article II of the Constitution of North Carolina reads as rewritten:

"**Sec. 2. Number of Senators.**

The Senate shall be composed of 50 Senators, ~~biennially~~ quadrennially chosen by ballot."

Section 4. Section 8 of Article II of the Constitution of North Carolina reads as rewritten:

"**Sec. 8. Elections.**

The election for members of the ~~General Assembly~~ House of Representatives shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law. The election for members of the Senate shall be held for the respective districts in 1998 and every four years thereafter, at the places and on the day prescribed by law."

Section 5. Section 14(1) of Article II of the Constitution of North Carolina reads as rewritten:

"(1) **President Pro Tempore - ~~succession to~~ acting presidency.** The Senate shall elect from its membership a President Pro Tempore, who shall become Acting President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve as Acting President of the Senate ~~until the expiration of his term of office as Senator.~~ until:

(a) That person ceases to be President Pro Tempore; or

(b) The qualification of a new Lieutenant Governor

whichever comes first."

Section 6. The amendments set out in Sections 1 through 5 of this act shall be submitted to the qualified voters of the State at the general election in November 1998, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendments limiting the length of the legislative session and making the term of members of the Senate four years, beginning with members elected in 1998."

Section 7. If a majority of votes cast on the question are in favor of the amendments set out in Sections 1 through 5 of this act, the State Board of Elections shall certify the amendments to the Secretary of State. The constitutional amendments shall apply to members of the Senate elected in the 1998 general election so that they shall serve four-year terms. The Secretary of State shall enroll the amendments so certified among the permanent records of that office.

Section 8. This act is effective when it becomes law.

Attachment 1

[redacted]

From: Ellen Tewes[SMTP:ellen.tewes@legislature.state.tn.us]
Sent: Thursday, May 14, 1998 11:49 AM
To: Gerry Cohen (Bill Drafting, Director)
Subject: RE: Session Length Limits / Interim Activity

Hi Gerry,

The limitation in Tennessee is 90 legislative days over a two-year session. There is no limit on the number of committee days, the limitation only applies to days in which either house is in session and the house and senate are each limited to 90 days and maintain separate counts. The finance committees used to meet jointly once a month during the interim between annual sessions but that is no longer the custom. The committees rarely meet during the interim.

> -----Original Message-----
> From: Gerry Cohen (Bill Drafting, Director)
> [SMTP:Gerryc@MS.NCGA.STATE.NC.US]
> Sent: Thursday, May 14, 1998 10:33 AM
> To: 'emiller@leg.state.va.us'; 'moserge@lsb.state.ok.us';
> 'becky.lennahan@state.co.us'; 'mark.brown@tlc.state.tx.us';
> 'robert.kelly@tlc.state.tx.us'; 'djc@legis.lpitr.state.sc.us'; Ellen
> Tewes
> Cc: Rep. Ed McMahan; Rep. Richard Morgan; Linwood Jones (Research)
> Subject: Session Length Limits / Interim Activity
>
> Our House Rules Committee began consideration this week of a Senate
> passed bill proposing an amendment to the North Carolina Constitution
> limiting the length of the session. North Carolina is currently one
> of
> 13 states without such a limit.
>
> I have been asked to find out how many days the money committees
> (Appropriations/Budget, Taxation/Finance) in several states meet
> during the interim (either before convening or after adjournment).
>
> I would appreciate it if you could assist me obtain that information
> for
> your state.
>
> -Gerry Cohen
> Director of Bill Drafting
>

[redacted]

[redacted]

From: STEVE CLARK[SMTP:SSC@legis.lpitr.state.sc.us]
Sent: Friday, May 15, 1998 10:21 AM
To: Gerry Cohen (Bill Drafting, Director)
Subject: Interim Activity

Item Type: Task
Start Date: 05/15/1998 (Friday)
Due: 05/15/1998 (Friday)

The following material is in response to your request for information relating to the convening of the Senate Finance Committee during the legislative interim. The Senate Finance Committee does not conduct any business during the legislative interim. There is a Joint Bond Review Committee comprised of ten members from the House and Senate which meets throughout the year. This committee studies and monitors policies and procedures relating to the approval of permanent improvement projects and to the issuance of state general obligation and institutional bonds. The JBRC also evaluates current and past policies on the bond credit rating of the State and provides advisory assistance in the establishment of future capital management policies. If you have any questions or need additional information, please contact me at (803) 212-6300.

[redacted]

[redacted]

From: George Humphreys[SMTP:humphreysge@lsb.lsb.state.ok.us]
Sent: Monday, May 18, 1998 12:00 PM
To: Gerry Cohen (Bill Drafting, Director)
Subject: Oklahoma House

Gerry,

Last interim, the House A&B committee and its subcommittees met 31 times and the Revenue and Taxation Committee met 13 times according to our records.

George Humphreys
Research Director

[redacted]

[redacted]

From: EMiller@leg.state.va.us[SMTP:EMiller@leg.state.va.us]
Sent: Monday, May 18, 1998 12:54 PM
To: Gerry Cohen (Bill Drafting, Director)
Subject: Re:Session Length Limits / Interim Activity

Gerry ---- Good luck with your effort to establish limitations, Virginia Senate Finance Committee and House Appropriations Committee meet each month during the interim. Their meetings in August (to receive year ending fiscal report) and in December (to receive the Governor's Budget Bill) start out as joint meetings. They then meet separately following the joint meeting.

Call me, if you need more. E. M.

[redacted]

NATIONAL CONFERENCE OF STATE LEGISLATURES

1560 BROADWAY SUITE 700 DENVER, COLORADO 80202
303-830-2200 FAX: 303-863-8003
www.ncsl.org info@ncsl.org

RICHARD H. FINAN
PRESIDENT OF THE SENATE
OHIO
PRESIDENT, NCSL

ANNE C. WALKER
CHIEF CLERK-ADMINISTRATOR
MISSOURI HOUSE
STAFF CHAIR, NCSL

WILLIAM POUND
EXECUTIVE DIRECTOR

To: Gerry Cohen, Director of Bill Drafting, Legislative Services Office

From: Brian Weberg, Program Director, Legislative Management
Jo Donlin, Policy Associate, Legislative Management

Date: May 15, 1998

Re: Support Staff Structures

Per your request, please find the enclosed information regarding bill drafting, standing committee and partisan support staff structures in the states.

Bill Drafting Staff Structures: Separate House/Senate Structures

Most state legislatures offer bill drafting services through a centralized, nonpartisan drafting agency. Only four states, Florida, Louisiana, Mississippi and Oklahoma, rely on separate and independent House and Senate bill drafting staff. Missouri and South Carolina also have bill drafting staff in each chamber, but only the Senate drafters work independently. House bill drafters in both states work closely with the attorneys in the centralized nonpartisan agencies.

A similar question about bill drafting staff structures was recently posted to the Legal Services Staff Section listserv. The responses are attached and will provide further detail on several states' structures.

Standing Committees: Primary Source of Substantive Staff Support

About one-half of the state legislatures continue to rely on a joint, nonpartisan staff agency as the primary source of staff support for standing committees. North Carolina is one of these states. It is important to note that committees in many legislatures employ a combination of staff types. For example, Iowa's standing committees draw their primary support from the joint, nonpartisan Legislative Service Bureau. However, committee members also employ the services of partisan caucus staffs. In addition, many state legislatures provide special fiscal staff for their money committees. See the attached chart for a comparison of committee staff approaches.

State Legislative Staff: Partisan and Nonpartisan

State legislatures vary dramatically in the number of staff they employ and in how staff are organized and deployed. New York employs around 4000 staff, while Wyoming has about 20 full-time professionals. Legislatures also vary on whether their predominant staffing approach is partisan or nonpartisan. Many states use one or more central, nonpartisan staff agencies to provide basic professional services such as bill drafting, research, program evaluation, fiscal analysis, committee staffing and information systems development and support. Most states also employ separate chamber staff to help support floor activities. These chamber staff typically report to a chief clerk of the house or secretary of the senate.

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States with large populations, large urban centers and competitive political parties tend to have more partisan staff and more personal staff (who probably should be considered partisan, too). Almost every state has at least a few partisan staff who work for leadership. Also, many state legislatures provide personal staff to members on a full-time basis or during the session only. About 17 states have developed permanent majority and minority partisan caucus staff structures that provide services to party members that can include committee support, legal counsel, research and policy analysis, constituent service, media relations and clerical support. These states are: CA; CT; DE; FL; HI; IA; IL; IN; MI; MN; NJ; NY; OH; OR; PA; WA; WI.

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Standing Committees: Primary Source of Substantive Staff Support

The following descriptions correspond to the chart headings.

Joint Agency. 26 state legislatures rely on a central, nonpartisan staff agency for their substantive staff support. These agencies serve both chambers of the legislature and members of all political parties. Professional staff from the agency typically are assigned to one or more standing committees and provide research and policy support to the chair and committee members. It is common for a staff person to work for both the House and Senate committees of similar jurisdictions. Also, these staff typically remain with a committee over the course of several sessions, thereby developing expertise and institutional knowledge in their subject areas. While staff are responsive to the committee chair and members, hiring authority and personnel matters usually rest with the director of the staff agency.

House or Senate Agency. 9 state legislatures house their committee staff in separate nonpartisan agencies located within each chamber. Staff from these agencies differ from those in joint agencies only in the fact that they serve one chamber. Otherwise, these agencies function in a similar and nonpartisan manner.

Partisan Caucus. Only two state legislatures, Illinois and Pennsylvania, rely on partisan caucus staff as their primary committee staff. The caucus staffs in these legislatures are relatively large and perform a wide range of services for members. Each caucus houses a research function and professional staff who develop issue expertise.

Committees. 13 state legislatures follow a more Congressional approach to committee staffing where the committee chair controls the hiring and assignment of professional committee staff. Typically, the chair is provided with a budget that sets the limit within which staff can be hired. It also is common that the chair must follow basic personnel rules established by the chamber.

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State Legislative Committees: Source of Primary Staff Support				
State	Joint Agency	House or Senate Agency	Partisan Caucus	Committee
AL				X
AK				X
AZ		X		
AR	X			
CA				X
CO	X			
CT	X			
DE	X			
FL				X
GA		X		
HI				X
ID	X			
IL			X	
IN	X			
IA	X			
KS	X			
KY	X			
LA		X		
ME	X			
MD	X			
MA	X			
MI				X
MN				X
MS		X		
MO		X		
MT	X			
NE				X
NV	X			
NH		X		
NJ	X			
NM	X			
NY				X
NC	X			
ND	X			
OH	X			
OK		X		
OR	X			
PA			X	
RI				X
SC		X		
SD	X			
TN				X
TX				X
UT	X			
VT	X			
VA	X			
WA		X		
WV				X
WI	X			
WY	X			
TOTAL	26	9	2	13

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Bill Drafting Staff Structure Listserv Responses

I would be very interested in hearing from as many of you as possible on how bill drafting operations in your state are structured.

In Kentucky, all our analyst-level and above standing committee staff are drafters. That means around 80 or so people, of which probably only a dozen or so are attorneys. I believe that nonattorney drafters are also used in Iowa and Florida. Some states, I know, have centralized drafting offices with only attorney drafters.

Please let me know the structure and number of drafters (attorneys and nonattorneys) in your state.

Thanks!

John Spangler
Reviser of Statutes
Kentucky

****

In Oregon, the desks will not accept bills for introduction unless they have gone through the Office of the Legislative Counsel. All drafters in the office are lawyers and all bills are either drafted by us from the beginning or are reviewed for legal sufficiency and put into our form and style. Our office is nonpartisan and has 12 drafters in addition to the Legislative Counsel. We do not staff committees except for the judiciary committees. During a legislative session, the office hires a few staff attorneys to assist the full-time drafters. Let me know if I can be of any other help. Virginia Vanderbilt.

In Arkansas only attorneys draft substantive bills [non-atty draft appropriations]. We have 9 attorneys which includes our Director.

Iowa's Legislative Service Bureau drafters both draft bills and staff committees. Only 2 drafters are non-attorneys, and the recent trend has been to hire only attorneys. (There are 14 full-time) drafters/staffers; the committee services administrator does some drafting, as will (occasionally) our deputy director and director. Of those 3 management positions, only the deputy director is an attorney).

Feel free to contact me for more information.

Jan Simmons Johnson
Legal Counsel
Iowa General Assembly
Legislative Service Bureau
(515) 281-3798
e-mail: jjohnso@legis.state.ia.us

MAY-18-98 MON 11:57 AM NAT'L CONF. OF ST. LEG. FAX NO. 3038638003 P. 06/15

In response to your inquiry, Wisconsin has a centralized, nonpartisan drafting agency: the Legislative Reference Bureau. All legislation must be placed in proper form by the agency prior to introduction. All drafting is done by attorneys; there are 19 of us, including the director of the agency. Let me know if you need any additional information.

Scott Hubli, Legislative Attorney
Wisconsin Legislative Reference Bureau

The Louisiana Senate and House committees are staffed of either attorneys, researchers, or analysts. All draft substantive legislation. All legislative instruments, however, are reviewed by senior staff attorneys as to content, constitutionality, etc. In addition, all legislation is reviewed once again by the Louisiana Legislative Bureau which also checks for constitutionality, grammar, content, etc.

On the Louisiana Senate staff there are 20 attorneys, 7 analysts (Masters degree) and 6 researchers (Bachelors degree). Not everyone works for a committee. Some are assigned to central staff. The analysts and researchers are specialists in a given field with many years of experience. The 7 senior staff attorneys also have many years of legislative experience with specialization in a number of legislative areas.

Arthur E. McEnany
Analyst/Law Librarian

In Maryland, only attorneys on the central staff draft bills (with rare exceptions, and those bills are reviewed by attorneys). All professional staff is in the nonpartisan Department of Legislative Services. About 30 are attorneys, almost all of whom draft bills. About 12 attorneys on the permanent staff (supplemented by 5 contractual attorneys) draft most of the bills, especially during the 90-day session. Committee staff may or may not be attorneys, and all draft amendments to bills (along with a central Amendment Office that is staffed by attorneys).

I will let Florida's bill drafting offices (one for the House and one for the Senate) speak for themselves, but the Division of Statutory Revision is involved in drafting of reviser's (we do spell it with an "e") bills. Both attorney and technical editor staff draft bills and sections of bills.

Edith Elizabeth Pollitz
Revision Section Head
Division of Statutory Revision

In Vermont there are approx a dozen councilors who draft, all but 2 are attorneys and all are on the staff of the Vermont LEg Council a nonpartisan centrailized office.

Michael Chernick

In Georgia, we have a centralized nonpartisan Office of Legislative Counsel which is overseen by the Legislative Services Committee comprised mostly of senior House and Senate members. We have 12 attorneys in the office. We are the only folks who draft bills and we also respond to anything else a legislator might need: legal advice, constituent requests, research for bills, etc.

In Florida legislation is drafted by both attornies and nonattornies.

The Legislature maintains separate bill drafting services in the House and the Senate. Legislation may also be drafted by substantive committeee staffs. Reviser's bills are drafted by staff in the reviser's office.

Susan Healy
Legislative Analyst
Florida Division of Statutory Revision

John,

In Kansas, all bill drafting is done by the Office of Revisor of Statutes -- a central, nonpartisan staff agency structure -- yep, we serve all members and staff all committees -- in Kansas 165 bosses --

All bills [including appropriations measures] and resolutions are drafted by attorneys in the Revisor's office. We are currently 14 full-time attorneys and 3 parttime attorneys -- this latter group does differing amounts of drafting and committee staff wor
k in addition to legal research in conjunction with the other attorneys.

We also have 18 full and parttime support staff -- thank goodness. The staff of the Legislative Research Department, also provides central nonpartisan staff services to the individual members and committees. It's good to have allies in trying circumstances.

Hope this information helps -- must go back to the salt mines...

Jim Wilson

Mississippi has 9 drafters for the House and 5 for the Senate.
All are lawyers.

In Kansas, all revisors are attorneys. We have 14 full-time attorneys and 2 retired attorneys that work during the session. We do all the bill drafting as well as staff legislative committees.

Jill Wolters
Assistant Revisor
Revisor of Statutes

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In Oklahoma, the Senate has 11 "Legislative Analysts" who do the bulk of the bill drafting. Of these, 2 are attorneys. We also have 4.5 attorneys who occasionally draft bills, prepare amendments, etc. Normally, our attorneys perform a review and comment function. The drafter is free to accept or reject the attorney's advice, but generally follows the advice unless it conflicts with the author's instructions. We also have non-attorney editors who also review the bills for grammar, spelling, etc. In this way, we always have at least three sets of eyes that have seen each draft.

The Oklahoma House of Representatives uses attorneys as bill drafters, but occasionally use nonattorney "Reasearch Analysts" who draft may draft legislation, amendments, etc. under the supervision of an attorney. I believe they currently have 10 attorneys plus their general counsel and a similar number of Research Analysts.

Good Luck!

Mark Ramsey

In Colorado, we have a total of 24 attorneys in the Office of Legislative Legal Services. 19 attorneys draft bills and amendments for both houses. Two or three of the 19 are team leaders and have a "reduced" drafting load. We also have three attorneys who do little or no actual drafting because we are too old and are mired in administrative and management duties. In addition, we have a part-time attorney who does administrative rule review and and a part-time attorney who heads up our annotation-writing function. Does that add up to 24? I went to law school because of math anxiety.

We also have non attorney legislative assistants. They are often asked to some basic drafting, draft resolutions, and do some rule-review.

We only have one attorney who regularly attends a committee and that is Senate Judciary. However, our attorneys are increasingly expected to attend committee meetings to help bill sponsors explain bills, etc. The 16 attorneys who draft full time also are expected to prepare legal memorandums, do rule review, write annotations, and write "review and comment" memos on all initiatives that are submitted by private citizens. This last function, which is assigned to our office by the constitution, has been growing by leaps and bounds and absorbs more and more of our time during the session. Becky serves on our Ballot Title Board and our staff attorneys also help with drafting ballot titles for initiated measures. This is the first time I've put something on the listserv, so I hope it gets to you. Regards, Doug Brown

---

In Washington we have a non-partisan Senate Committee Services that provide 2 to 5 staff for all the committee. These persons are attorneys or analysts (usually a masters degree or higher). The committee staff works closely with the Chair, but may also take direction form a member of the committee or any senator. Additionally, each caucus has a staff

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of attorneys and analysts that monitor each committee. The two staffs are responsible for most of the drafting of legislation and amendments.

All final legislation and most drafts, if time permits, are reviews by the Office of the Code Revisor. The Code Revisors are attorneys who review the draft for conflicts and constitutionality and may suggest wording changes. I have found the Code Revisor for my subject area very helpful. The draft is then reviewed by an editor.

A citizen or lobbyist will sometimes come to a senator with a bill already drafted, but you can bet it will be reviewed by staff before the senator drops the bill.

Hope this helps.

Harry S. Steinmetz
Staff Attorney
Washington State Senate
Senate Law & Justice Committee
360-786-7421

In the bill drafting office of the Florida House of Representatives, we have 8 drafters, 3 of whom are attorneys (total permanent staff for the office currently consists of 20 employees, with 5 session-only employees). Our staff director occasionally drafts and is an attorney (and shares with another attorney the duties of general counsel for the House). And our senior editors may be called upon to draft in an emergency. However, all editors may be called upon to draft resolutions, memorials, and the like from time to time and are largely responsible for handling requests for local legislation (which is supposed to be submitted in completed draft form by the county or other local attorney, but frequently isn't). In fact, all of our current nonattorney drafters came from the editorial pool.

All bills (other than reviser's bills--about which you have already heard from Edith and Susan--and the General Appropriations Act) must go through one of the bill drafting offices (the Florida Senate has its own, independent bill drafting office).

Substantive committee staff members at the analyst and above level are expected to put committee bills into draft form before submission to the bill drafting offices and, therefore, are drafting. However, due to more frequent turnover of staff on the substantive committees than in the bill drafting offices, it is not uncommon for such drafts to be developed from scratch by or with the applicable bill drafting staff member. In the Florida House, most substantive committee staff members at the analyst and above level are not attorneys (there are roughly 3 dozen committees); however, each council (there are 7 councils, and each council has oversight and bill-ranking responsibility for a cluster of generally related committees) has an attorney. Overall,

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there are roughly 110 committee/council staff members at the analyst and above level, of whom roughly 25 are attorneys.

The long and short of it is that in Florida most drafting is done by nonattorneys (both in the bill drafting offices and in the substantive committees). I hope this little bit helps. Unfortunately, session prevents more detailed elaboration at this time.

David Savelle (nonattorney drafter)
Bill Drafting Services
Florida House of Representatives

In Michigan, all bills are drafted by the Legal Division of the Legislative Service Bureau (LSB). Our state constitution creates a Legislative Council and charges it with providing the legislature with certain services, one of those being bill drafting. The
LSB is statutorily created in the Legislative Council Act, and the services we provide the legislature are prescribed in that statute. The act also requires that bill drafting be done by attorneys licensed in Michigan.
The LSB Legal Division consists of 20 attorneys, 2 paralegals, 4 proof readers (with either a Phd or Master's degree in English), and 10 secretaries. The attorneys are assigned to 1 of 4 different Sections. Each Section consists of subject matter areas that
are more or less related. Each of our attorneys has 1 or more areas of expertise. Mine, for example, is Health Law. My Section is responsible for all legislation relating to Elections law, Licensing law, Health and Human Services law, and Family law, and
is referred to by the acronym ELFH, i.e. the ELFH Section.
Each Section is headed by an Assistant Director who is responsible for bill request assignments and workflow. The AD's also write annual evaluations for the attorneys in their Sections.
The Legal Division is headed by a Director. The Director together with the 4 Assistant Directors form the management team for the Legal Division.
We are responsible for drafting bills, substitute bills, amendments, and conference reports. We also write legal memoranda as necessary for given pieces of legislation. By rule of the Legislative Council, all bills, substitute bills, and conference reports
must be drafted by us. For better or for worse, anyone can (and does) write amendments. Each of the attorneys is responsible for following each of his or her bills through the entire legislative process, including attending committee meetings and being pres
ent on the floor of the Senate of House when a bill is being considered. Each bill introduced in the legislature has the drafting attorney's initials in the bottom right-hand corner.
This a basic description of how we are organized. If you need or want more details, let me know. I hope this information is helpful.

I forgot to mention that we are nonpartisan and that our enabling legislation prohibits us from promoting or opposing legislation or candidates for partisan office. In other words, we are issue-neutral, and must be completely objective in advising our legisl
ative clients.

Chuck Dmochowski
Michigan LSB

: I'm Pam Ray from New Mexico. We have a
non-partisan legislative council service which provides staff
services to the legislature. We have 11 full-time drafters, 7 of

which are attorneys or have been through law school (five of the seven are NM Bar members). Of the four non-attorneys, two began as proofreaders, each having over 10 years experience in the office, one worked under a prior director in the late 70's and one worked with NCSL. All of our drafters also staff interim committees. Our office does not staff standing committees. That staff is temporary for the legislative session only. The legislative council service also has an ongoing contract with an attorney to staff the committee dealing with utility restructuring, which now includes other resource issues. We also contract with former drafters to beef up our drafting staff during the legislative session. These are usually attorneys. New Mexico has 112 legislators and alternates between 60 day and 30 day sessions. 1998 was a "short" session and approximately 1000 bills were drafted, not including substitute bills, which are complete bills that are substituted into an existing bill, and about 250 resolutions, and memorials. This was a slower session for us because we changed our capital outlay system and produced senate and house capital requests, which are more like amendatory language than a bill. Capital bills used to clog our system each year. This year there were 1017 capital requests that were drafted in the new format. We had a separate staff of two, with the help of several others as needed, that wrote, proofed and produced the capital requests. Next year that staff will increase in number, I believe. Neither of those two people were attorneys, but one had been the editor of the proofing office and had drafted and helped staff interim committees for one or two years. If you have any further questions, do not hesitate to contact me.

Arthur McEnany of the Senate staff told you that all bills in the La.
> Senate and House are reviewed by Senior Staff Attorneys. That may be true
> in the Senate. On the House side, division directors or other senior
> staff review bills. These people often are attorneys, but not invariably.
> At the present time, two of our five division director are not attorneys
> -- me (governmental affairs) and Jean Vandal (fiscal). Until recently
> three of the five were not attorneys. Bills may also be reviewed by other
> senior staff, many of whom are attorneys, but some of whom are not.
>

In Delaware, legislation is drafted by Legislative Council attorneys, of which there are only 2, caucus attorneys (approximately 10, but who are only here on a per diem basis when the General Assembly is in session), Deputy Attorney Generals assigned to executive branch agencies (obviously, their areas of focus are limited to the agency to which they are assigned), committees of the Delaware Bar Association (usually in areas such as corporate law), administrative assistants occasionally draft some non complex legislation, and even some of our legislators themselves take a stab at drafting (one is an ex caucus attorney).

Delaware does not have a centralized review process for legislation before the legislation is introduced, but each piece of legislation is scrutinized by the attorneys for each caucus in each house before consideration by that house . Manpower (or should I say Personpower) limitations and confidentiality concerns are no doubt the reason for the lack of earlier scrutiny.
Personpower limitations prohibit Legislative Council staff from staffing committes, and this function is often performed by graduate students in a Legislative Fellows Program from the University of Delaware.

Walt Feindt
De. Legislative
Council

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, MAY 19, 1998

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Jim Blackburn	NC Association of County Commissioners
Kelly Sandling	Staff - Rep. Jim Black
Tommy Worth	Carolina Health Care System
David Simmons	ZNA, PA
[illegible] Holman	DENR
R. Rogers	DENR
RD	[illegible]
Joanne Winner	NCSBA
Leslie Bedaux	NCCBI
Phil Kirk	NCCBI
John Policastro	AT&T
Nancy Bradley	NCCBI
Amy Jo Bain	Smith Anderson
Lu-Ann Cox	FFF
Lou Wilson	NCALTC-7.
AB Swindell	BFI
Jeanne Weisiger	Comm Colleges
Bill Jay	NCAHC
Lucius PULLEN	ATTORNEY
Kim Smith	NCLM
Alice Garland	Electricities
Stephanie Mansur	NC Assoc. of Realtors
Evelyn Hunnicutt	UNC-CH
Jerry Blankenship	Speaker's Office
Richard Brannen	NC Petroleum Council
Kevin Howell	NC BA

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, MAY 19, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carolyn Woolard	NC State Board of Cosmetology
Douglas H. Van Esser	NC St. Bd of Cosmetic Art
Scott Mooney	AP
John McAlister	Duke Energy
Chris Fitzsimon	Common Sense Foundation

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
May 26, 1998

The Committee on Rules, Calendar, and Operations of the House met May 26, 1998, at 3:00 p.m. in Room 421 in the Legislative Office Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Crawford, Culp, Dockham, Esposito, Gulley, Hill, McMahan, Mitchell, Neely, and Thompson.

The following bills were considered by the Committee:

HB 1352 - A BILL TO BE ENTITLED AN ACT TO REPEAL THE INITIATIVE AND REFERENDUM AUTHORITY OF CABARRUS COUNTY AND THE CITY OF CONCORD. Committee Counsel Linwood Jones was recognized to explain the bill. Representative Capps, bill sponsor, was recognized for additional comments. Representative Neely moved for a favorable report and the motion carried.

Senate Committee Substitute for SB 845 - A BILL TO BE ENTITLED AN ACT TO DIRECT THE ENVIRONMENTAL MANAGEMENT COMMISSION AND THE DIVISION OF AIR QUALITY OF THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES, WITH THE ASSISTANCE AND COOPERATION OF THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF TRANSPORTATION, TO STUDY THE COSTS AND BENEFITS OF EXPANDING THE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM FOR MOTOR VEHICLES, TO IMPROVE COMPLIANCE WITH THE CURRENT EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY WHETHER THE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM SHOULD BE TRANSFERRED FROM THE DIVISION OF MOTOR VEHICLES TO THE DIVISION OF AIR QUALITY. Representative McMahan moved for adoption of proposed House committee substitute S845-PCS4676 for the purpose of discussion and the vote was unanimous. Representative Daughtry explained the committee substitute, which would allow the use of school buses for the Special Olympics World Summer games in 1999. Committee Counsel Linwood Jones stated that an amendment was needed on page 1, line 6 to change G.S.143-342 to G.S. 143-341. Representative Neely moved that the amendment be rolled into a committee substitute and be given a favorable report. Chairman Morgan stated that the motion before the committee was a favorable report to the House Committee Substitute with a re-referral to the Committee on Appropriations, unfavorable to the Senate Committee Substitute . Motion carried.

HJR 1280 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION INVITING THE DEMOCRATIC NATIONAL COMMITTEE TO HOST ITS NEXT PRESIDENTIAL NOMINATING CONVENTION IN CHARLOTTE. Chairman Morgan stated that this was an Enabling Resolution which would require a 2/3 vote in each body. Representative McMahan, bill sponsor, explained that this resolution would enable the General Assembly to invite the Democratic National Committee to Charlotte for their national committee. Representative Neely moved for a favorable report and the motion carried. Representative Esposito questioned whether it should be the Democratic National Convention or Democrat National Convention. Representative Neely moved that his motion be reconsidered. Representative Mitchell sent forth an amendment to make changes on page l, line 3 and line 7, from Democratic to Democrat. Representative Mitchell moved that the amendment be adopted for discussion and the motion carried. Representative Neely moved that the amendment be rolled into a committee substitute and it be given a favorable report, unfavorable to the original bill. After further discussion, the bill was temporarily displaced.

HJR 1281 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION INVITING THE REPUBLICAN NATIONAL COMMITTEE TO HOST ITS NEXT PRESIDENTIAL NOMINATING CONVENTION IN CHARLOTTE. Representative Neely moved for a favorable report and the motion carried.

There being no further business, the meeting adjourned at 3:25 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bill
Joint Resolution
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1352 A BILL TO BE ENTITLED AN ACT TO REPEAL THE INITIATIVE AND REFERENDUM AUTHORITY OF CABARRUS COUNTY AND THE CITY OF CONCORD.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1352

Short Title: Repeal Cabarrus Initiative Law. (Local)

Sponsors: Representatives Capps, Brawley, Cansler, Gray, Hill, Neely, Ramsey, C. Wilson; Arnold, Davis, Eddins, Hall, Reynolds, Starnes, and G. Wilson.

Referred to: Rules, Calendar and Operations of the House.

May 20, 1998

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE INITIATIVE AND REFERENDUM AUTHORITY OF CABARRUS COUNTY AND THE CITY OF CONCORD.

The General Assembly of North Carolina enacts:

Section 1. Sections 3 and 4 of S.L. 1997-452 are repealed.

Section 2. This act is effective on and after March 1, 1998.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ Senate Committee Substitute for
S.B. 845 A BILL TO BE ENTITLED AN ACT TO DIRECT THE ENVIRONMENTAL MANAGEMENT COMMISSION AND THE DIVISION OF AIR QUALITY OF THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES, WITH THE ASSISTANCE AND COOPERATION OF THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF TRANSPORTATION, TO STUDY THE COSTS AND BENEFITS OF EXPANDING THE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM FOR MOTOR VEHICLES, TO IMPROVE COMPLIANCE WITH THE CURRENT EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY WHETHER THE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM SHOULD BE TRANSFERRED FROM THE DIVISION OF MOTOR VEHICLES TO THE DIVISION OF AIR QUALITY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to ~~committee~~ House committee substitute bill (#____), ☒ which changes the title, unfavorable as to ~~original bill~~ Senate (Committee Substitute Bill #____), (and recommendation that the ~~committee~~ House committee substitute bill #____) be re-referred to the Committee on Appropriations

☐ With a favorable report as to House committee substitute bill (#____), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 845
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/24/97
Proposed House Committee Substitute S845-PCS4676

Short Title: School Buses for Special Olympics. (Public)

Sponsors:

Referred to:

April 15, 1997

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE STATE TO PROVIDE SCHOOL AND ACTIVITY BUSES FOR THE TRANSPORTATION NEEDS OF THE SPECIAL OLYMPICS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 143-342(8)i. and G.S. 14-247, the Department of Administration may allow the 1999 Special Olympics World Summer Games Organizing Committee, Inc., to use State-owned trucks and vans for the 1999 Special Olympics World Summer Games in North Carolina.

The Department of Administration shall not charge any fees for the use of the vehicles for the 1999 Special Olympics World Summer Games.

The 1999 Special Olympics World Summer Games Organizing Committee, Inc., shall submit to the Department of Administration, for its approval, a list of the purposes for which the vehicles may be used. Vehicles may only be used for approved purposes.

The State shall incur no liability for any damages resulting from the use of vehicles under this provision. The 1999 Special Olympics World Summer Games Organizing Committee, Inc., shall carry liability insurance of not less than one million dollars ($1,000,000) covering the use of the vehicles and shall be responsible for the full cost of repairs to these vehicles if they are damaged while used for the 1999 Special Olympics World Summer Games.

Section 2. Notwithstanding any other provisions of law, the Johnston County, Wake County, Orange County, and Durham County public school systems may permit, under terms and conditions set by the public school systems, the use and operation of public school buses and activity buses by the 1999 Special Olympics World Summer Games Organizing Committee, Inc., for the transportation of persons associated with the 1999 Special Olympics World Summer Games for the periods from May 28, 1998, through May 31, 1998, and from June 19, 1999, through July 10, 1999.

Section 3. The authorizations contained in Sections 1 and 2 of this act are effective only during the months of May 1998, June 1999, and July 1999.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 845
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/24/97

Short Title: Study I & M Program. (Public)

Sponsors:

Referred to:

April 15, 1997

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE ENVIRONMENTAL MANAGEMENT COMMISSION AND THE DIVISION OF AIR QUALITY OF THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES, WITH THE ASSISTANCE AND COOPERATION OF THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF TRANSPORTATION, TO STUDY THE COSTS AND BENEFITS OF EXPANDING THE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM FOR MOTOR VEHICLES, TO IMPROVE COMPLIANCE WITH THE CURRENT EMISSIONS INSPECTION AND MAINTENANCE PROGRAM, AND TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY WHETHER THE EMISSIONS INSPECTION AND MAINTENANCE PROGRAM SHOULD BE TRANSFERRED FROM THE DIVISION OF MOTOR VEHICLES TO THE DIVISION OF AIR QUALITY.

The General Assembly of North Carolina enacts:

Section 1. The Environmental Management Commission and the Division of Air Quality of the Department of Environment, Health, and Natural Resources, with the assistance and cooperation of the Division of Motor Vehicles of the Department of Transportation, shall study whether the emissions inspection and maintenance program for motor vehicles administered under G.S. 20-128.2 and Part 2 of Article 3A of Chapter 20 of the General Statutes should be expanded to include all metropolitan counties. The study shall evaluate the costs and benefits of expanding the program, including the benefits resulting from a reduction in the

likelihood that those counties will not meet the national ambient air quality standards for ozone and carbon monoxide in the future, thereby incurring the restrictions on industries, power plants, vehicles, and other activities that apply to nonattainment counties. Beginning 1 January 1998, the Environmental Management Commission shall report its findings, recommendations, and any legislative proposals regarding the matters to be evaluated pursuant to this section to the Environmental Review Commission as part of the quarterly report the Environmental Management Commission is required to make to the Environmental Review Commission by G.S. 143B-282(b).

Section 2. The Environmental Management Commission, the Division of Air Quality of the Department of Environment, Health, and Natural Resources, and the Division of Motor Vehicles of the Department of Transportation shall take appropriate steps to ensure that the current emissions inspection and maintenance program for motor vehicles administered under G.S. 20-128.2 and Part 2 of Article 3A of Chapter 20 of the General Statutes is effectively implemented and enforced. Beginning 1 October 1997, the Environmental Management Commission shall report its findings, recommendations, and any legislative proposals regarding the implementation and enforcement of the emissions inspection and maintenance program to the Environmental Review Commission as part of the quarterly report the Environmental Management Commission is required to make to the Environmental Review Commission by G.S. 143B-282(b). The Division of Motor Vehicles shall report on its progress in meeting the requirements of this section to the Environmental Review Commission on a quarterly basis beginning 1 October 1997.

Section 3. The Environmental Review Commission shall study the administration of the emissions inspection and maintenance program for motor vehicles under G.S. 20-128.2 and Part 2 of Article 3A of Chapter 20 of the General Statutes and whether that program should be transferred from the Division of Motor Vehicles of the Department of Transportation to the Environmental Management Commission and the Division of Air Quality in the Department of Environment, Health, and Natural Resources. The Environmental Review Commission shall report its findings, recommendations, and legislative proposals, if any, to the 1998 Regular Session of the General Assembly.

Section 4. This act is effective when it becomes law.

New

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 845
Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/24/97
Proposed House Committee Substitute S845-PCS4679

Short Title: School Buses for Special Olympics. (Public)

Sponsors:

Referred to:

April 15, 1997

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE STATE TO PROVIDE SCHOOL AND ACTIVITY BUSES FOR THE TRANSPORTATION NEEDS OF THE SPECIAL OLYMPICS.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding the provisions of G.S. 143-341(8)i. and G.S. 14-247, the Department of Administration may allow the 1999 Special Olympics World Summer Games Organizing Committee, Inc., to use State-owned trucks and vans for the 1999 Special Olympics World Summer Games in North Carolina.

The Department of Administration shall not charge any fees for the use of the vehicles for the 1999 Special Olympics World Summer Games.

The 1999 Special Olympics World Summer Games Organizing Committee, Inc., shall submit to the Department of Administration, for its approval, a list of the purposes for which the vehicles may be used. Vehicles may only be used for approved purposes.

The State shall incur no liability for any damages resulting from the use of vehicles under this provision. The 1999 Special Olympics World Summer Games Organizing Committee, Inc., shall carry liability insurance of not less than one million dollars ($1,000,000) covering the use of the vehicles and shall be responsible for the full cost of repairs to these vehicles if they are damaged while used for the 1999 Special Olympics World Summer Games.

Section 2. Notwithstanding any other provisions of law, the Johnston County, Wake County, Orange County, and Durham County public school systems may permit, under terms and conditions set by the public school systems, the use and operation of public school buses and activity buses by the 1999 Special Olympics World Summer Games Organizing Committee, Inc., for the transportation of persons associated with the 1999 Special Olympics World Summer Games for the periods from May 28, 1998, through May 31, 1998, and from June 19, 1999, through July 10, 1999.

Section 3. The authorizations contained in Sections 1 and 2 of this act are effective only during the months of May 1998, June 1999, and July 1999.

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1280

Sponsors: Representatives McMahan; Alexander, Black, Cunningham, Dedmon, Earle, Easterling, Goodwin, Gulley, Hurley, Justus, Saunders, Shubert, and C. Wilson.

Referred to: Rules, Calendar and Operations of the House.

May 14, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION INVITING THE DEMOCRATIC NATIONAL COMMITTEE TO HOST ITS NEXT PRESIDENTIAL NOMINATING CONVENTION IN CHARLOTTE.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION INVITING THE DEMOCRATIC NATIONAL COMMITTEE TO HOST ITS NEXT PRESIDENTIAL NOMINATING CONVENTION IN CHARLOTTE."

Section 2. This resolution is effective upon ratification.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**.

☐ Committee Substitute for
H.J.R. 1281 A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION INVITING THE REPUBLICAN NATIONAL COMMITTEE TO HOST ITS NEXT PRESIDENTIAL NOMINATING CONVENTION IN CHARLOTTE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1281

Sponsors: Representatives McMahan; Alexander, Black, Cunningham, Dedmon, Earle, Easterling, Eddins, Goodwin, Gulley, Hall, Hurley, Justus, Saunders, Shubert, and C. Wilson.

Referred to: Rules, Calendar and Operations of the House.

May 14, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION INVITING THE REPUBLICAN NATIONAL COMMITTEE TO HOST ITS NEXT PRESIDENTIAL NOMINATING CONVENTION IN CHARLOTTE.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION INVITING THE REPUBLICAN NATIONAL COMMITTEE TO HOST ITS NEXT PRESIDENTIAL NOMINATING CONVENTION IN CHARLOTTE."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1281

Sponsors: Representatives McMahan; Alexander, Black, Cunningham, Dedmon, Earle, Easterling, Eddins, Goodwin, Gulley, Hall, Hurley, Justus, Saunders, Shubert, and C. Wilson.

Referred to: Rules, Calendar and Operations of the House.

May 14, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION INVITING THE REPUBLICAN NATIONAL COMMITTEE TO HOST ITS NEXT PRESIDENTIAL NOMINATING CONVENTION IN CHARLOTTE.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION INVITING THE REPUBLICAN NATIONAL COMMITTEE TO HOST ITS NEXT PRESIDENTIAL NOMINATING CONVENTION IN CHARLOTTE."

Section 2. This resolution is effective upon ratification.

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, MAY 26, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Susan Markham	EGHS - NC Travel & Tourism Coal.
Lisa Piercy	Capitol Group
Peggy Potter Jr	NCPTA - NCDS
Leslie Bellacqua	NCCBI
Kelly Tingle	Rep. Crawford's Intern
[illegible]	AT&T
Michelle Cook	L Meyerhaeuser
[illegible] Bain	Smith Anderson
Natalie Haskins	Charlotte Chamber
[illegible]	ZDA PA
Kim Smith	NCLM
R ROGERS	EHNR
[illegible]	DENR
Steve Keene	NC Med Soc
Susan Harrison	WCPSS
Joann Winnie	NCSBA
[illegible]	[illegible]
Larry Heckner	Household Financial Group

MINUTES
RULES, CALENDAR AND OPERATIONS OF THE HOUSE
May 27, 1998

The Committee on Rules, Calendar and Operations of the House met May 27, 1998, at 2:20 p.m. in the House Conference Room in the Legislative Building. Representative Morgan, Committee Chair, called the meeting to order. The following members were present: Representative Bowie, Vice-Chair; and Representatives Crawford, Culp, Dockham, Gulley, Hill, Esposito Mitchell, Neely and Thompson.

Representative Neely, sponsor of House Resolution 1335 that recognizes the historic accomplishments of the Sir Walter Cabinet and congratulates the organization on its seventy-fifth anniversary, was recognized. Representative Neely moved for the adoption of HR 1335. Motion carried.

The meeting adjourned at 2:25 p.m.

Representative Richard T. Morgan
Committee Chair

Anne M. Cole
Acting Committee Clerk

Attachments:
Copy of HR 1335
Committee Report

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Morgan** for the Committee on **Rules, Calendar and Operations of the House.**

☐ Committee Substitute for
H.R. 1335 A HOUSE RESOLUTION RECOGNIZING THE HISTORIC ACCOMPLISHMENTS OF THE SIR WALTER CABINET AND CONGRATULATING THE ORGANIZATION ON ITS SEVENTY-FIFTH ANNIVERSARY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☒ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE RESOLUTION 1335*

Sponsors: Representatives Neely, Gamble, Rogers; Alexander, Brown, Cansler, Culpepper, Dickson, Easterling, Hall, Hightower, Hurley, Jarrell, McCombs, Mosley, Preston, Warner, and Warwick.

Referred to: Rules, Calendar and Operations of the House.

May 20, 1998

A HOUSE RESOLUTION RECOGNIZING THE HISTORIC ACCOMPLISHMENTS OF THE SIR WALTER CABINET AND CONGRATULATING THE ORGANIZATION ON ITS SEVENTY-FIFTH ANNIVERSARY.

Whereas, 1998 marks the 75th anniversary of the Sir Walter Cabinet; and

Whereas, the Sir Walter Cabinet has enhanced the social life of legislative sessions and has worked to advance the cultural, economic, and educational welfare of the State; and

Whereas, since its formation, the Sir Walter Cabinet has promoted progressive legislation such as the following:

(1) Aid for the blind and deaf, workers' compensation, better roads, and highway safety;

(2) Improvements in mental health and the conditions of women prisoners;

(3) Restoration of Tryon Palace;

(4) Assistance to the North Carolina Symphony;

(5) Establishment of the North Carolina Museum of Art; and

(6) Recognition of children's and women's rights; and

Whereas, the Sir Walter Cabinet continues to be a significant part of the legislative process and contributes to the well-being of the State; Now, therefore,

Be it resolved by the House of Representatives:

Section 1. The House of Representatives recognizes the historic accomplishments of the Sir Walter Cabinet and congratulates the organization on 75 years of dedicated commitment to the betterment of North Carolina.

Section 2. The Principal Clerk shall transmit a copy of this resolution to the Sir Walter Cabinet.

Section 3. This resolution is effective upon adoption.

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
JUNE 2, 1998

The Committee on Rules, Calendar, and Operations of the House met June 2, 1998, at 3:35 p.m. in the House Conference Room. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Crawford, Culp, Dockham, Esposito, Gulley, Hill, McMahan, Miner, Mitchell, Thompson and Wilson.

Senate Committee Substitute for HB 72 - A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF OAK RIDGE, SUBJECT TO REFERENDUM, introduced by Representative Decker was before the committee for concurrence. Representative Decker stated that the Senate drew in boundaries and the bill needs to go to conference. The date for the referendum is November 1997 and there needs to be an agreement with Kernersville of the western boundary. Representative Dockham moved to recommend that the House do not concur with the Senate Committee Substitute. The motion carried.

SB 186 - A BILL TO BE ENTITLED AN ACT REQUIRING THE PAYMENT OF DELINQUENT TAXES IN ALLEGHANY COUNTY BEFORE RECORDING DEEDS CONVEYING PROPERTY SUBJECT TO DELINQUENT TAXES, introduced by Senator Foxx was heard next. Representative Mitchell moved for adoption of a committee substitute for discussion and the motion carried. Committee Counsel Linwood Jones explained that Gaston County had a re-evaluation of property taxes and they had 22,000 people appeal this so they do not want to penalize people for unpaid or late paid taxes from January 6 to June 6 of this year. This will stop the accrual of interest for the six month period for this year only. Representative Dickson stated that this was a unanimous request from the county commissioners. Representative McMahan moved for a favorable report to the committee substitute, unfavorable to the original bill

S.B 1420 - A BILL TO BE ENTITLED AN ACT TO PERMIT THE SHORT-TERM USE OF MOBILE STRUCTURES WHEN NONRESIDENTIAL STRUCTURES ARE DAMAGED BY FIRE OR ACTS OF GOD, introduced by Senator Ballance, was discussed next. Committee Counsel Linwood Jones explained that this is a local bill and it only applies to Halifax County. It is effective until June 30, 1999. It says that despite any other type of zoning or building ordinance they may have in the county, if a non-residential building is destroyed or damaged by fire or an act of God, they can for one year use a mobile home as a temporary structure while they rebuild. Representative Bowie moved for a favorable report and the motion carried.

The meeting adjourned at 3:40 p.m.

Chairman Morgan called the meeting back to order. Representative Dockham moved that the vote be reconsidered by which SB 186 committee substitute was given a favorable report. The vote was unanimous. The correct motion from Representative Dockham is that the committee substitute be given a favorable report and the bill be re-referred to the Committee on Finance. Motion carried.

Meeting adjourned.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ Senate Committee Substitute for
H.B. 72 A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF OAK RIDGE, SUBJECT TO A REFERENDUM.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☒ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 3

HOUSE BILL 72
Senate Rules and Operations of the Senate Committee Substitute Adopted 8/14/97
Third Edition Engrossed 8/28/97

Short Title: Oak Ridge Incorporated. (Local)

Sponsors:

Referred to: Finance.

February 6, 1997

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF OAK RIDGE, SUBJECT TO A REFERENDUM.

The General Assembly of North Carolina enacts:

Section 1. A charter is enacted for the Town of Oak Ridge to read:

"CHARTER OF THE TOWN OF OAK RIDGE.

"CHAPTER 1.

"INCORPORATION AND CORPORATE POWERS.

"Section 1.1. The inhabitants of the Town of Oak Ridge are a body corporate and politic under the name 'Town of Oak Ridge'. Under that name they have all the rights, powers, duties, privileges and immunities conferred and imposed upon cities by the general law of North Carolina.

"Section 1.2. (a) Article 4A of Chapter 160A of the General Statutes does not apply to the Town of Oak Ridge until July 1, 2017.

(b) G.S. 160A-58.1(b)(2) does not apply to (i) the City of Greensboro as it relates to the Town of Oak Ridge or (ii) the Town of Kernersville as it relates to the Town of Oak Ridge.

"CHAPTER 2.

"CORPORATE BOUNDARIES.

"Section 2.1. Until changed in accordance with law, the boundaries of the Town of Oak Ridge are as follows:

From the southwestern boundary of the Stokesdale City Limits, south on the east side of the Haw River Road to Pepper Road, south on the east side of Pepper Road to NC Hwy. 150, east on NC Hwy. 150 to Beason Road, south on the east side of Beason Road to Reedy Fork Creek, east on Reedy Fork Creek to NC Hwy. 68, south on Hwy. 68 to the Oak Ridge Township line, east on the Oak Ridge Township line to Golden Acre Road, north on Golden Acre Road to the intersection with Alcorn Road (includes all properties known as the Golden Acre Subdivision), north on Alcorn Road to Reedy Fork Creek, east on Reedy Fork Creek to the Oak Ridge & Bruce Township line, north to the southern boundary of Stokesdale City Limits, west following the southern boundary of Stokesdale City Limits to the Guilford County line.

"CHAPTER 3.

"GOVERNING BODY.

"Section 3.1. The governing body of the Town of Oak Ridge is the Town Council, which has five members.

"Section 3.2. The qualified voters of the entire Town elect the members of the Town Council.

"Section 3.3. From the effective date of this charter until the organizational meeting of the Town Council after the 1999 municipal elections the Mayor, Mayor Pro Tem, and the other three members of Town Council will be:

Interim Mayor	Bill Parrish
Mayor Pro Tem	Gary Blackburn
Council	Mack Peoples
Council	Greg Bissett
Council	Roger Howerton

The Interim Mayor and Mayor Pro Tem named by this section shall only serve as such if another council member is not chosen for that position as provided by Section 3.5 of this Charter.

"Section 3.4. At the regular Town election in 1999, five council members shall be elected. The persons receiving the three highest numbers of votes shall be elected for four-year terms, and the two persons receiving the next highest numbers of votes shall be elected for two-year terms. In 2001 and quadrennially thereafter, two council members shall be elected for four-year terms. In 2003 and quadrennially thereafter, three council members shall be elected for four-year terms.

"Section 3.5. At the organizational meeting of the initial council and at the organizational meeting after each election, the council shall elect one of its members to serve at its pleasure as Mayor.

"CHAPTER 4.

"ELECTIONS.

"Section 4.1. The Town Council shall be elected by the nonpartisan plurality method as provided by G.S. 163-292. Elections shall be governed by general law except as provided otherwise by this Charter.

"CHAPTER 5.

"ADMINISTRATION.

"Section 5.1. The Town of Oak Ridge shall operate under the Mayor-Council plan as provided in Part 3 of Article 7 of Chapter 160A of the General Statutes.

"CHAPTER 6.

"TAXATION.

"Section 6.1. Notwithstanding G.S. 160A-209(d), except with the approval of the qualified voters of the Town in a referendum under G.S. 160A-209, the Town may not levy ad valorem taxes in excess of twenty cents (20¢) on the one hundred dollars ($100.00) valuation. This section does not limit taxation to pay the debt service on general obligation indebtedness incurred by the Town in accordance with law."

Section 2. From and after the effective date of the incorporation, the citizens and property in the Town of Oak Ridge shall be subject to municipal taxes levied for the year beginning July 1, 1997, and for that purpose the Town shall obtain from Guilford County a record of property in the area herein incorporate which was listed for taxes as of January 1, 1997, and the businesses in the Town shall be liable for privilege license tax from the effective date of the privilege license tax ordinance. The Town may adopt a budget ordinance for fiscal year 1997-98, without following the timetable in the local government budget and fiscal control act, but shall follow the sequence of actions in the spirit of the act insofar as is practical. For fiscal year 1997-98 ad valorem taxes may be paid at par or face amount within 90 days of adoption of the budget ordinance, and thereafter in accordance with the schedule in G.S. 105-36 as if taxes had been due and payable on September 1, 1997.

Section 3. (a) The Guilford County Board of Elections, shall conduct an election on the Tuesday after the first Monday in November of 1997 for the purpose of submission of the proposed Charter to the qualified voters of the area described in Section 2.1 of the Charter of the Town of Oak Ridge. Registration for the election shall be conducted in accordance with G.S. 163-288.2.

(b) In the election, the question on the ballot shall be:

"[ ] FOR [ ] AGAINST

Incorporation of the Town of Oak Ridge".

Section 4. In such election if a majority of the votes cast are not cast "For incorporation of the Town of Oak Ridge", then Sections 1 and 2 of this act shall have no force or effect.

Section 5. In such election, if a majority of the votes cast shall be cast "For incorporation of the Town of Oak Ridge", then Sections 1 and 2 of this act shall become effective on the date that the Guilford County Board of Elections determines the result of the election.

Section 6. This act is effective when it becomes law.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
S.B. 186 A BILL TO BE ENTITLED AN ACT REQUIRING THE PAYMENT OF DELINQUENT TAXES IN ALLEGHANY COUNTY BEFORE RECORDING DEEDS CONVEYING PROPERTY SUBJECT TO DELINQUENT TAXES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to House committee substitute bill (#———), ☑ which changes the title, unfavorable as to original bill (~~Committee Substitute Bill #———~~), (and recommendation that the House committee substitute bill #———) be re-referred to the Committee on Finance.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 186
Proposed House Committee Substitute S186-PCS4687

Short Title: Delay Gaston Property Tax Interest. (Public)

Sponsors:

Referred to:

February 19, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE GOVERNING BODY OF A TAXING UNIT MAY DELAY THE ACCRUAL OF INTEREST ON CERTAIN UNPAID PROPERTY TAXES.

The General Assembly of North Carolina enacts:

Section 1. A taxing unit's governing body may by resolution provide that, notwithstanding the provisions of G.S. 105-360 regarding the accrual of interest and G.S. 105-380 and G.S. 105-381 regarding the release, refund, or compromise of taxes, interest shall not accrue on unpaid taxes for fiscal year 1997-98 unless the taxes remain unpaid after June 6, 1998. Interest accruing on taxes that remain unpaid after June 6, 1998, shall be computed according to the schedule stated in G.S. 105-360 in the same manner as though the taxes were unpaid as of January 6, 1998. A resolution adopted pursuant to this act may apply only to fiscal year 1997-98 taxes, receipts of which were not delivered to the tax collector before October 3, 1997.

Section 2. A resolution adopted by a taxing unit's governing body pursuant to this act relieves the tax collector of that taxing unit of any obligation to collect interest on taxes to which the resolution applies that are paid on or before June 6, 1998. After adoption of the resolution, the governing body of the taxing unit or its delegate shall refund any interest subject to Section 1 of this act that was paid by a taxpayer for the period between January 6, 1998, and June 6, 1998.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 186

Short Title: Alleghany/Delinquent Prop. Taxes. (Local)

Sponsors: Senators Foxx; and East.

Referred to: State Government, Local Government, and Personnel.

February 19, 1997

A BILL TO BE ENTITLED

AN ACT REQUIRING THE PAYMENT OF DELINQUENT TAXES IN ALLEGHANY COUNTY BEFORE RECORDING DEEDS CONVEYING PROPERTY SUBJECT TO DELINQUENT TAXES.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 657 of the 1993 Session Laws reads as rewritten:

"Section 1. The ~~Register~~ Registers of Deeds of Ashe ~~County~~ and Alleghany Counties shall not receive for recordation any deed unless the deed is accompanied by a certificate from the ~~Ashe~~ County Tax Collector to the effect that all delinquent taxes upon the property described in the deed offered for recordation have been paid."

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
S.B. 1420 A BILL TO BE ENTITLED AN ACT TO PERMIT THE SHORT-TERM USE OF MOBILE STRUCTURES WHEN NONRESIDENTIAL STRUCTURES ARE DAMAGED BY FIRE OR ACTS OF GOD.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 1420
Second Edition Engrossed 5/27/98

Short Title: Halifax Mobile Structures Allowed. (Local)

Sponsors: Senators Ballance and Cooper.

Referred to: Rules Suspended; State Government, Local Government and Personnel.

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE SHORT-TERM USE OF MOBILE STRUCTURES WHEN NONRESIDENTIAL STRUCTURES ARE DAMAGED BY FIRE OR ACTS OF GOD.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any zoning, occupancy, or other ordinance or statute to the contrary, when a nonresidential building in Halifax County is damaged by fire or an "act of God," the structure may be temporarily replaced with a mobile home or similar manufactured structure for a period of one year to allow for continued operations while the damaged building is repaired or rebuilt.

Section 2. This act applies to Halifax County only.

Section 3. This act is effective when it becomes law and expires on June 30, 1999.

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, JUNE 2, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Palumbo	AT&T
Nancy Bradley	NCCBD
Michelle Cook	Weyerhaeuser
Natalie Haskins	Charlotte Chamber
Kim Smith	NCLM
bj Farmer	NCDHHS - DCD
Debbie Dawson	NC Child Care Coalition
David Simmons	Zebra, PA
Ken Howe	NCSA
Mari Freeman	NCSA
Peyton Mayhard	GPA
Laura DeVoe	DENR

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
June 3, 1998

The Committee on Rules, Calendar, and Operations of the House met June 3, 1998, at 4:05 p.m. in the House Conference Room in the Legislative Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Crawford, Culp, Dockham, Esposito, Hill, McMahan, Miner, Mitchell, Thompson and Wilson.

The following bills were discussed:

HJR 1754 - A JOINT RESOLUTION INVITING THE REPUBLICAN NATIONAL COMMITTEE TO HOST ITS NEXT PRESIDENTIAL NOMINATING CONVENTION IN CHARLOTTE. Chairman Morgan stated that the Enabling Resolution had already been before the Rules Committee and the House and Senate Chambers had passed it. Representative McMahan, bill sponsor, moved for a favorable report to the joint resolution and the motion carried.

HB 1637 - AN ACT TO SETTLE ANNEXATION LITIGATION BY REPEALING AN ANNEXATION ORDINANCE OF THE TOWN OF CAPE CARTERET, sponsored by Representative Smith. Committee Counsel Linwood Jones explained that the bill was filed as a blank bill. The bill was introduced to settle annexation litigation by repealing an annexation ordinance of the Town of Cape Carteret. Representative Mitchell moved for adoption of a committee substitute for discussion and the vote was unanimous. Representative Mitchell moved for a favorable report to the committee substitute with a re-referral to Local Government I, and an unfavorable report to the original bill. The motion carried.

HB 1638 - AN ACT RELATING TO THE TOWN OF MOREHEAD CITY, sponsored by Representative Smith. Committee Counsel Linwood Jones explained that the bill was filed as a blank bill. This bill will expand from ten to twenty-five percent of the primary corporate limits of the Town of Morehead City that may be in satellite annexations The bill also has a title change. Representative Thompson moved for adoption of a committee substitute for discussion and the vote was unanimous. Representative Thompson moved for a favorable report to the committee substitute with a re-referral to Local Government I, and an unfavorable report to the original bill. The motion carried.

HB 1639 - AN ACT RELATING TO THE TOWN OF NEWPORT, sponsored by Representative Smith. Committee Counsel Linwood Jones explained that this bill was filed as a blank bill and it would allow the Town of Newport to lease a certain piece of property for twenty five years. The bill had a title change. Representative Hill moved for

adoption of a committee substitute for discussion and the vote was unanimous. Representative Hill moved for a favorable report to the committee substitute with a re-referral to Local Government I, and an unfavorable report to the original bill. The motion carried.

The meeting adjourned at 4:10 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
Joint Resolution
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.J.R. 1754 A JOINT RESOLUTION INVITING THE REPUBLICAN NATIONAL COMMITTEE TO HOST ITS NEXT PRESIDENTIAL NOMINATING CONVENTION IN CHARLOTTE.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

H.B. FILED
1754 JUN -3 98
HOUSE PRINCIPAL CLERK

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H **D**

HOUSE JOINT RESOLUTION DRHJR1561-LG261(2.26)

Sponsors: Representative McMahan.

Referred to:

A JOINT RESOLUTION INVITING THE REPUBLICAN NATIONAL COMMITTEE TO HOST ITS NEXT PRESIDENTIAL NOMINATING CONVENTION IN CHARLOTTE.

Whereas, in the year 2000, the Republican Party will hold its thirty-seventh quadrennial Presidential Nominating Convention; and

Whereas, Presidential Nominating Conventions are the crown jewels of our political process, concentrating the attention of the nation and the world on the success and continuity of the American experiment of self-government; and

Whereas, no other single event in American life brings the focus on a city that a Presidential Nominating Convention does; and

Whereas, only 15 cities have been chosen as hosts for the 36 Presidential Nominating Conventions held by the Republican Party since its founding in 1856; and

Whereas, in the 13 presidential election years since World War II, the Republican Party has held a Convention in the East only three times; and

Whereas, North Carolina has a strong history of supporting Republicans at the national level; and

Whereas, with its state-of-the-art Convention Center and Coliseum, the City of Charlotte has outstanding facilities with which to host a Presidential Nominating Convention; and

Whereas, a group of North Carolinians has formed Carolinas 2000, Inc., to bring a Presidential Nominating Convention to Charlotte in the year 2000; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly cordially invites the Republican National Committee to hold its next Presidential Nominating Convention in Charlotte.

Section 2. This resolution is effective upon ratification.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1637 A BILL TO BE ENTITLED AN ACT TO SETTLE ANNEXATION LITIGATION BY REPEALING AN ANNEXATION ORDINANCE OF THE TOWN OF CAPE CARTERET.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to original bill (~~Committee Substitute Bill # ~~), (and recommendation that the committee substitute ~~bill # ~~) be re-referred to the Committee on Local Government I.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

New

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1637
Proposed Committee Substitute H1637-PCS6442

Short Title: Cape Carteret Annexation Repeal. (Local)

Sponsors:

Referred to:

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO SETTLE ANNEXATION LITIGATION BY REPEALING AN ANNEXATION ORDINANCE OF THE TOWN OF CAPE CARTERET.

The General Assembly of North Carolina enacts:

Section 1. Annexation Ordinance 96-07-03, adopted by the Board of Commissioners of the Town of Cape Carteret on July 29, 1996, is repealed as to territory north of Pettiford Bay. It is validated as to the remaining areas covered by the ordinance. The area removed from the annexation by this act shall be subject to the planning jurisdiction of the Town of Cape Carteret.

Section 2. This act becomes effective July 29, 1996.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1637

Short Title: Cape Carteret Annexation Repeal. (Local)

Sponsors: Representatives Smith; and Preston.

Referred to: Rules, Calendar and Operations of the House.

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO SETTLE ANNEXATION LITIGATION BY REPEALING AN ANNEXATION ORDINANCE OF THE TOWN OF CAPE CARTERET.

The General Assembly of North Carolina enacts:

Section 1. This act becomes effective July 29, 1996.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1638 A BILL TO BE ENTITLED AN ACT RELATING TO THE TOWN OF MOREHEAD CITY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill ~~(#_____)~~, ☑ which changes the title, unfavorable as to original bill ~~(Committee Substitute Bill #_____)~~, (and recommendation that the committee substitute bill ~~#_____)~~ be re-referred to the Committee on Local Government I.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

New

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1638
Proposed Committee Substitute H1638-PCS8351

Short Title: Morehead City Satellite Annexations. (Local)

Sponsors:

Referred to:

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO EXPAND FROM TEN PERCENT TO TWENTY-FIVE PERCENT OF THE PRIMARY CORPORATE LIMITS OF THE TOWN OF MOREHEAD CITY THAT MAY BE IN SATELLITE ANNEXATIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(5) reads as rewritten:

"(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ~~ten percent (10%)~~ twenty-five percent (25%) of the area within the primary corporate limits of the annexing city."

Section 2. This act applies to the Town of Morehead City only.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1638

Short Title: Morehead City Local Act. (Local)

Sponsors: Representatives Smith; and Preston.

Referred to: Rules, Calendar and Operations of the House.

May 28, 1998

A BILL TO BE ENTITLED

AN ACT RELATING TO THE TOWN OF MOREHEAD CITY.

The General Assembly of North Carolina enacts:

Section 1. This act relates to the Town of Morehead City only.

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1639 A BILL TO BE ENTITLED AN ACT RELATING TO THE TOWN OF NEWPORT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill ~~(# ——)~~, ☑ which changes the title, unfavorable as to original bill ~~(Committee Substitute Bill # ——)~~, (and recommendation that the committee substitute bill ~~# ——~~) be re-referred to the Committee on Local Government I

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

New

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1639
Proposed Committee Substitute H1639-PCS8350

Short Title: Newport Lease. (Local)

Sponsors:

Referred to:

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF NEWPORT TO LEASE A CERTAIN PIECE OF PROPERTY FOR TWENTY-FIVE YEARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-272 reads as rewritten:

"**§ 160A-272. Lease or rental of property.**

Any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than ~~10 years~~ 25 years (except as otherwise provided herein) and only if the council determines that the property will not be needed by the city for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend shall be included. Property may be rented or leased only pursuant to a resolution of the council authorizing the execution of the lease or rental agreement adopted at a regular council meeting upon 10 days' public notice. Notice shall be given by publication describing the property to be leased or rented, stating the annual rental or lease payments, and announcing the council's intent to authorize the lease or rental at its next regular meeting.

No public notice need be given for resolutions authorizing leases or rentals for terms of one year or less, and the council may delegate to the city manager or some other city administrative officer authority to lease or rent city property for terms of one year or less. Leases for terms of more than ~~10 years~~ 25 years shall be treated as a sale of property and may be executed by following any of the procedures authorized for sale of real property."

Section 2. This act applies only to a lease by the Town of Newport of Tax Parcel #634813147869 of the Carteret County Registry, a 1.17 acre tract located on Howard Boulevard known as the "Scout Hut".

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1639

Short Title: Newport Local Act. (Local)

Sponsors: Representatives Smith; and Preston.

Referred to: Rules, Calendar and Operations of the House.

May 28, 1998

A BILL TO BE ENTITLED

AN ACT RELATING TO THE TOWN OF NEWPORT.

The General Assembly of North Carolina enacts:

Section 1. This act relates to the Town of Newport only.

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

VISITOR REGISTRATION SHEET

COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE

JUNE 3, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Roshyn Savitt	Child Care Coalition, Domestic Violence Coalition
Kelly Jo Tighe	Rep. Crawford's Intern
Wade Rawlins	The News & Observer
Suzanne Williams	NCCC
Fred Taylor	WRAL-TV
David Simmons	ZDX, PA
Andy Romanet	N.C.L.M.

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
June 16, 1998

The Committee on Rules, Calendar, and Operations of the House met June 16, 1998, at 2:00 p.m. in Room 421 in the Legislative Office Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Culp, Dockham, Gulley, Hill, Miner, Mitchell, Thompson, and Wilson.

The following bills were brought before the Committee:

House Bill 1492 - A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS (1) FOR GRANTS, LOANS, AND REVOLVING LOANS TO LOCAL GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS, WASTEWATER COLLECTION SYSTEMS, WASTEWATER TREATMENT WORKS, AND WATER CONSERVATION AND WATER REUSE PROJECTS AND (2) FOR GRANTS AND LOANS TO NATURAL GAS LOCAL DISTRIBUTION COMPANIES AND OTHER PERSONS SEEKING A NATURAL GAS DISTRIBUTION FRANCHISE FOR CONSTRUCTION OF NATURAL GAS FACILITIES, introduced by Representative Carpenter. Vice Chair Bowie moved for adoption of a committee substitute for the purpose of discussion and the vote was unanimous. Representative Carpenter was recognized and explained that this is a 1 billion dollar bond bill for the purpose of funding rural infrastructure development, which is the clean water side of the bond and the natural gas side as well. Representative Hill stated that there was a definition of rural county on page 4 but he wanted to know if there was a better definition. Representative Carpenter said this definition is very close to what is defined by the Rural Center and the Department of Environment and Natural Resources. There are 85 rural counties in North Carolina, from the definition that the Rural Center has developed. Billy Ray Hall with the Rural Center stated that the definition was developed about 8 years ago by their board because the federal government kept changing their definition. Representative Mitchell moved for a favorable report to the committee substitute with a re-referral to the Committee on Appropriations, unfavorable as to the original bill. The motion carried. The bill had a title change.

Next was HJR 1755 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CITY OF STATESVILLE TO LEVY AN ADDITIONAL ROOM OCCUPANCY TAX TO FUND TOURISM PROMOTION AND OPERATING EXPENSES OF A CIVIC CENTER, introduced by Representative Mitchell. He explained that the bill was introduced at the request of the Statesville mayor and city council. The county commissioners also voted in support of the bill. They

wanted the hotel occupancy increase for the City of Statesville to go toward construction of a civic center. When the bill was turned in it was approved by Senator Phillips and Senator Forrester, as representatives of the City of Statesville. Representative Brawley came in later and stated that the airport being in the 43rd district, there are no voters there and it was satellite annexed, objected to the bill. That is why enabling legislation has to go forward to allow the bill to be heard. Representative Miner moved for a favorable report on the resolution and the motion carried. Chairman Morgan stated that the resolution would require a 2/3 vote in each body as an enabling resolution.

Chairman Morgan told committee members that there a number of bills and resolutions in the committee and he would like for them to review the enabling resolutions, and also memorializing resolutions, and contact the chair if they have a desire for these bills to be heard.

Representative Bowie said she had heard talk around her seat, when these resolutions come up, about the possibility of limiting the resolutions to past members only.

Chairman Morgan stated that our Rules already address that subject. Memorializing resolutions, except those honoring former members, are not eligible for consideration.

The meeting adjourned at 2:15 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1492 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS (1) FOR GRANTS, LOANS, AND REVOLVING LOANS TO LOCAL GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS, WASTEWATER COLLECTION SYSTEMS, WASTEWATER TREATMENT WORKS, AND WATER CONSERVATION AND WATER REUSE PROJECTS AND (2) FOR GRANTS AND LOANS TO NATURAL GAS LOCAL DISTRIBUTION COMPANIES AND OTHER PERSONS SEEKING A NATURAL GAS DISTRIBUTION FRANCHISE FOR CONSTRUCTION OF NATURAL GAS FACILITIES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill (#_____), ☒ which changes the title, unfavorable as to original bill (~~Committee Substitute Bill #_____~~); (and recommendation that the committee substitute bill ~~#_____~~) be re-referred to the Committee on Appropriations.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1492
Proposed Committee Substitute H1492-PCSX4198

Short Title: Rural Infrastructure Bonds. (Public)

Sponsors:

Referred to:

May 25, 1998

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO ADDRESS STATEWIDE RURAL INFRASTRUCTURE NEEDS BY PROVIDING FUNDS (1) FOR GRANTS AND LOANS TO LOCAL GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS, WASTEWATER COLLECTION SYSTEMS, WASTEWATER TREATMENT WORKS, AND WATER CONSERVATION AND WATER REUSE PROJECTS AND (2) FOR GRANTS, LOANS, OR OTHER FINANCING TO PUBLIC OR PRIVATE ENTITIES FOR CONSTRUCTION OF NATURAL GAS FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Short title. This act shall be known as the "Rural Infrastructure Bond Act of 1998".

Section 2. Purpose. It is the intent of the General Assembly by this act to provide for the issuance of general obligation bonds of the State and to provide that the proceeds realized from the sale of the bonds shall be allocated as follows:

(1) $465,000,000 to provide State matching funds required to receive federal wastewater or water supply assistance funds and to provide additional funding for the Clean Water Revolving Loan and Grant Fund established in Chapter 159G of the General Statutes or to provide funding by grants to local government units;

(2) $320,000,000 to provide loans to local government units to finance all or a portion of the cost of construction, improvements, enlargements, extensions, and reconstruction of water supply and distribution systems, wastewater collection systems, wastewater treatment works, water conservation projects and water reuse projects; and

(3) $215,000,000 to provide grants, loans, or other financing to natural gas local distribution companies, persons seeking natural gas distribution franchises, State or local government agencies, or other entities for construction of natural gas facilities.

Section 3. Definitions. As used in this act, unless the context otherwise requires:

(1) "Bond Rating" means a numerical rating of a unit of local government developed by the North Carolina Municipal Council, Inc. The rating formula is based on 100 being a theoretically 'perfect' unit of government and is an assessment of the creditworthiness of the unit. Units of local government with rating below 75 or with no ratings are generally considered to be 'nonbank eligible' and such communities therefore have limited, if any, access to the private market for financing water and sewer or other debt.

(2) "Bonds" means bonds issued under this act.

(3) "Capital Improvement Plan" means a report that identifies water and sewer infrastructure and capital needs that address planned and strategic growth. It includes an assessment of current water and wastewater systems and a projection of those infrastructure needs over a 20-year horizon. The report takes into consideration government mandates, usefulness of the improvements to the community and the effect on both short and long-term operation and maintenance of the scheduled improvements and identifies alternatives for meeting the identified need including regionalization, consolidation and system mergers, water reuse and conservation.

(4) "Clean Water Revolving Loan and Grant Act" means Chapter 796 of the 1987 Session Laws, as amended from time to time, codified as Chapter 159G of the General Statutes.

(5) "Clean Water Revolving Loan and Grant Fund" means the Clean Water Revolving Loan and Grant Fund as defined in the Clean Water Revolving Loan and Grant Act.

(6) "Cost" means, without intending thereby to limit or restrict any proper definition of this term in financing the cost of facilities or purposes authorized by this act:

a. The cost of constructing, reconstructing, enlarging, acquiring, and improving facilities, and acquiring equipment and land therefor,
b. The cost of engineering, architectural, and other consulting services as may be required,
c. Administrative expenses and charges,
d. Finance charges and interest prior to and during construction and, if deemed advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction,
e. The cost of bond insurance, investment contracts, credit enhancement and liquidity facilities, interest-rate swap agreements or other derivative products, financial and legal consultants, and related costs of bond and note issuance, to the extent and as determined by the State Treasurer,
f. The cost of reimbursing the State for any payments made for any cost described above, and
g. Any other costs and expenses necessary or incidental to the purposes of this act.

Allocations in this act of proceeds of bonds to the costs of a project or undertaking in each case may include allocations to pay the costs set forth in items c., d., e., f., and g. in connection with the issuance of bonds for the project or undertaking.

(7) "Credit Facility" means an agreement entered into by the State Treasurer on behalf of the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company, or other insurance institution, a corporation, investment banking firm, or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America, such agreement providing for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption or acceleration), redemption premium, if any, and interest on any bonds or notes payable on demand or tender by the owner, in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of such agreement.

(8) "Economically Depressed Area" means any of the following:
a. An economically distressed county as defined in G.S. 143B-437.01.
b. That part of a rural county whose poverty rate is at least one hundred fifty percent (150%) of the State poverty rate. For the purpose of this section, the poverty rate is the

percentage of the population with income below the latest annual federal poverty guidelines issued by the United States Department of Health and Human Resources.

c. That part of a rural county that experiences an actual or imminent loss of jobs in a number that is equal to or exceeds five percent (5%) of the total number of jobs in the part.

(9) "Local Government Units" means local government units as defined in the Clean Water Revolving Loan and Grant Act.

(10) "North Carolina Municipal Council, Inc. (NCMC)" means the private, nonprofit bond rating corporation operating in North Carolina. The Council provides reports and ratings of units of local government for its members.

(11) "Notes" means notes issued under this act.

(12) "Par Formula" means any provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne by any bonds or notes, including:

a. A provision providing for such adjustment so that the purchase price of such bonds or notes in the open market would be as close to par as possible,

b. A provision providing for such adjustment based upon a percentage or percentages of a prime rate or base rate, which percentage or percentages may vary or be applied for different periods of time, or

c. Such other provision as the State Treasurer may determine to be consistent with this act and will not materially and adversely affect the financial position of the State and the marketing of bonds or notes at a reasonable interest cost to the State.

(13) "Rural County" means a county with a density of less than 200 people per square mile based on the United States census.

(14) "Rural Economic Development Center" means the Rural Economic Development Center, Inc., a nonprofit corporation.

(15) "State" means the State of North Carolina.

(16) "Supplemental Grant" means a grant awarded by the Rural Economic Development Center to a local government unit that assists in financing projects that support rural areas. Supplemental grant funds are intended to supplement other project funding and typically do not represent more than fifty percent (50%) of a project's total cost.

(17) "Unsewered Communities" means those communities lacking centralized, publicly owned wastewater treatment collection and treatment systems.

(18) "Wastewater Collection Systems" means wastewater collection systems as defined in the Clean Water Revolving Loan and Grant Act.

(19) "Wastewater Treatment Works" means wastewater treatment works as defined in the Clean Water Revolving Loan and Grant Act.

(20) "Water Conservation Projects" include, but are not limited to, any construction, repair, renovation, expansion, replacement of components, or other capital improvement, including related equipment and land acquisition, designed to:

a. Eliminate the wasteful or unnecessary use or loss of water in the operations of a wastewater collection system, wastewater treatment works, or water supply system; or

b. Enhance the operation of a wastewater collection system, wastewater treatment works, or water supply system to provide a more efficient use of water.

(21) "Water Pollution Control Revolving Fund" means the fund described by G.S. 159G-4(a) and G.S. 159G-5(c).

(22) "Water Reuse" means the actual use or application of treated wastewater in or on areas which require water but do not require potable water quality.

(23) "Water Supply Systems" means water supply systems as defined in the Clean Water Revolving Loan and Grant Act.

Section 4. Authorization of bonds and notes. (a) Clean Water Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing Clean Water Bonds in the election called and held as provided in this act, the State Treasurer is hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina Clean Water Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in an aggregate principal amount not exceeding seven hundred eighty-five million dollars ($785,000,000) for the purpose of providing funds, with any other available funds, for the purposes authorized in this act.

The funds to be derived from the sale of the Clean Water Bonds authorized by this act are sufficient to meet no more than a fraction of the needs that now exist and will arise in the immediate future. For this reason, although public necessity, the criteria established by Chapter 159G of the General Statutes, and the guidelines established by the United States Environmental Protection Agency Hardship Grants Program shall be the primary consideration in granting and loaning funds, great emphasis shall also be placed on the creation of efficient systems of regional wastewater disposal and regional water supply and on the willingness and ability of local government units to meet their responsibilities through sound fiscal policies, creative planning, and efficient operation and management.

(b) Natural Gas Bonds. Subject to a favorable vote of a majority of the qualified voters of the State who vote on the question of issuing Natural Gas Bonds in the election called and held as provided in this act, the State Treasurer is hereby authorized, by and with the consent of the Council of State, to issue and sell, at one time or from time to time, general obligation bonds of the State to be designated "State of North Carolina Natural Gas Bonds", with any additional designations as may be determined to indicate the issuance of bonds from time to time, or notes of the State as provided in this act, in an aggregate principal amount not exceeding two hundred fifteen million dollars ($215,000,000) for the purpose of providing funds, with any other available funds, for the purposes authorized in this act.

Section 5. Uses of bond and note proceeds. (a) Clean Water Bonds. The proceeds of Clean Water Bonds and notes shall be used for the purpose of making loans and grants to local governments as follows:

(1) The proceeds of three hundred fifty-five million dollars ($355,000,000) of Clean Water Bonds shall be used by the Department of Environment and Natural Resources to provide State matching funds required to receive federal wastewater or water supply assistance funds, for grants to local government units for the same purposes for which funds in the Clean Water Revolving Loan and Grant Fund may be used, and for grants to fund hardship projects in accordance with the guidelines established by the United States Environmental Protection Agency Hardship Grants Program. The grants shall be made for the purpose of paying the cost of water supply systems, wastewater collection systems, and wastewater treatment works. Those proceeds shall be allocated as follows:

a. High-Unit Cost Wastewater Account

1. Reserved for local units of local government whose bond rating is less than 75 or who have no bond rating $70,000,000

2. Reserved for local units of local government whose bond rating is 75 or greater $80,000,000

b. Hardship Grant Projects

Reserved to fund hardship grant projects in accordance with the guidelines established by the United States EPA Hardship Grants Program $20,000,000

c. High-Unit Cost Water Supply Account

1. Reserved for local units of local government whose bond rating is less than 75 or who have no bond rating $70,000,000

2. Reserved for local units of local government whose bond rating is 75 or greater $80,000,000

d. Federal Matching Funds $35,000,000

The sum of thirty-five million dollars ($35,000,000) that is allocated as federal matching funds shall be used to provide State funds necessary for the 1999-2000, 2000-2001, 2001-2002, 2002-2003, and 2003-2004 fiscal years to match the federal wastewater or water supply assistance funds deposited in the Water Pollution Control Revolving Fund or another fund that is used to pay the cost of water supply systems, wastewater collection systems, or wastewater treatment works and is eligible to receive federal matching funds, unless the General Assembly has provided the required match through other revenue, in which event this priority shall cease to exist to the extent of the availability of the other revenue. For the purpose of implementing this priority, the Department of Environment and Natural Resources shall certify to the State Treasurer the amount of funds required for the State match for each of the fiscal years ending June 30, 1999, June 30, 2000, June 30, 2001, June 30, 2002, June 30, 2003, and June 30, 2004, and the extent to which the General Assembly has provided other funds for this purpose. Upon certification each year of the amount of funds required for the State match for that fiscal year, the State Treasurer may issue from the thirty-five million dollars ($35,000,000) the amount certified up to thirty-five million dollars ($35,000,000). Upon certification for the State match required for the fiscal year ending June 30, 2004, the State Treasurer may issue the remaining balance of the thirty-five million dollars ($35,000,000) of the Clean Water Bonds authorized by this subdivision for the purpose of funding the State match for that fiscal year and for any other purposes authorized by this subdivision. The proceeds of the bonds necessary for the State match for each fiscal year shall be deposited in the Water Pollution Control Revolving Fund or another appropriate fund or account determined by the State Treasurer.

The remaining proceeds of Clean Water Bonds allocated under this subdivision may be (i) transferred directly to the Clean Water Revolving Loan and Grant Fund to make grants, (ii) used to make grants directly to the appropriate local government qualifying for a grant from the Clean Water Revolving Loan and Grant Fund, (iii) used to make grants directly to the appropriate local government qualifying for a grant from the EPA Hardship Grants Program, (iv) used for any combination of (i), (ii), or (iii), or (v) used in such other manner as shall effectuate the purposes of this act.

(2) The proceeds of sixty million dollars ($60,000,000) of Clean Water Bonds shall be transferred to the Department of Commerce and shall be administered in the same manner as funds in the Industrial Development Fund created in G.S. 143B-437.01(a) for use in

accordance with G.S. 143B-437.01(a), with the following exceptions:

a. The funds shall be used only for grants to local governments, not for loans.

b. The only purposes for which grants may be made are construction of or improvements to new or existing water or sewer distribution lines or equipment.

c. The projects may be located only in counties that are economically distressed as defined in G.S. 143B-437.01 or have a population of less than 50,000.

d. Grants may be made with respect to the following industries as defined in G.S. 105-129.2: manufacturing and processing, and warehousing and wholesale trades.

e. No match is required for the grants.

(3) The proceeds of fifty million dollars ($50,000,000) of Clean Water Bonds shall be used by the Rural Economic Development Center, Inc., to provide supplemental grants to local government units to match federal, State, and other grant or loan program funds to plan or improve needed water and sewer projects in economically depressed areas of North Carolina.

The supplemental grants made from the proceeds of this fifty million dollars ($50,000,000) shall be based on the following criteria:

a. The applicant shall be a local government unit.

b. The applicant shall be a rural county.

c. The applicant shall have a capital improvement plan.

d. First priority shall be given to a water or wastewater infrastructure project that creates or retains jobs. A project shall also receive funding priority if the project is located in an economically distressed county as defined by G.S. 143B-437.01.

e. A project that is proposed in a nondistressed county must meet at least one of the following criteria: (i) be located in that part of a rural nondistressed county where the poverty rate is at least one hundred fifty percent (150%) of the State poverty rate, (ii) be located in that part of a rural nondistressed county where the unemployment rate is at least double the State unemployment rate for the most recent reporting period available, or (iii) be located in that part of a rural nondistressed county that experiences an actual or imminent loss of jobs in a number that equals or exceeds five percent (5%) of the total number of jobs in that part of the county. Any grant awarded for a project in a

nondistressed county shall be matched on a dollar-for-dollar basis in the amount of the grant awarded.

The proceeds allocated under this subdivision may be transferred directly to the supplemental grant account of the Rural Economic Development Center, Inc., to provide supplemental funding for grants to local governments to provide funds to match federal grants or other grants for necessary water and sewer projects in economically depressed areas. However, funds shall not be expended for the repair or replacement of low-pressure pipe wastewater systems.

(4) The proceeds of three hundred twenty million dollars ($320,000,000) of Clean Water Bonds shall be used for the purpose of making loans to local government units to pay the cost of water supply systems, water conservation projects, water reuse projects, wastewater collection systems, and wastewater treatment works. The proceeds shall be allocated as follows:

a. Wastewater collection systems and wastewater treatment works.
   1. Reserved for local units of local government whose bond rating is less than 75 or who have no bond rating..... $10,000,000
   2. Reserved for local units of local government whose bond rating is 75 or more..... $150,000,000

b. Water supply and distribution systems and water conservation projects.
   1. Reserved for local units of local government whose bond rating is less than 75 or who have no bond rating..... $10,000,000
   2. Reserved for local units of local government whose bond rating is 75 or more..... $150,000,000

The proceeds allocated under this subdivision shall be used to make loans directly to local government units qualifying for a loan from the Clean Water Revolving Loan and Grant Fund or loaned in such other manner as shall effectuate the purposes of this act. To qualify for a loan from the Clean Water Bonds Fund for the purpose of paying the cost of water supply systems, a local government unit must have a water supply facility plan approved by the Department of Environment and Natural Resources. A water supply facility plan submitted by a local government unit to the Department under G.S. 143-355(l) will be sufficient to meet this requirement. To qualify for a loan from the Clean Water Bonds Fund for the purpose of paying the cost of wastewater collection systems or wastewater treatment works, a local

government unit must have a wastewater facility plan approved by the Department of Environment and Natural Resources. A wastewater facility plan must project future wastewater treatment needs, must present a long-range plan to meet those needs, and must include plans for system operations and maintenance of the facilities being built with the bond proceeds.

The Department of Environment and Natural Resources shall set the priorities and determine the eligibility of local government units for these loans in accordance with Section 10 of this act. The form of the loans and the details thereof including, without limitation, the maturity, interest rate, and amortization schedule shall be determined, from time to time, by the State Treasurer. In making these determinations, the State Treasurer shall consider the purpose of the loans, the ability of local government units to repay the loans, and the security for the loans. The interest rates on these loans shall reflect the self-supporting nature of the loan program and shall be sufficient to cover substantially all payments of debt service on the three hundred twenty million dollars ($320,000,000) of Clean Water Bonds and the issuance costs and administrative expenses associated with the issuance of these bonds and the making of these loans, subject to any applicable requirements of the federal tax law.

Repayments of the loans shall be credited to the General Fund and may be used to pay, directly or indirectly, debt service on the bonds and notes issued. Repayments may be initially placed into such fund or account as may be determined by the State Treasurer for the purpose of determining compliance with applicable requirements of the federal tax law and shall be expended and disbursed therefrom under the direction and supervision of the Director of the Budget.

Any additional moneys which may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source for deposit to the Clean Water Bonds Fund may be placed in the Clean Water Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act.

Moneys in the Clean Water Bonds Fund, the Clean Water Bonds Loan Fund, or any separate fund or account established under this act may be invested from time to time by the State Treasurer in the same manner permitted for investment of moneys belonging to the State or held in the State treasury, except with respect to grant money to the extent otherwise directed by the terms of the grant. Investment earnings, except investment earnings with respect to grant moneys to the extent otherwise directed or restricted by the terms of the grant, may be (i) credited to the Clean Water Bonds Fund, the Clean Water Bonds Loan Fund, or any separate

fund or account established under this act, (ii) used to pay debt service on the bonds authorized by this act, (iii) used to satisfy compliance with applicable requirements of the federal tax law, or (iv) transferred to the General Fund of the State.

The proceeds of bonds and notes may be used with any other moneys made available by the General Assembly for making grants and loans authorized by this act, including the proceeds of any other State bond issues, whether heretofore made available or which may be made available at the session of the General Assembly at which this act is ratified or any subsequent sessions. The proceeds of bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this act shall be disbursed for the purposes provided in this act upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

(b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes shall be used for the purpose of providing grants, loans, or other financing to natural gas local distribution companies, persons seeking natural gas distribution franchises, State or local government agencies, or other entities for the costs of constructing natural gas facilities, including pipelines, compressors, interests in real property, and related equipment for the delivery of natural gas.

Any additional moneys which may be received by means of a grant or grants from the United States of America or any agency or department thereof or from any other source to aid in financing the cost of any natural gas grants authorized by this act may be placed by the State Treasurer in the Natural Gas Bonds Fund or in a separate account or fund and shall be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this act.

The proceeds of Natural Gas Bonds and notes may be used with any other moneys made available by the General Assembly for providing grants, loans, or other financing in accordance with this act, including the proceeds of any other State bond issues, whether heretofore made available or which may be made available at the session of the General Assembly at which this act is ratified or any subsequent sessions. The proceeds of Natural Gas Bonds and notes shall be expended and disbursed under the direction and supervision of the Director of the Budget. The funds provided by this act for construction of natural gas facilities shall be disbursed for the purposes provided in this act upon warrants drawn on the State Treasurer by the State Controller, which warrants shall not be drawn until requisition has been approved by the Director of the Budget and which requisition shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes.

The North Carolina Utilities Commission shall provide quarterly reports to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Fiscal Research Division on the expenditure of moneys from the Natural Gas Bonds Fund.

Section 6. Allocation of proceeds. (a) Clean Water Bonds. The proceeds of Clean Water Bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated "Clean Water Bonds Fund", which may include such appropriate special accounts therein as may be determined by the State Treasurer and shall be disbursed as provided in this act. Moneys in the Clean Water Bonds Fund shall be allocated and expended as provided in this act.

(b) Natural Gas Bonds. The proceeds of Natural Gas Bonds and notes, including premium thereon, if any, except the proceeds of bonds the issuance of which has been anticipated by bond anticipation notes or the proceeds of refunding bonds or notes, shall be placed by the State Treasurer in a special fund to be designated "Natural Gas Bonds Fund", which may include such appropriate special accounts therein as may be determined by the State Treasurer, and shall be disbursed as provided in this act. Moneys in the Natural Gas Bonds Fund shall be allocated and expended as provided in this act. The proceeds may be used in accordance with G.S. 62-159 or may be distributed in accordance with the provisions of legislation enacted by the General Assembly in 1998 or later providing for the allocation of the bond proceeds for the purposes provided in this act.

(c) Costs. Allocations to the costs of a capital improvement or undertaking in each case may include allocations to pay the costs set forth in Section 3(6)c., d., e., f., and g. of this act in connection with the issuance of bonds for that capital improvement or undertaking.

Section 7. Election. The questions of the issuance of the bonds authorized by this act shall be submitted to the qualified voters of the State at an election to be held on the first Tuesday after the first Monday of November 1998. Any other primary, election, or referendum validly called or scheduled by law at the time the election on the bond question provided for in this section is held may be held as called or scheduled. Notice of the election shall be given in the manner and at the times required by G.S. 163-33(8). The election and the registration of voters therefor shall be held under and in accordance with the general laws of the State. Absentee ballots shall be authorized in the election.

The State Board of Elections shall reimburse the counties of the State for all necessary expenses incurred in holding the election that are in addition to those that would have otherwise been incurred, the same to be paid out of the Contingency and Emergency Fund or other funds available to the State Board of Elections.

Ballots, voting systems authorized by Article 14 of Chapter 163 of the General Statutes, or both may be used in accordance with rules prescribed by the State Board of Elections. The bond questions to be used in the ballots or voting systems shall be in substantially the following form:

"[ ] FOR [ ] AGAINST

the issuance of seven hundred eighty-five million dollars ($785,000,000) State of North Carolina Clean Water Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the

purpose of providing funds, with any other available funds, to make loans and grants to local government units to pay all or a portion of the cost of clean water projects.

"[ ] FOR [ ] AGAINST

the issuance of two hundred fifteen million dollars ($215,000,000) State of North Carolina Natural Gas Bonds constituting general obligation bonds of the State secured by a pledge of the faith and credit and taxing power of the State for the purpose of providing funds, with any other available funds, to provide grants, loans, or other financing to public or private entities for construction of natural gas facilities."

If a majority of those voting on a bond question in the election vote in favor of the issuance of the bonds described in the question, those bonds may be issued as provided in this act. If a majority of those voting on a bond question in the election vote against the issuance of the bonds described in the question, those bonds shall not be issued.

The results of the election shall be canvassed and declared as provided by law for elections for State officers; the results of the election shall be certified by the State Board of Elections to the Secretary of State, in the manner and at the time provided by the general election laws of the State.

Section 8. Issuance of bonds and notes. (a) Terms and Conditions. Bonds or notes may bear such date or dates, may be serial or term bonds or notes, or any combination thereof, may mature in such amounts and at such time or times, not exceeding 40 years from their date or dates, may be payable at such place or places, either within or without the United States of America, in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, may bear interest at such rate or rates, which may vary from time to time, and may be made redeemable before maturity, at the option of the State or otherwise as may be provided by the State, at such price or prices, including a price less than the face amount of the bonds or notes, and under such terms and conditions, all as may be determined by the State Treasurer, by and with the consent of the Council of State.

(b) Signatures; Form and Denomination; Registration. Bonds or notes may be issued as certificated or uncertificated obligations. If issued as certificated obligations, bonds or notes shall be signed on behalf of the State by the Governor or shall bear his facsimile signature, shall be signed by the State Treasurer or shall bear his facsimile signature, and shall bear the Great Seal of the State or a facsimile thereof shall be impressed or imprinted thereon. If bonds or notes bear the facsimile signatures of the Governor and the State Treasurer, the bonds or notes shall also bear a manual signature which may be that of a bond registrar, trustee, paying agent, or designated assistant of the State Treasurer. Should any officer whose signature or facsimile signature appears on bonds or notes cease to be such officer before the delivery of the bonds or notes, the signature or facsimile signature shall nevertheless have the same validity for all purposes as if the officer had remained in office until delivery, and bonds or notes may bear the facsimile signatures of persons who at the actual time of the execution of the bonds or notes shall be the proper officers to sign

any bond or note although at the date of the bond or note such persons may not have been such officers. The form and denomination of bonds or notes, including the provisions with respect to registration of the bonds or notes and any system for their registration, shall be as the State Treasurer may determine in conformity with this act; provided, however, that nothing in this act shall prohibit the State Treasurer from proceeding, with respect to the issuance and form of the bonds or notes, under the provisions of Chapter 159E of the General Statutes, the Registered Public Obligations Act, as well as under this act.

(c) Manner of Sale; Expenses. Subject to determination by the Council of State as to the manner in which bonds or notes shall be offered for sale, whether at public or private sale, whether within or without the United States of America, and whether by publishing notices in certain newspapers and financial journals, mailing notices, inviting bids by correspondence, negotiating contracts of purchase or otherwise, the State Treasurer is authorized to sell bonds or notes at one time or from time to time at such rate or rates of interest, which may vary from time to time, and at such price or prices, including a price less than the face amount of the bonds or the notes, as the State Treasurer may determine. All expenses incurred in preparation, sale, and issuance of bonds or notes shall be paid by the State Treasurer from the proceeds of bonds or notes or other available moneys.

(d) Notes; Repayment.

(1) By and with the consent of the Council of State, the State Treasurer is hereby authorized to borrow money and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

a. For anticipating the sale of bonds to the issuance of which the Council of State shall have given consent, if the State Treasurer shall deem it advisable to postpone the issuance of the bonds;

b. For the payment of interest on or any installment of principal of any bonds then outstanding, if there shall not be sufficient funds in the State treasury with which to pay the interest or installment of principal as they respectively become due;

c. For the renewal of any loan evidenced by notes herein authorized;

d. For the purposes authorized in this act; and

e. For refunding bonds or notes as herein authorized.

(2) Funds derived from the sale of bonds or notes may be used in the payment of any bond anticipation notes issued under this act. Funds provided by the General Assembly for the payment of interest on or principal of bonds shall be used in paying the interest on or principal of any notes and any renewals thereof, the proceeds of which shall have been used in paying interest on or principal of the bonds.

(e) Refunding Bonds and Notes. By and with the consent of the Council of State, the State Treasurer is authorized to issue and sell refunding bonds and notes pursuant to the provisions of the State Refunding Bond Act for the purpose of refunding bonds or notes issued pursuant to this act. The refunding bonds and notes may be combined with any other issues of State bonds and notes similarly secured.

(f) Tax Exemption. Bonds and notes shall be exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding inheritance and gift taxes, income taxes on the gain from the transfer of bonds and notes, and franchise taxes. The interest on bonds and notes shall not be subject to taxation as to income.

(g) Investment Eligibility. Bonds and notes are hereby made securities in which all public officers, agencies, and public bodies of the State and its political subdivisions, all insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, other financial institutions engaged in business in the State, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Bonds and notes are hereby made securities which may properly and legally be deposited with and received by any officer or agency of the State or political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may hereafter be authorized by law.

(h) Faith and Credit. The faith and credit and taxing power of the State are hereby pledged for the payment of the principal of and the interest on bonds and notes. In addition to the State's right to amend any provision of this act to the extent it does not impair any contractual right of a bond owner, the State expressly reserves the right to amend any provision of this act with respect to the making and repayment of loans, the disposition of any repayments of loans, and any intercept provisions relating to the failure of a local government unit to repay a loan, the bonds not being secured in any respect by loans, any repayments thereof, or any intercept provisions with respect thereto.

Section 9. Variable interest rates. In fixing the details of bonds and notes, the State Treasurer may provide that any of the bonds or notes may:

(1) Be made payable from time to time on demand or tender for purchase by the owner thereof provided a credit facility supports the bonds or notes, unless the State Treasurer specifically determines that a credit facility is not required upon a finding and determination by the State Treasurer that the absence of a credit facility will not materially or adversely affect the financial position of the State and the marketing of the bonds or notes at a reasonable interest cost to the State;

(2) Be additionally supported by a credit facility;

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity;

(4) Bear interest at a rate or rates that may vary for such period or periods of time, all as may be provided in the proceedings providing for the issuance of the bonds or notes, including, without limitation, such variations as may be permitted pursuant to a par formula; and

(5) Be made the subject of a remarketing agreement whereby an attempt is made to remarket bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the State.

If the aggregate principal amount repayable by the State under a credit facility is in excess of the aggregate principal amount of bonds or notes secured by the credit facility, whether as a result of the inclusion in the credit facility of a provision for the payment of interest for a limited period of time or the payment of a redemption premium or for any other reason, then the amount of authorized but unissued bonds or notes during the term of such credit facility shall not be less than the amount of such excess, unless the payment of such excess is otherwise provided for by agreement of the State executed by the State Treasurer.

Section 10. Special provisions governing clean water loans. (a) Scope. The provisions of this section shall apply to loans being made from the proceeds of bonds authorized by this act for clean water projects, other than from funds deposited in the Clean Water Revolving Loan and Grant Fund.

(b) Clean Water Bonds Loan Fund. There is established in the Department of State Treasurer a fund to be known as the Clean Water Bonds Loan Fund, which may include any special or segregated accounts the State Treasurer considers appropriate. There shall be deposited in the Clean Water Bonds Loan Fund proceeds of the Clean Water Bonds and notes to be used to make loans, other than loans to be made through the Clean Water Revolving Loan and Grant Fund, to local government units for clean water projects as provided in this act.

Except as otherwise permitted by Section 5 of this act with respect to the use of investment earnings, all moneys accruing to the credit of the Clean Water Bonds Loan Fund, other than funds set aside for administrative expenses, including expenses related to determining compliance with applicable requirements of the federal tax law and costs of issuance, shall be used to make loans for the purposes provided in this act. The State Treasurer shall be responsible for making and administering all loans pursuant to the provisions of this section.

(c) Application for Loans; Hearings.

(1) Eligibility/Initial Hearing.

a. Prior to filing an application for a loan, a local government unit shall hold a public hearing. A notice of the public hearing shall be published once at least 10 days before the date fixed for the hearing.

b. All applications for loans shall be filed with the Department of Environment and Natural Resources. The form of the application shall be prescribed by the Department and shall

require any information necessary to determine the eligibility for a loan under the provisions of this section. All applications approved by the Department of Environment and Natural Resources shall be filed with the Local Government Commission. Each applicant shall furnish to the Department of Environment and Natural Resources and the Local Government Commission information in addition or supplemental to the information contained in its application, upon request.

c. A local government unit shall not be eligible for a loan unless it demonstrates to the satisfaction of the Department of Environment and Natural Resources and the Local Government Commission that:

1. The applicant is a local government unit;
2. The applicant has the financial capacity to pay the principal of and interest on its proposed loan as evidenced by the approval of the Local Government Commission;
3. The applicant has substantially complied or will substantially comply with all applicable laws, rules, regulations, and ordinances, whether federal, State, or local; and
4. The applicant has agreed by official resolution to adopt and place into effect a schedule of fees and charges or the application of other sources of revenue which will provide adequate funds for proper operation, maintenance, and administration of the project and repayment of all principal and interest on the loan.

(2) Assessment. The Department of Environment and Natural Resources may require any applicant to file with its application an assessment of the impact the project for which the funds are sought will have upon meeting the facility needs of the area within which the project is to be located.

(3) Hearing by the Department of Environment and Natural Resources or the Local Government Commission. A public hearing may be held by the Department of Environment and Natural Resources or the Local Government Commission at any time on any application. Public hearings may also be held by the Department of Environment and Natural Resources in its discretion upon written request from any citizen or taxpayer who is a resident of the county or counties in which the project is to be located or a resident of the local government unit that proposes to borrow moneys under this act, if it appears that the public interest will be

served by the hearing. The written request shall set forth each objection to the proposed project or other reason for requesting a hearing on the application and shall contain the name and address of the persons submitting it. In deciding whether to grant a request for a hearing on an application, the Department of Environment and Natural Resources may consider the application, the written objections to the proposed project, and the facility needs and shall determine if the public interest will be served by a hearing. The determination by the Department of Environment and Natural Resources shall be conclusive, and all written requests for a hearing shall be retained as a permanent part of the records pertaining to the application.

(4) Petition for Vote. A petition, demanding that the question of whether to enter into a loan agreement with the State under this act be submitted to voters, may be filed with the clerk of the local government unit applying for the loan within 15 days after the public hearing required by this section. The petition's sufficiency shall be determined and a referendum, if any, shall be conducted according to the standards, procedures, and limitations set out in G.S. 159-60 through G.S. 159-62.

(d) Priorities.

(1) Determination. Determination of priorities to be assigned each eligible project shall be made semiannually by the Department of Environment and Natural Resources during each fiscal year. Every eligible project shall be considered by the Department of Environment and Natural Resources with every other project eligible during this same priority period.

(2) Priority Factors. All applications for loans under this act shall be assigned a priority by the Department of Environment and Natural Resources. The Department of Environment and Natural Resources shall establish other priority factors criteria by rule.

(3) Assignment of Priority. A written statement relative to each priority assigned shall be prepared by the Department of Environment and Natural Resources and shall be attached to the application. The priority assigned shall be conclusive.

(4) Failure to Qualify. If an application does not qualify for a loan as of the prior period in which the application was eligible for consideration by reason of the priority assigned, the application shall be considered during the next succeeding priority period upon request of the applicant. If the application again fails to qualify for a loan during the second priority period by reason of the priority assigned, the application shall receive no further consideration. An applicant may file a new application at any time

and may amend any pending application to include additional data or information.

(5) Withdrawal of Commitment. Failure of an applicant within one year after the date of acceptance of the loan to arrange for necessary financing of the proposed project or award of the contract of the construction of the proposed project shall constitute sufficient cause for withdrawal of the commitment. Prior to withdrawal of a commitment, the Department of Environment and Natural Resources shall give due consideration to any extenuating circumstances presented by the applicant as reasons for failure to arrange necessary financing or to award a contract, and the commitment may be extended for an additional period of time if, in the judgment of the Department of Environment and Natural Resources, the extension is justified.

(e) Disbursement. To be eligible to receive the loans provided for in this section, a local government unit must arrange to borrow the amounts necessary pursuant to rules adopted by the Local Government Commission. No funds shall be disbursed until the Department of Environment and Natural Resources gives a certificate of eligibility to the effect that the applicant meets all eligibility criteria and that all procedural requirements of this act have been met. The maximum principal amount of a loan shall be one hundred percent (100%) of the cost of any eligible project.

(f) Intercept. The governing body of a local government unit shall by resolution authorize to be included in its loan agreement a provision authorizing the State Treasurer, upon failure of the local government unit to make a scheduled repayment of the loan, to withhold from the local government unit any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan. In such event, notwithstanding any other provision of law, the State Treasurer is authorized to withhold and apply such funds to the repayment of the loan, except that such funds shall not be withheld if (i) before the execution of the loan agreement, such funds have been legally pledged to secure special obligation bonds or other obligations of the local government unit, or (ii) after the execution of the loan agreement, such funds are legally pledged to secure special obligation bonds or other obligations of the local government unit as authorized in this subsection. After the execution of a loan agreement, all or any portion of the State funds specified in the loan agreement to be so withheld may be pledged to secure special obligation bonds or other obligations of the local government unit only with the prior written consent of the State Treasurer.

The State Treasurer shall notify the Secretary of Revenue and the State Controller of the amount to be withheld from the local government unit, and the Secretary of Revenue and the State Controller shall transfer to the State Treasurer the amount so requested to be applied by the State Treasurer to the repayment of the loan.

(g) Inspection. Inspection of a project for which a loan has been made under this act may be performed by qualified personnel of the Department of Environment and Natural Resources or may be performed by qualified engineers registered in this State approved by the Department of Environment and Natural Resources. No person shall be approved to perform inspections who is an officer employed by the local government unit to which the loan was made or who is an owner, officer, employer, or agent of a contractor or subcontractor engaged in the construction of the project for which the loan was made. For the purpose of payment of inspection fees, inspection services shall be included in the term "cost" as used in this act.

(h) Rules. The State Treasurer, the Local Government Commission, and the Department of Environment and Natural Resources may adopt, modify, and repeal rules necessary for the administration of their respective duties under this act. Uniform rules may be jointly adopted where feasible and desirable, and no rule, jointly adopted, may be modified or revoked except upon concurrence of all agencies involved.

(i) Federal Grants and Loans. In order to carry out the purposes of this act to secure the greatest possible benefits to the citizens of this State of the funds appropriated, the State Treasurer, the Local Government Commission, and the Department of Environment and Natural Resources shall adopt rules and criteria, not inconsistent with provisions of this act, as are necessary and appropriate to conform to regulations for federal grants and loans for any of the purposes set forth in this act.

(j) Reports. The Department of Environment and Natural Resources shall prepare and file each year on or before July 31 with the Joint Legislative Commission on Governmental Operations a report for the preceding fiscal year concerning the allocation and making of loans authorized by this act. The report shall set forth for the preceding fiscal year:

(1) Itemized and total allocations of loans authorized and unallocated funds for the loan program as of the end of the preceding fiscal year;

(2) Identification of each loan agreement entered into by the State during the preceding fiscal year and the total amount of loans authorized by such loan agreements;

(3) The amount disbursed to each local government unit pursuant to such loan agreements during the preceding fiscal year and the total amount of such disbursements;

(4) The loan repayments made by each local government unit pursuant to such loan agreements and the total amount of such loan repayments during the preceding fiscal year; and

(5) A summary for the five preceding years of the information required by subdivisions (1) through (4) of this subsection.

The report shall be signed by the Secretary of Environment and Natural Resources.

(k) Local Government Commission.

(1) Local government units may execute debt instruments payable to the State in order to obtain loans provided for in this act. Local government units shall pledge or agree to apply as security for such obligations:

a. Any available source of revenues of the local government unit, including revenues from benefitted facilities or systems, provided that (i) the local government unit has not otherwise pledged the revenues as security for, or contractually agreed to apply the revenues to, the payment of any other obligations of the local government unit, (ii) the use of the revenues is not otherwise restricted by law, or (iii) the revenues are not derived from the exercise of the local government unit's taxing power; or

b. Their faith and credit; or

c. Any combination of a. or b. above.

The faith and credit of a local government unit shall not be pledged or be deemed to have been pledged unless the requirements of Article 4 of Chapter 159 of the General Statutes have been met. The State Treasurer, with the assistance of the Local Government Commission, shall develop and adopt appropriate debt instruments for use under this act.

(2) Nothing contained in this act shall prohibit any local government unit from applying any funds of the local government unit not otherwise restricted as to use by law to the payment of any debt instrument payable to the State incurred pursuant to the provisions of this act.

(3) The Local Government Commission shall review and approve proposed loans to local government units under this act under the provisions of Articles 4 and 5 of Chapter 159 of the General Statutes. The Local Government Commission in considering the ability of a local government unit to repay a loan may regard as a source of revenue for repayment of a loan revenue sources that may not be available other than on an annual discretionary basis and that may not be subject to a pledge or agreement to apply. Loans under this act shall be outstanding debts for the purposes of Article 10 of Chapter 159 of the General Statutes.

(4) The State Treasurer shall annually certify to the General Assembly the financial condition of the loan program and identify existing delinquencies.

Section 11. Reports. (a) The Rural Economic Development Center shall prepare and file each year on or before July 31 with the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division a report for the preceding fiscal year concerning the allocation and making of grants authorized by this act. The report shall be signed by the Chair of the Board of

Directors of the Rural Economic Development Center. The report shall set forth for the preceding fiscal year:

(1) Itemized and total allocations of grants authorized and unallocated funds for the grant program as of the end of the preceding fiscal year;

(2) Identification of each grant agreement entered into by the Rural Economic Development Center during the preceding fiscal year and the total amount of grants authorized by the grant agreements;

(3) The amount disbursed to each local government unit pursuant to the grant agreements during the preceding fiscal year and the total amount of the disbursements; and

(4) A summary for the five preceding years of the information required by subdivisions (1) through (3) of this subsection.

(b) The Department of Environment and Natural Resources shall prepare and file each year on or before July 31 with the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division a report for the preceding fiscal year concerning the allocation and making of grants authorized by this act. The report shall be signed by the Secretary of Environment and Natural Resources. The report shall set forth for the preceding fiscal year:

(1) Itemized and total allocations of grants authorized and unallocated funds for the grant program as of the end of the preceding fiscal year;

(2) Identification of each grant agreement entered into by the Department of Environment and Natural Resources during the preceding fiscal year and the total amount of grants authorized by the grant agreements;

(3) The amount disbursed to each local government unit pursuant to the grant agreements during the preceding fiscal year and the total amount of the disbursements; and

(4) A summary for the five preceding years of the information required by subdivisions (1) through (3) of this subsection.

(c) The Department of Commerce shall prepare and file each year on or before July 31 with the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division a report for the preceding fiscal year concerning the allocation and making of grants authorized by this act. The report shall be signed by the Secretary of Commerce. The report shall set forth for the preceding fiscal year:

(1) Itemized and total allocations of grants authorized and unallocated funds for the grant program as of the end of the preceding fiscal year;

(2) Identification of each grant agreement entered into by the Department of Commerce during the preceding fiscal year and the total amount of grants authorized by the grant agreements;

(3) The amount disbursed to each local government unit pursuant to the grant agreements during the preceding fiscal year and the total amount of the disbursements; and

(4) A summary for the five preceding years of the information required by subdivisions (1) through (3) of this subsection.

Section 12. Minority business participation. The goals set by G.S. 143-128 for participation in projects by minority businesses apply to projects funded by the proceeds of bonds or notes issued under this act. The Department of Environment and Natural Resources, the Department of Commerce, and the Rural Economic Development Center shall monitor compliance with this requirement and shall report to the General Assembly by January 1 of each year on the participation by minority businesses in these projects.

Section 13. Interpretation of act. (a) Additional Method. The foregoing sections of this act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

(b) Statutory References. References in this act to specific sections or Chapters of the General Statutes or to specific acts are intended to be references to these sections, Chapters, or acts as they may be amended from time to time by the General Assembly.

(c) Broad Construction. This act, being necessary for the health and welfare of the people of the State, shall be broadly construed to effect the purposes thereof.

(d) Inconsistent Provisions. Insofar as the provisions of this act are inconsistent with the provisions of any general laws, or parts thereof, the provisions of this act shall be controlling.

(e) Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 14. G.S. 159G-6 reads as rewritten:

"**§ 159G-6. Distribution of funds.**

(a) Revolving loans and grants.

(1) All funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund, other than funds set aside for administrative expenses, shall be used for revolving loans and grants to local government units for construction costs of wastewater treatment works, wastewater collection systems and water supply systems and other assistance as provided in this Chapter.

(2) The maximum principal amount of a revolving loan or a grant may be one hundred percent (100%) of the nonfederal share of the construction costs of any eligible project. The maximum principal

amount of revolving loans made to any one local government unit during any fiscal year shall be ~~three~~ five million dollars ~~($3,000,000).~~ ($5,000,000). The maximum principal amount of grants made to any one local government unit during any fiscal year shall be ~~one~~ two million dollars ~~($1,000,000).~~ ($2,000,000).

(3) The State Treasurer shall be responsible for investing and distributing all funds appropriated or accruing to the Clean Water Revolving Loan and Grant Fund for revolving loans and grants under this Chapter. In fulfilling his responsibilities under this section, the State Treasurer shall make a written request to the Department of Environment and Natural Resources to arrange for the appropriated funds to be (i) transferred from the appropriate accounts to a local government unit to provide funds for one or more revolving loans or grants or (ii) invested as authorized by this Chapter with the interest on and the principal of such investments to be transferred to the local government unit to provide funds for one or more revolving loans or grants.

(b) Wastewater Accounts. -- The sums allocated in G.S. 159G-4 and accruing to the various Wastewater Accounts in each fiscal year shall be used to make revolving loans and grants to local government units as provided below. The Department of Environment and Natural Resources shall disburse no funds from the Wastewater Accounts except upon receipt of written approval of the disbursement from the Environmental Management Commission.

(1) General Wastewater Revolving Loan and Grant Account. -- The funds in the General Wastewater Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans or grants in connection with approved wastewater treatment work or wastewater collection system projects.

(2) High-Unit Cost Wastewater Account. -- The funds in the High-Unit Cost Wastewater Account shall be available for grants to applicants for high-unit cost wastewater projects. Eligibility of an applicant for such a grant shall be determined by comparing estimated average household user fees for water and sewer service, for debt service and operation and maintenance costs, to one and one-half percent (1.5%) of the median household income in the county in which the project is located. The projects which would require estimated average household water and sewer user fees greater than one and one-half percent (1.5%) of the median household income are defined as high-unit cost wastewater projects and will be eligible for a grant equal to the excess cost, subject to the limitations in ~~subsection~~ subdivision (a)(2) of this section.

(3) Emergency Wastewater Revolving Loan Account. -- The funds in the Emergency Wastewater Revolving Loan Account shall be

available for revolving emergency loans to applicants in the event the Environmental Management Commission certifies that a serious public health hazard, related to the inadequacy of existing wastewater facilities, is present or imminent in a community.

(c) Water Supply Accounts. -- The sums allocated in G.S. 159G-4 and accruing to the various Water Supply Accounts in each fiscal year shall be used to provide revolving loans and grants to local government units as provided below. The Department of Environment and Natural Resources shall disburse no funds from the Water Supply Accounts except upon receipt of written approval of the disbursement from the Division of Environmental Health.

(1) General Water Supply Revolving Loan and Grant Account. -- The funds in the General Water Supply Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans and grants in connection with water supply systems generally and not upon a county allotment basis.

(2) High-Unit Cost Water Supply Account. -- The funds in the High-Unit Cost Water Supply Account shall be available for grants to applicants for high-unit cost water supply systems, on the same basis as provided in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.

(3) Emergency Water Supply Revolving Loan Account. -- The funds in the Emergency Water Supply Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the Division of Environmental Health certifies that a serious public health hazard, related to the water supply system, is present or imminent in a community.

(d) Repealed by Session Laws 1991, c. 186, s. 4.

(e) Notwithstanding any other provision of this Chapter, funds in the Water Pollution Control Revolving Fund shall not be available as grants except to the extent permitted by Title VI of the Federal Water Quality Act of 1987 and the regulations thereunder."

Section 15. The General Assembly finds that:

(1) The 1989 General Assembly in Chapter 338 of the 1989 Session Laws directed the North Carolina Utilities Commission to require the franchised natural gas local distribution companies to file reports with the Commission detailing their plans for providing natural gas service in areas of the State where natural gas service is not available, and directed the Commission and the Public Staff to provide independent analyses and summaries of those reports together with status reports of natural gas service in the State to the Joint Legislative Utility Review Committee; and

(2) The reports of the utilities, the Commission, and the Public Staff indicate that the construction of facilities and the extension of

natural gas service in some areas of the State may not be economically feasible with traditional funding methods; and

(3) The 1991 General Assembly enacted G.S. 62-158 and G.S. 62-2(9) authorizing special funding methods, including the use of supplier refunds and customer surcharges, to facilitate the expansion of natural gas service; and

(4) While the 1991 legislation has been successful in providing some natural gas service to previously unserved areas of the State, that legislation has not been sufficient to facilitate the extension of service that is necessary and in the public interest and there are still counties with no gas service or virtually no gas service; and

(5) It is therefore necessary to authorize additional funding methods, including appropriations from the General Assembly and the proceeds of general obligation bonds, to further facilitate the expansion of natural gas service.

Section 16. Chapter 62 of the General Statutes is amended by adding a new section to read:

"**§ 62-159. Additional funding for natural gas expansion.**

(a) In order to facilitate the construction of facilities in and the extension of natural gas service to unserved areas, the Commission may provide funding through appropriations from the General Assembly or the proceeds of general obligation bonds as provided in this section to either (i) an existing natural gas local distribution company or (ii) a person or a gas district awarded a new franchise, for the construction of natural gas facilities that it otherwise would not be economically feasible for the company or person to construct.

(b) The use of funds provided under this section shall be pursuant to an order of the Commission after a public hearing. The Commission shall ensure that all projects for which funds are provided under this section are consistent with the intent of this section and G.S. 62-2(9). In determining whether to approve the use of funds for a particular project pursuant to this section, the Commission shall consider the scope of a proposed project, including the number of unserved counties and the number of anticipated customers that would be served, the total cost of the project, the extent to which the project is considered feasible, and other relevant factors affecting the public interest. In determining economic feasibility, the Commission shall employ the net present value method of analysis on a project specific basis. Only those projects with a negative net present value shall be determined to be economically infeasible for the company or person to construct. In no event shall the Commission provide funding under this section of an amount greater than the negative net present value of any proposed project as determined by the Commission. If at any time a project is determined by the Commission to have become economically feasible, the Commission may require the recipient of funding to remit to the Commission appropriate funds related to the project, and the Commission may order those funds to be returned with interest in a reasonable amount to be determined by the Commission. Funds returned, together with interest, shall be deposited in a special

account with the State Treasurer to be used for other expansion projects pursuant to the provisions of this section. Utility plant acquired with expansion funds shall be included in the local distribution company's rate base at zero cost except to the extent such funds have been remitted by the company pursuant to order of the Commission.

(c) To the extent that one or more of the counties included in a proposed project to be funded pursuant to this section are counties affected by the loss of exclusive franchise rights provided for in G.S. 62-36A(b), the Commission may conclude that the public interest requires that the person obtaining the franchise or funding pursuant to this section be given an exclusive franchise and that the existing franchise be canceled. Any new exclusive franchise granted under this subsection shall be subject to the provisions of G.S. 62-36A(b).

(d) The Commission, after hearing, shall adopt rules to implement this section as soon as practicable. The Commission and Public Staff shall report to the Joint Legislative Utility Review Committee on the use of funding provided under this section in conjunction with the reports required under G.S. 62-36A."

Section 17. G.S. 62-2 reads as rewritten:

"**§ 62-2. Declaration of policy.**

(a) Upon investigation, it has been determined that the rates, services and operations of public utilities as defined herein, are affected with the public interest and that the availability of an adequate and reliable supply of electric power and natural gas to the people, economy and government of North Carolina is a matter of public policy. It is hereby declared to be the policy of the State of North Carolina:

(1) To provide fair regulation of public utilities in the interest of the public;

(2) To promote the inherent advantage of regulated public utilities;

(3) To promote adequate, reliable and economical utility service to all of the citizens and residents of the State;

(3a) To assure that resources necessary to meet future growth through the provision of adequate, reliable utility service include use of the entire spectrum of demand-side options, including but not limited to conservation, load management and efficiency programs, as additional sources of energy supply and/or energy demand reductions. To that end, to require energy planning and fixing of rates in a manner to result in the least cost mix of generation and demand-reduction measures which is achievable, including consideration of appropriate rewards to utilities for efficiency and conservation which decrease utility bills;

(4) To provide just and reasonable rates and charges for public utility services without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices and consistent with long-term management and conservation of energy resources by avoiding wasteful, uneconomic and inefficient uses of energy;

(4a) To assure that facilities necessary to meet future growth can be financed by the utilities operating in this State on terms which are reasonable and fair to both the customers and existing investors of such utilities; and to that end to authorize fixing of rates in such a manner as to result in lower costs of new facilities and lower rates over the operating lives of such new facilities by making provisions in the rate-making process for the investment of public utilities in plants under construction;

(5) To encourage and promote harmony between public utilities, their users and the environment;

(6) To foster the continued service of public utilities on a well-planned and coordinated basis that is consistent with the level of energy needed for the protection of public health and safety and for the promotion of the general welfare as expressed in the State energy policy;

(7) To seek to adjust the rate of growth of regulated energy supply facilities serving the State to the policy requirements of statewide development;

(8) To cooperate with other states and with the federal government in promoting and coordinating interstate and intrastate public utility service and reliability of public utility energy supply; and

(9) To facilitate the construction of facilities in and the extension of natural gas service to unserved areas in order to promote the public welfare throughout the State and to that end to authorize the creation of ~~an~~ expansion ~~fund~~ funds for ~~each~~ natural gas local distribution ~~company~~ companies to be administered under the supervision of the North Carolina Utilities Commission.

(b) To these ends, therefore, authority shall be vested in the North Carolina Utilities Commission to regulate public utilities generally, their rates, services and operations, and their expansion in relation to long-term energy conservation and management policies and statewide development requirements, and in the manner and in accordance with the policies set forth in this Chapter. Nothing in this Chapter shall be construed to imply any extension of Utilities Commission regulatory jurisdiction over any industry or enterprise that is not subject to the regulatory jurisdiction of said Commission.

Because of technological changes in the equipment and facilities now available and needed to provide telephone and telecommunications services, changes in regulatory policies by the federal government, and changes resulting from the court-ordered divestiture of the American Telephone and Telegraph Company, competitive offerings of certain types of telephone and telecommunications services may be in the public interest. Consequently, authority shall be vested in the North Carolina Utilities Commission to allow competitive offerings of local exchange, exchange access, and long distance services by public utilities defined in G.S. 62-3(23)a.6. and certified in accordance with the provisions of G.S. 62-110, and the Commission is further

authorized after notice to affected parties and hearing to deregulate or to exempt from regulation under any or all provisions of this Chapter: (i) a service provided by any public utility as defined in G.S. 62-3(23)a.6. upon a finding that such service is competitive and that such deregulation or exemption from regulation is in the public interest; or (ii) a public utility as defined in G.S. 62-3(23)a.6., or a portion of the business of such public utility, upon a finding that the service or business of such public utility is competitive and that such deregulation or exemption from regulation is in the public interest.

The policy and authority stated in this section shall be applicable to common carriers of passengers by motor vehicle and their regulation by the North Carolina Utilities Commission only to the extent that they are consistent with the provisions of the Bus Regulatory Reform Act of 1985.

The North Carolina Utilities Commission may develop regulatory policies to govern the provision of telecommunications services to the public which promote efficiency, technological innovation, economic growth, and permit telecommunications utilities a reasonable opportunity to compete in an emerging competitive environment, giving due regard to consumers, stockholders, and maintenance of reasonably affordable local exchange service and long distance service."

Section 18. Effective date. Section 14 of this act becomes effective only if the voters approve the issuance of the Clean Water Bonds authorized by this act in the election required by Section 7 of this act. The remaining sections of this act are effective when the act becomes law, and the Utilities Commission shall begin immediately the rule-making process mandated by G.S. 62-159(d), as enacted by Section 17 of this act.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1492

Short Title: Clean Water/Natural Gas Bonds. (Public)

Sponsors: Representatives Carpenter, Baker, Bonner, Buchanan, H. Hunter, R. Hunter, Owens, Russell, Watson, G. Wilson; Goodwin, Preston, Sexton, and Sherrill.

Referred to: Rules, Calendar and Operations of the House.

May 25, 1998

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS (1) FOR GRANTS, LOANS, AND REVOLVING LOANS TO LOCAL GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS, WASTEWATER COLLECTION SYSTEMS, WASTEWATER TREATMENT WORKS, AND WATER CONSERVATION AND WATER REUSE PROJECTS AND (2) FOR GRANTS AND LOANS TO NATURAL GAS LOCAL DISTRIBUTION COMPANIES AND OTHER PERSONS SEEKING A NATURAL GAS DISTRIBUTION FRANCHISE FOR CONSTRUCTION OF NATURAL GAS FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Subject to a vote of the qualified voters of the State, general obligation bonds to address statewide water supply, wastewater treatment, and natural gas needs may be issued.

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.J.R. 1755 A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CITY OF STATESVILLE TO LEVY AN ADDITIONAL ROOM OCCUPANCY TAX TO FUND TOURISM PROMOTION AND OPERATING EXPENSES OF A CIVIC CENTER.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1755

Sponsors: Representative Mitchell.

Referred to: Rules, Calender and Operations of the House.

June 11, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CITY OF STATESVILLE TO LEVY AN ADDITIONAL ROOM OCCUPANCY TAX TO FUND TOURISM PROMOTION AND OPERATING EXPENSES OF A CIVIC CENTER.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE CITY OF STATESVILLE TO LEVY AN ADDITIONAL ROOM OCCUPANCY TAX TO FUND TOURISM PROMOTION AND OPERATING EXPENSES OF A CIVIC CENTER."

Section 2. This resolution is effective upon ratification.

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, JUNE 16, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
C. Parker	Bone & Associates
John Bawdish	Zeb Alley, P.A.
Lee-Ann Coe	777
Nancy Bradley	NCCBS
Bill Stogner	NC BAR ASSOC.
	WCSR
Bobby Bunn	DWQ
Syd Harpert	DENR - DEH - PWSS
	CPL
Lisa Pilley	Capitol Groups.
Jim Hobbs	NCHMA
Gusay Markham	EQHG
John Palenchar	DFET
Jeanelle Medlin	CP-L
Jim Conrad for	Sparkle Office
	NCAHC
Roslyn Savitt	NC Coalition Against Domestic Violence & NC Child Care Coalition
	NCSBA
Paul T.	Press
	NCPC
John McAlister	Duke Energy
R.W. Taylor	Taylor Law Firm

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
JUNE 23, 1998

The Committee on Rules, Calendar, and Operations of the House met June 23, 1998, at 4:00 p.m. in Room 421 in the Legislative Office Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Crawford, Culp, Dockham, Gulley, Hill, McMahan, Mitchell, and Thompson.

Chairman Morgan recognized Senator Cooper to explain Senate Bill 452 - A BILL TO BE ENTITLED AN ACT TO CLARIFY LOCAL GOVERNMENT AUTHORITY TO REGULATE THE LOCATION AND OPERATION OF SEXUALLY ORIENTED BUSINESSES. Senator Cooper explained that the bill will give local governments the flexibility to regulate adult establishments.

Kim Smith with the League of Municipalities was recognized by the Chair and stated that the League supports this bill.

Representative Gulley moved to amend the bill on page 4, line 17, to remove 1997 and replace it with 1998. Motion carried.

Representative Dockham moved to have the amendment rolled into a committee substitute and the committee substitute be given a favorable report, and an unfavorable report to the original bill. Motion carried.

The meeting adjourned at 4:15 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps, Committee Clerk

Attachments:
Committee Report
Bill
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ House Committee Substitute for
S.B. 452 A BILL TO BE ENTITLED AN ACT TO CLARIFY LOCAL GOVERNMENT AUTHORITY TO REGULATE THE LOCATION AND OPERATION OF SEXUALLY ORIENTED BUSINESSES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to House committee substitute bill (# 2), ~~☐ which changes the title,~~ unfavorable as to ~~original bill~~ (House Committee Substitute Bill # 1), (~~and recommendation that the committee substitute bill #) be re-referred to the Committee on .~~)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 452
Judiciary Committee Substitute Adopted 4/9/97
House Committee Substitute Favorable 5/14/97
Proposed House Committee Substitute S452-PCSA871-RN

Short Title: Local Regulation Adult Entertainment. (Public)

Sponsors:

Referred to:

March 24, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY LOCAL GOVERNMENT AUTHORITY TO REGULATE THE LOCATION AND OPERATION OF SEXUALLY ORIENTED BUSINESSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes is amended by adding the following new section:

"**§ 160A-181.1. Regulation of sexually oriented businesses.**

(a) The General Assembly finds and determines that sexually oriented businesses can and do cause adverse secondary impacts on neighboring properties. Numerous studies that are relevant to North Carolina have found increases in crime rates and decreases in neighboring property values as a result of the location of sexually oriented businesses in inappropriate locations or from the operation of such businesses in an inappropriate manner. Reasonable local government regulation of sexually oriented businesses in order to prevent or ameliorate adverse secondary impacts is consistent with the federal constitutional protection afforded to nonobscene but sexually explicit speech.

(b) In addition to State laws on obscenity, indecent exposure, and adult establishments, local government regulation of the location and operation of sexually oriented businesses is necessary to prevent undue adverse secondary impacts that would otherwise result from these businesses.

(c) A city or county may regulate sexually oriented businesses through zoning regulations, licensing requirements, or other appropriate local ordinances. The city or county may require a fee for the initial license and any annual renewal. Such local regulations may include, but are not limited to:

(1) Restrictions on location of sexually oriented businesses, such as limitation to specified zoning districts and minimum separation from sensitive land uses and other sexually oriented businesses;

(2) Regulations on operation of sexually oriented businesses, such as limits on hours of operation, open booth requirements, limitations on exterior advertising and noise, age of patrons and employees, required separation of patrons and performers, clothing restrictions for masseuses, and clothing restrictions for servers of alcoholic beverages;

(3) Clothing restrictions for entertainers; and

(4) Registration and disclosure requirements for owners and employees with a criminal record other than minor traffic offenses, and restrictions on ownership by or employment of a person with a criminal record that includes offenses reasonably related to the legal operation of sexually oriented businesses.

(d) In order to preserve the status quo while appropriate studies are conducted and the scope of potential regulations is deliberated, cities and counties may enact moratoria of reasonable duration on either the opening of any new businesses authorized to be regulated under this section or the expansion of any such existing business. Businesses existing at the time of the effective date of regulations adopted under this section may be required to come into compliance with newly adopted regulations within an appropriate and reasonable period of time.

(e) Cities and counties may enter into cooperative agreements regarding coordinated regulation of sexually oriented businesses, including provision of adequate alternative sites for the location of constitutionally protected speech within an interrelated geographic area.

(f) For the purpose of this section, 'sexually oriented businesses' means any businesses or enterprises that have as one of their principal business purposes or as a significant portion of their business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in G.S. 14-202.10. Local governments may adopt detailed definitions of these and similar businesses in order to precisely define the scope of any local regulations."

Section 2. G.S. 14-190.1 is amended by adding a new subsection to read:

"(i) Nothing in this section shall be deemed to preempt local government regulation of the location or operation of sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech."

Section 3. G.S. 14-190.9 is amended by adding a new subsection to read:

"(c) Notwithstanding any other provision of law, a local government may regulate the location and operation of sexually oriented businesses. Such local regulation may

restrict or prohibit nude, seminude, or topless dancing to the extent consistent with the constitutional protection afforded free speech."

Section 4. G.S. 14-202.10(1) reads as rewritten:

"(1) 'Adult bookstore' means a bookstore:

a. Which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, ~~and other periodicals~~) other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or

b. Having as a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, ~~and other periodicals~~ other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section."

Section 5. G.S. 14-202.11 reads as rewritten:

"**§ 14-202.11. Restrictions as to adult establishments.**

(a) No person shall permit any building, premises, structure, or other facility that contains any adult establishment to contain any other kind of adult establishment. No person shall permit any building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained to contain any adult establishment.

(b) No person shall permit any viewing booth in an adult mini motion picture theatre to be occupied by more than one person at any time.

(c) Nothing in this section shall be deemed to preempt local government regulation of the location or operation of adult establishments or other sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech."

Section 6. G.S. 18B-904 is amended by adding the following new subsection:

"(g) Nothing in this Chapter shall be deemed to preempt local governments from regulating the location or operation of adult establishments or other sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech, or from requiring any additional fee for licensing as permitted under G.S. 160A-181.1(c)."

Section 7. G.S. 19-1 reads as rewritten:

"**§ 19-1. What are nuisances under this Chapter.**

(a) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place for the purpose of assignation, prostitution, gambling, illegal possession or sale of alcoholic beverages, illegal possession or sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or illegal possession or sale of obscene or lewd matter, as defined in this Chapter, shall constitute a nuisance.

(b) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted repeated acts which create and constitute a breach of the peace shall constitute a nuisance.

(b1) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted any activities or conditions which violate any local ordinance pertaining to sexually oriented businesses shall constitute a nuisance.

(c) The building, ~~or place, or vehicle,~~ place, vehicle, or the ground itself, in or upon which a nuisance as defined in ~~subsections (a) or (b) above~~ subsection (a), (b), or (b1) of this section is carried on, and the furniture, fixtures, and contents, are also declared a nuisance, and shall be enjoined and abated as hereinafter provided."

Section 8. This act becomes effective October 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 3

SENATE BILL 452
Judiciary Committee Substitute Adopted 4/9/97
House Committee Substitute Favorable 5/14/97

Short Title: Local Regulation Adult Entertainment. (Public)

Sponsors:

Referred to:

March 24, 1997

A BILL TO BE ENTITLED

AN ACT TO CLARIFY LOCAL GOVERNMENT AUTHORITY TO REGULATE THE LOCATION AND OPERATION OF SEXUALLY ORIENTED BUSINESSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes is amended by adding the following new section:

"**§ 160A-181.1. Regulation of sexually oriented businesses.**

(a) The General Assembly finds and determines that sexually oriented businesses can and do cause adverse secondary impacts on neighboring properties. Numerous studies that are relevant to North Carolina have found increases in crime rates and decreases in neighboring property values as a result of the location of sexually oriented businesses in inappropriate locations or from the operation of such businesses in an inappropriate manner. Reasonable local government regulation of sexually oriented businesses in order to prevent or ameliorate adverse secondary impacts is consistent with the federal constitutional protection afforded to nonobscene but sexually explicit speech.

(b) In addition to State laws on obscenity, indecent exposure, and adult establishments, local government regulation of the location and operation of sexually oriented businesses is necessary to prevent undue adverse secondary impacts that would otherwise result from these businesses.

(c) A city or county may regulate sexually oriented businesses through zoning regulations, licensing requirements, or other appropriate local ordinances. The city or county may require a fee for the initial license and any annual renewal. Such local regulations may include, but are not limited to:

(1) Restrictions on location of sexually oriented businesses, such as limitation to specified zoning districts and minimum separation from sensitive land uses and other sexually oriented businesses;

(2) Regulations on operation of sexually oriented businesses, such as limits on hours of operation, open booth requirements, limitations on exterior advertising and noise, age of patrons and employees, required separation of patrons and performers, clothing restrictions for masseuses, and clothing restrictions for servers of alcoholic beverages;

(3) Clothing restrictions for entertainers; and

(4) Registration and disclosure requirements for owners and employees with a criminal record other than minor traffic offenses, and restrictions on ownership by or employment of a person with a criminal record that includes offenses reasonably related to the legal operation of sexually oriented businesses.

(d) In order to preserve the status quo while appropriate studies are conducted and the scope of potential regulations is deliberated, cities and counties may enact moratoria of reasonable duration on either the opening of any new businesses authorized to be regulated under this section or the expansion of any such existing business. Businesses existing at the time of the effective date of regulations adopted under this section may be required to come into compliance with newly adopted regulations within an appropriate and reasonable period of time.

(e) Cities and counties may enter into cooperative agreements regarding coordinated regulation of sexually oriented businesses, including provision of adequate alternative sites for the location of constitutionally protected speech within an interrelated geographic area.

(f) For the purpose of this section, 'sexually oriented businesses' means any businesses or enterprises that have as one of their principal business purposes or as a significant portion of their business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in G.S. 14-202.10. Local governments may adopt detailed definitions of these and similar businesses in order to precisely define the scope of any local regulations."

Section 2. G.S. 14-190.1 is amended by adding a new subsection to read:

"(i) Nothing in this section shall be deemed to preempt local government regulation of the location or operation of sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech."

Section 3. G.S. 14-190.9 is amended by adding a new subsection to read:

"(c) Notwithstanding any other provision of law, a local government may regulate the location and operation of sexually oriented businesses. Such local regulation may

restrict or prohibit nude, seminude, or topless dancing to the extent consistent with the constitutional protection afforded free speech."

Section 4. G.S. 14-202.10(1) reads as rewritten:

"(1) 'Adult bookstore' means a bookstore:

a. Which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, ~~and other periodicals~~) other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or

b. Having as a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, ~~and other periodicals~~ other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section."

Section 5. G.S. 14-202.11 reads as rewritten:

"**§ 14-202.11. Restrictions as to adult establishments.**

(a) No person shall permit any building, premises, structure, or other facility that contains any adult establishment to contain any other kind of adult establishment. No person shall permit any building, premises, structure, or other facility in which sexually oriented devices are sold, distributed, exhibited, or contained to contain any adult establishment.

(b) No person shall permit any viewing booth in an adult mini motion picture theatre to be occupied by more than one person at any time.

(c) Nothing in this section shall be deemed to preempt local government regulation of the location or operation of adult establishments or other sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech."

Section 6. G.S. 18B-904 is amended by adding the following new subsection:

"(g) Nothing in this Chapter shall be deemed to preempt local governments from regulating the location or operation of adult establishments or other sexually oriented businesses to the extent consistent with the constitutional protection afforded free speech, or from requiring any additional fee for licensing as permitted under G.S. 160A-181.1(c)."

Section 7. G.S. 19-1 reads as rewritten:

"**§ 19-1. What are nuisances under this Chapter.**

(a) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place for the purpose of assignation, prostitution, gambling, illegal possession or sale of alcoholic beverages, illegal possession or sale of narcotic drugs as defined in the North Carolina Controlled Substances Act, or illegal possession or sale of obscene or lewd matter, as defined in this Chapter, shall constitute a nuisance.

(b) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted repeated acts which create and constitute a breach of the peace shall constitute a nuisance.

(b1) The erection, establishment, continuance, maintenance, use, ownership or leasing of any building or place wherein or whereon are carried on, conducted, or permitted any activities or conditions which violate any local ordinance pertaining to sexually oriented businesses shall constitute a nuisance.

(c) The building, ~~or place, or vehicle,~~ place, vehicle, or the ground itself, in or upon which a nuisance as defined in ~~subsections (a) or (b) above~~ subsection (a), (b), or (b1) of this section is carried on, and the furniture, fixtures, and contents, are also declared a nuisance, and shall be enjoined and abated as hereinafter provided."

Section 8. This act becomes effective October 1, 1997.

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE JUNE 23, 1998

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
FRED TAYLOR	WRAL-TV
Kim Smith	NCLM
Susan Harrison	WCPSS
Leanne Winner	NCSBA
Roslyn Savitt	NC Child Care Coalition, Domestic Violence Coalition
Tommy Worth	Carolina Health Care Systems
[illegible]	NCAICU
Amy Jo Baum	Smith Anderson
Joyce Peters	[illegible]
Kevin Hamel	NCBA
[illegible]	NCCCS
Henry Jones	Attorney Raleigh
Natalie Hawkins	Charlotte Chamber
Robert Watson	Office of the Governor
John Rustin	NCFPC
Mike Carnuta	NCHSA
R. Rogers	ENR

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
JUNE 30, 1998

The Committee on Rules, Calendar, and Operations of the House met June 30, 1998, at 1:00 p.m. in the House Conference Room. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Crawford, Culp, Dockham, Esposito, Gulley, Hill, McMahan, Miner, Mitchell, Thompson and Wilson.

The following bills were discussed:

HOUSE BILL 1629 - A BILL TO BE ENTITLED AN ACT RELATING TO THE CITY OF ASHEBORO, sponsored by Representative Culp. Representative Culp moved for adoption of a committee substitute for discussion and debate. Motion carried. He was then recognized to explain the committee substitute. The purpose of the bill is to remove an area from the corporate limits of the City of Asheboro. It would also give additional authority to that city to make voluntary satellite annexations. Representative McMahan moved for a favorable report to the committee substitute, unfavorable to the original bill, with a re-referral to the Committee on Finance. Motion carried. There was a title change.

HOUSE BILL 1615 - A BILL TO BE ENTITLED AN ACT RELATING TO ROCKINGHAM COUNTY, sponsored by Representative Sexton. Representative Crawford moved for adoption of a committee substitute for discussion and debate. Motion carried. Committee Counsel Linwood Jones explained that the bill grants authority to the City of Eden to address abandoned structures in the same manner as municipalities in counties with a population of over one hundred sixty-three thousand. Representative Dockham moved for a favorable report to the committee substitute, unfavorable to the original bill. Motion carried. There was a title change.

HOUSE JOINT RESOLUTION 1758 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A BILL TO BE ENTITLED AN ACT PERTAINING TO THE DISPLAY OF THE UNITED STATES FLAG, sponsored by Representative Capps. Chairman Morgan stated that this is an enabling resolution which would authorize the introduction of a bill. Representative Capps was recognized to explain the resolution. The Supreme Court has ruled that you can do almost anything to the flag, walk on it, burn it, etc. There are some cities that are having a problem with this because they are including it in their sign ordinance. This would make a change that flying a flag would not be prohibited in the event it followed the code of etiquette as it is spelled out in the U.S. Statutes and if it is on your own property or property that you have been given permission to fly it on by

the property owner or the person in control of the property. Representative Crawford moved for a favorable report to the resolution and the motion carried.

Chairman Morgan asked Committee Counsel Linwood Jones to run through a number of enabling resolutions which could be heard by the Rules Committee Linwood Jones stated that there are six house joint resolutions honoring former members of the General Assembly, honoring their life and their memory and they are as follows: House Resolution 1301 for Ernest Messer; House 1302 for Jeff Enloe; House 1325 for Archibald Davis; House 1559 for Buck Harris; House 1708 for James Poyner; and House 1756 for Gus Economos.

The Chair stated that these are enabling resolutions honoring the memory of former members and committee members could offer any input to the Chair in the next couple of weeks.

Representative Crawford asked if Senate Bill 620 would be passed out in Rules Committee today. Chairman Morgan stated that Appropriations needed to look at this bill and it would be sent to Appropriations from the Floor today.

There being no further business, the meeting adjourned at 1:15.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
House Joint Resolution
Visitor's List

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1629 A BILL TO BE ENTITLED AN ACT RELATING TO THE CITY OF ASHEBORO.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill ~~(#———)~~, ☒ which changes the title, unfavorable as to original bill (~~Committee Substitute Bill #———~~), (and recommendation that the committee substitute bill ~~#———~~) be re-referred to the Committee on Finance

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1629
Proposed Committee Substitute H1629-PCS3145-LB1

Short Title: Asheboro Annexations. (Local)

Sponsors:

Referred to:

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO REMOVE AN AREA FROM THE CORPORATE LIMITS OF THE CITY OF ASHEBORO AND GIVE ADDITIONAL AUTHORITY TO THAT CITY TO MAKE VOLUNTARY SATELLITE ANNEXATIONS.

The General Assembly of North Carolina enacts:

Section 1. (a) The following described territory is removed from the corporate limits of the City of Asheboro:

Lying and being in Franklinville Township, Randolph County, North Carolina:

BEGINNING at a point in the west right-of-way line of Henley Country Road (NCSR 2215), said point being also located at North Carolina Grid Coordinates North = 731,316.884 and East = 1,770,498.738 (NAD 27); thence from said beginning point the following courses and distances along the west right-of-way line of Henley Country Road: South 24 degrees 52 minutes 14 seconds East 142.66 feet to a point, South 23 degrees 00 minutes 08 seconds East 138.13 feet to a point, South 19 degrees 40 minutes 50 seconds East 325.13 feet to a point, South 14 degrees 35 minutes 16 seconds East 57.32 feet to a point, South 09 degrees 38 minutes 38 seconds East 104.07 feet to a point, South 04 degrees 42 minutes 37 seconds East 88.53 feet to a point, South 00 degrees 09 minutes 31 seconds East 92.51 feet to a point and South 09 degrees 10 minutes 54 seconds West 100.42 feet to an existing iron pipe, in Michael Glass' line in the west right-of-way of Henley Country Road; thence the following courses and distances along Michael Glass' line: North 54 degrees 38 minutes 39 seconds West 188.23 feet to an existing iron rod, North 63 degrees 54 minutes 37 seconds West 44.32 feet to an existing iron rod, North 69

degrees 18 minutes 05 seconds West 21.50 feet to an existing iron rod at a control corner and South 28 degrees 55 minutes 31 seconds West 514.60 feet to an existing iron rod at a control corner in the line of R. B. York, Jr.; thence North 89 degrees 22 minutes 52 seconds West, along York's line, 779.05 feet to an existing iron pipe and stones in the centerline of Lick Branch; thence the following courses and distances along the centerline of Lick Branch: North 28 degrees 16 minutes 09 seconds East 69.15 feet to a point, North 23 degrees 29 minutes 58 seconds West 63.98 feet to a point, North 45 degrees 00 minutes 12 seconds East 79.02 feet to a point, North 74 degrees 24 minutes 27 seconds East 56.85 feet to a point, North 17 degrees 01 minute 35 seconds East 130.33 feet to a point, North 05 degrees 32 minutes 53 seconds East 124.74 feet to a point, North 27 degrees 53 minutes 19 seconds East 58.11 feet to a point, North 38 degrees 04 minutes 18 seconds West 28.91 feet to a point, North 13 degrees 07 minutes 00 seconds West 72.23 feet to a point, North 16 degrees 06 minutes 34 seconds East 33.82 feet to a point, North 59 degrees 09 minutes 21 seconds East 57.23 feet to a point, North 19 degrees 25 minutes 06 seconds East 68.97 feet to a point, South 89 degrees 14 minutes 44 seconds East 66.42 feet to a point, North 21 degrees 27 minutes 58 seconds East 53.83 feet to a point, North 38 degrees 48 minutes 09 seconds East 60.19 feet to a point, North 07 degrees 38 minutes 50 seconds East 107.44 feet to a point, North 24 degrees 41 minutes 42 seconds West 148.64 feet to a point and North 29 degrees 50 minutes 48 seconds West 34.78 feet to a point; thence North 48 degrees 47 minutes 46 seconds East 289.38 feet to an existing iron rod; thence south 46 degrees 25 minutes 26 seconds East 130.67 feet to an existing iron rod; thence North 32 degrees 16 minutes 04 seconds East 184.55 feet to an existing iron rod at a corner with W. R. Craven, Jr.; thence along Craven's line South 48 degrees 46 minutes 16 seconds East 224.27 feet to an existing iron pipe and North 43 degrees 39 minutes 17 seconds East 164.71 feet to the point and place of Beginning, containing 24.634 acres.

This description is in accordance with a survey entitled "Annexation Map for the City of Asheboro", dated October 6, 1997, prepared by Philip M. Henley, and designated as Job No. S-4303.

(b) From and after the effective date of this section, the real and personal property in the area described in subsection (a) of this section shall not be subject to taxes of the City of Asheboro.

Section 2. (a) G.S. 160A-58.1(b)(5) reads as rewritten:

"(5) The area within the proposed satellite corporate limits, when added to the area within all other satellite corporate limits, may not exceed ~~ten percent (10%)~~ twenty percent (20%) of the area within the primary corporate limits of the annexing city."

(b) This section applies to the City of Asheboro only.

Section 3. This act is effective when it becomes law, except that Section 1 becomes effective November 6, 1997.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1629

Short Title: Asheboro Local Act. (Local)

Sponsors: Representative Culp.

Referred to: Rules, Calendar and Operations of the House.

May 28, 1998

A BILL TO BE ENTITLED

AN ACT RELATING TO THE CITY OF ASHEBORO.

The General Assembly of North Carolina enacts:

Section 1. This act relates to the City of Asheboro.

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1618 A BILL TO BE ENTITLED AN ACT RELATING TO ROCKINGHAM COUNTY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill (#_____), ☒ which changes the title, unfavorable as to original bill (~~Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____) be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1618
Proposed Committee Substitute H1618-PCS7479-LB1

Short Title: Eden Abandoned Structures. (Local)

Sponsors:

Referred to:

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO GRANT AUTHORITY TO THE CITY OF EDEN TO ADDRESS ABANDONED STRUCTURES IN THE SAME MANNER AS MUNICIPALITIES IN COUNTIES WITH A POPULATION OF OVER ONE HUNDRED SIXTY-THREE THOUSAND.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 733 of the 1995 Session Laws as amended by S.L. 1997-101 reads as rewritten:

"Sec. 2. This act applies to the Cities of Eden, Lumberton and Roanoke Rapids only."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1618

Short Title: Rockingham Co. Local Act. (Local)

Sponsors: Representatives Sexton; and Allred.

Referred to: Rules, Calendar and Operations of the House.

May 28, 1998

A BILL TO BE ENTITLED

AN ACT RELATING TO ROCKINGHAM COUNTY.

The General Assembly of North Carolina enacts:

Section 1. This act relates to Rockingham County only.

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.J.R. 1758 A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A BILL TO BE ENTITLED AN ACT PERTAINING TO THE DISPLAY OF THE UNITED STATES FLAG.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1758

Sponsors: Representatives Capps; Aldridge, Allred, Arnold, Baker, Barbee, Beall, Berry, Bonner, Bowie, Brown, Buchanan, Cansler, Carpenter, Church, Clary, Cole, Creech, Culp, Daughtry, Davis, Decker, Dickson, Eddins, Ellis, Gardner, Goodwin, Grady, Gray, Hall, Hardy, Hiatt, Hightower, Hill, Holmes, Howard, R. Hunter, Hurley, Insko, Jarrell, Kiser, McCombs, McCrary, McMahan, Mercer, Mitchell, Morris, Mosley, Neely, Nichols, Nye, Oldham, Owens, Preston, Ramsey, Rayfield, Redwine, Reynolds, Russell, Saunders, Sexton, Sherrill, Shubert, Starnes, Tallent, Tolson, Warner, Warwick, Weatherly, C. Wilson, G. Wilson, Womble, and Yongue.

Referred to: Rules, Calendar and Operations of the House.

June 24, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A BILL TO BE ENTITLED AN ACT PERTAINING TO THE DISPLAY OF THE UNITED STATES FLAG.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A BILL TO BE ENTITLED AN ACT PERTAINING TO THE DISPLAY OF THE UNITED STATES FLAG."

Section 2. This resolution is effective upon ratification.

HOUSE JOINT RESOLUTION 1301

Sponsors: Representatives Beall, Ramsey; Aldridge, Allen, Allred, Arnold, Baddour, Baker, Barbee, Black, Blue, Bowie, Boyd-McIntyre, Braswell, Brawley, Brown, Buchanan, Cansler, Carpenter, Church, Clary, Cole, Crawford, Creech, Culp, Culpepper, Cunningham, Daughtry, Decker, Dedmon, Earle, Easterling, Fitch, Fox, Gamble, Goodwin, Grady, Gray, Hackney, Hall, Hensley, Hightower, Holmes, H. Hunter, R. Hunter, Hurley, Insko, Ives, Jarrell, Jeffus, Justus, Kinney, Kiser, Luebke, McAllister, McCrary, McMahan, Mercer, Miller, Mosley, Nesbitt, Nichols, Nye, Oldham, Owens, Preston, Redwine, Reynolds, Rogers, Sexton, Sherrill, Shubert, Smith, Sutton, Thompson, Tolson, Wainwright, Warner, C. Wilson, Womble, Wood, Wright, and Yongue.

Referred to: Rules, Calendar and Operations of the House.

May 18, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ERNEST BRYAN MESSER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A BILL TO BE ENTITLED A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ERNEST BRYAN MESSER, FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1302

Sponsors: Representatives Beall, Ramsey; Aldridge, Allen, Allred, Arnold, Baddour, Baker, Barbee, Black, Blue, Bowie, Boyd-McIntyre, Braswell, Brawley, Brown, Buchanan, Cansler, Carpenter, Church, Clary, Cole, Crawford, Creech, Culp, Culpepper, Cunningham, Daughtry, Decker, Dedmon, Earle, Easterling, Esposito, Fitch, Fox, Gamble, Goodwin, Grady, Gray, Hackney, Hall, Hensley, Hightower, Holmes, H. Hunter, R. Hunter, Hurley, Insko, Ives, Jarrell, Jeffus, Justus, Kinney, Luebke, McAllister, McCrary, McMahan, Mercer, Miller, Mosley, Nesbitt, Nichols, Nye, Oldham, Owens, Preston, Redwine, Reynolds, Rogers, Sexton, Sherrill, Shubert, Smith, Sutton, Thompson, Tolson, Wainwright, Warner, C. Wilson, Womble, Wood, Wright, and Yongue.

Referred to: Rules, Calendar and Operations of the House.

May 18, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JEFF HAILEN ENLOE, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A BILL TO BE ENTITLED A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JEFF HAILEN ENLOE, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1325

Sponsors: Representative Gray.

Referred to: Rules, Calendar and Operations of the House.

May 19, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ARCHIBALD KIMBROUGH DAVIS, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ARCHIBALD KIMBROUGH DAVIS, FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1559*

Sponsors: Representatives Neely; and Goodwin.

Referred to: Rules, Calendar and Operations of the House.

May 28, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM CLINTON "BUCK" HARRIS JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM CLINTON "BUCK" HARRIS JR., FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1708*

Sponsors: Representatives Blue; Adams, Goodwin, Hensley, H. Hunter, and Jarrell.

Referred to: Rules, Calendar and Operations of the House.

June 1, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES M. POYNER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES M. POYNER, FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

HOUSE JOINT RESOLUTION 1756

Sponsors: Representatives Black; Alexander, Beall, Brown, Easterling, Hackney, Holmes, Miller, Nesbitt, and Ramsey.

Referred to: Rules, Calendar and Operations of the House.

June 16, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GUS NICKOLAS ECONOMOS, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GUS NICKOLAS ECONOMOS, FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 2. This resolution is effective upon ratification.

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE JUNE 30, 1998

Name of Committee Date 1:00

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Rogers	ENR
Alan Parker	Bailey & Dixon LLP
John McAlister	Duke Energy
Rudolph C Ulrich	UCDA

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
July 15, 1998

The Committee on Rules, Calendar, and Operations of the House met July 15, 1998, at 1:00 p.m. in the House Conference Room. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Crawford, Culp, Esposito, Gulley, Hill, McMahan, Mitchell, Neely and Thompson

HJR 1301 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ERNEST BRYAN MESSER, FORMER MEMBER OF THE GENERAL ASSEMBLY, introduced by Representative Beall. Representative Beall was recognized to explain the bill

HRJ 1302 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JEFF HAILEN ENLOE, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY, introduced by Representative Beall. Representative Beall was recognized to explain the bill.

HJR 1325 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ARCHIBALD KIMBROUGH DAVIS, FORMER MEMBER OF THE GENERAL ASSEMBLY, introduced by Representative Gray. Representative Gray was recognized to explain the bill.

HJR 1559 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM CLINTON "BUCK" HARRIS JR., FORMER MEMBER OF THE GENERAL ASSEMBLY, introduced by Representative Neely. Representataive Neely was recognized to explain the bill.

HJR 1708 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES M. POYNER, FORMER MEMBER OF THE GENERAL ASSEMBLY, introduced by Representative Blue. Staff Council Linwood Jones was recognized to explain the bill.

HJR 1756 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GUS NICKOLAS ECONOMOS,

HONORING THE LIFE AND MEMORY OF GUS NICKOLAS ECONOMOS, FORMER MEMBER OF THE GENERAL ASSEMBLY, introduced by Representative Black, and he was recognized to explain the bill.

HJR 1759 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSARY OF THE NATIONAL FOUNDATION FOR WOMEN LEGISLATORS, introduced by Representative Alexander. Representative Alexander was recognized to explain the bill. She explained that the bill is similar to Senator Cochrane's Senate Bill 1600. Senator Cochrane was also recognized to speak on the bill.

Chairman Morgan explained to the Committee that they have before them all the enabling resolutions honoring the life and memory of former members. Representative Neely moved that House Committee Substitute for SB 1600 be adopted for the purpose of discussion. The vote was unanimous. Representative Neely moved that the committee substitute be given a favorable report, unfavorable to the original bills. Motion carried. Chairman Morgan explained to the bill sponsors that the Rules Committee has given a favorable report to the Committee Substitute which becomes the enabling resolution to allow all the resolutions to be considered. It is the intention of the Chair to report this out quickly for a vote in the House and it will have to go to the Senate. At such time as this is ratified, the resolutions are eligible for consideration by both bodies.

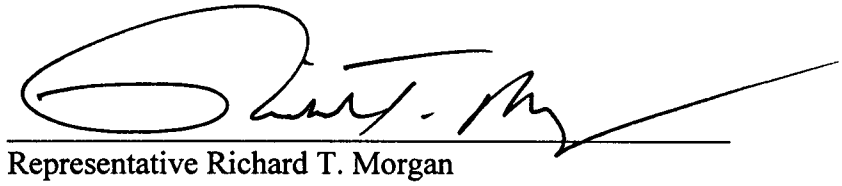
HB 1307 - A BILL TO BE ENTITLED AN ACT REGARDING AVERY COUNTY AND INCORPORATED MUNICIPALITIES LOCATED THEREIN, introduced by Representative Thompson was next before the Committee. Representative Thompson moved for adoption of a committee substitute for discussion and the vote was unanimous. He was then recognized and explained that this was a blank bill but it now has a committee substitute which mandates that city taxes be paid before the land is conveyed by deed. Representative Thompson moved for a favorable report to the committee substitute, unfavorable to the original bill and the motion carried. There was a title change to the bill.

HB 1309 - A BILL TO BE ENTITLED AN ACT REGARDING BURKE COUNTY AND INCORPORATED MUNICIPALITIES LOCATED THEREIN, introduced by Representative Thompson was next. Representative Thompson was recognized to explain the bill and moved that a committee substitute be adopted for discussion. The vote was unanimous. The Town of Banner Elk and the Village of Sugar Mountain are in agreement and they requested a bill that would allow Banner Elk to voluntarily annex certain property located within its extraterritorial planning jurisdiction even though it is closer to the Village of Sugar Mountain. He then moved for a favorable report for the committee substitute with a recommendation to re-refer to the Committee on Finance, unfavorable to the original bill. The motion carried. There was a title change.

HB 1757 - A BILL TO BE ENTITLED AN ACT TO DISAPPROVE THE CHILD CARE RULES ON PLAYGROUND EQUIPMENT AND CERTIFICATION THAT ARE TO BECOME EFFECTIVE JULY 1, 1998, introduced by Representative Capps. Representative Capps was recognized to explain the bill. The bill takes exception to two of the new rules that have been proposed by the Child Care Commission since last session. The main concern was the playground equipment rules and the credentialing rules. Representative Bowie moved for a favorable report to the bill with the recommendation that it be re-referrred to the Committee on Human Resources. The motion carried.

HB 626 - A BILL TO BE ENTITLED AN ACT TO ESTABLISH NO-WAKE ZONES IN THE TOWNS OF MOREHEAD CITY AND CEDAR POINT IN CARTERET COUNTY AND WRIGHTSVILLE BEACH IN NEW HANOVER COUNTY, introduced by Representative Smith. Representative Gulley moved a committee substitute be adopted for discussion. The vote was unanimous. Representatiave Smith was recognized and explained that the bill establishes a no-wake zone in the town of Morehead City and Cape Carteret and also a piece of water in Wrightsville Beach. Representative Neely moved for a favorable report to the committee substitute, unfavorable to the original bill and the motion carried.

The meeting adjourned at 1:37 p.m.



Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
S.J.R. 1600 A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THTE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSARY OF THE NATIONAL ORDER FOR WOMEN LEGISLATORS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☑ With a favorable report as to House committee substitute bill (~~#~~), ☑ which changes the title, unfavorable as to original bill (~~Committee Substitute Bill #~~), (~~and recommendation that the committee substitute bill #~~) ~~be re-referred to the Committee on~~ ~~:~~)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

HOUSE JOINT RESOLUTION 1301

Sponsors: Representatives Beall, Ramsey; Aldridge, Allen, Allred, Arnold, Baddour, Baker, Barbee, Black, Blue, Bowie, Boyd-McIntyre, Braswell, Brawley, Brown, Buchanan, Cansler, Carpenter, Church, Clary, Cole, Crawford, Creech, Culp, Culpepper, Cunningham, Daughtry, Decker, Dedmon, Earle, Easterling, Fitch, Fox, Gamble, Goodwin, Grady, Gray, Hackney, Hall, Hensley, Hightower, Holmes, H. Hunter, R. Hunter, Hurley, Insko, Ives, Jarrell, Jeffus, Justus, Kinney, Kiser, Luebke, McAllister, McCrary, McMahan, Mercer, Miller, Mosley, Nesbitt, Nichols, Nye, Oldham, Owens, Preston, Redwine, Reynolds, Rogers, Sexton, Sherrill, Shubert, Smith, Sutton, Thompson, Tolson, Wainwright, Warner, C. Wilson, Womble, Wood, Wright, and Yongue.

Referred to: Rules, Calendar and Operations of the House.

May 18, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ERNEST BRYAN MESSER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A BILL TO BE ENTITLED A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ERNEST BRYAN MESSER, FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1302

Sponsors: Representatives Beall, Ramsey; Aldridge, Allen, Allred, Arnold, Baddour, Baker, Barbee, Black, Blue, Bowie, Boyd-McIntyre, Braswell, Brawley, Brown, Buchanan, Cansler, Carpenter, Church, Clary, Cole, Crawford, Creech, Culp, Culpepper, Cunningham, Daughtry, Decker, Dedmon, Earle, Easterling, Esposito, Fitch, Fox, Gamble, Goodwin, Grady, Gray, Hackney, Hall, Hensley, Hightower, Holmes, H. Hunter, R. Hunter, Hurley, Insko, Ives, Jarrell, Jeffus, Justus, Kinney, Luebke, McAllister, McCrary, McMahan, Mercer, Miller, Mosley, Nesbitt, Nichols, Nye, Oldham, Owens, Preston, Redwine, Reynolds, Rogers, Sexton, Sherrill, Shubert, Smith, Sutton, Thompson, Tolson, Wainwright, Warner, C. Wilson, Womble, Wood, Wright, and Yongue.

Referred to: Rules, Calendar and Operations of the House.

May 18, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JEFF HAILEN ENLOE, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A BILL TO BE ENTITLED A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JEFF HAILEN ENLOE, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1325

Sponsors: Representative Gray.

Referred to: Rules, Calendar and Operations of the House.

May 19, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ARCHIBALD KIMBROUGH DAVIS, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ARCHIBALD KIMBROUGH DAVIS, FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1559*

Sponsors: Representatives Neely; and Goodwin.

Referred to: Rules, Calendar and Operations of the House.

May 28, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM CLINTON "BUCK" HARRIS JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM CLINTON "BUCK" HARRIS JR., FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1708*

Sponsors: Representatives Blue; Adams, Goodwin, Hensley, H. Hunter, and Jarrell.

Referred to: Rules, Calendar and Operations of the House.

June 1, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES M. POYNER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES M. POYNER, FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1756

Sponsors: Representatives Black; Alexander, Beall, Brown, Easterling, Hackney, Holmes, Miller, Nesbitt, and Ramsey.

Referred to: Rules, Calendar and Operations of the House.

June 16, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GUS NICKOLAS ECONOMOS, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GUS NICKOLAS ECONOMOS, FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1759

Sponsors: Representatives Alexander, Russell, Boyd-McIntyre (Cosponsors); Adams, Allen, Baddour, Berry, Black, Bonner, Bowie, Brawley, Church, Clary, Cunningham, Daughtry, Earle, Easterling, Esposito, Fox, Gardner, Goodwin, Hall, Hardaway, Hensley, Hightower, Hill, Howard, Hurley, Insko, Jarrell, Jeffus, Luebke, Michaux, Moore, Morris, Mosley, Neely, Nesbitt, Nye, Oldham, Owens, Preston, Ramsey, Redwine, Reynolds, Sherrill, Shubert, Smith, Sutton, Tolson, Wainwright, Warwick, Watson, C. Wilson, and Yongue.

Referred to: Rules, Calendar and Operations of the House.

July 8, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSARY OF THE NATIONAL FOUNDATION FOR WOMEN LEGISLATORS.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSARY OF THE NATIONAL FOUNDATION FOR WOMEN LEGISLATORS."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE JOINT RESOLUTION 1600*
Second Edition Engrossed 7/8/98
Proposed House Committee Substitute S1600-PCS8846-RN001

Sponsors:

Referred to:

July 8, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER JOINT RESOLUTIONS HONORING LILLIAN E. CLEMENT, ERNEST BRYAN MESSER, JEFF HAILEN ENLOE, JR., ARCHIBALD KIMBROUGH DAVIS, WILLIAM CLINTON "BUCK" HARRIS, JR., JAMES M. POYNER, AND GUS NICKOLAS ECONOMOS, FORMER MEMBERS OF THE GENERAL ASSEMBLY.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSARY OF THE NATIONAL ORDER OF WOMEN LEGISLATORS."

Section 2. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ERNEST BRYAN MESSER, FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 3. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JEFF HAILEN ENLOE, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 4. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ARCHIBALD KIMBROUGH DAVIS, FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 5. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM CLINTON "BUCK" HARRIS, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 6. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES M. POYNER, FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 7. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GUS NICKOLAS ECONOMOS, FORMER MEMBER OF THE GENERAL ASSEMBLY."

Section 8. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE JOINT RESOLUTION 1600*
Second Edition Engrossed 7/8/98

Sponsors: Senators Cochrane; Foxx, Kinnaird, Lucas, Perdue, and Winner.

Referred to: Rules Suspended; Passed 2nd and 3rd.

July 8, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSARY OF THE NATIONAL ORDER FOR WOMEN LEGISLATORS.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSARY OF THE NATIONAL ORDER FOR WOMEN LEGISLATORS."

Section 2. This resolution is effective upon ratification.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1307 A BILL TO BE ENTITLED AN ACT REGARDING AVERY COUNTY AND INCORPORATED MUNICIPALITIES LOCATED THEREIN.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☑ With a favorable report as to committee substitute bill ~~(#)~~, ☑ which changes the title, unfavorable as to original bill ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1307
Proposed Committee Substitute H1307-PCS1589-LB

Short Title: Banner Elk Deed Recording. (Local)

Sponsors:

Referred to:

May 18, 1998

A BILL TO BE ENTITLED

AN ACT TO REQUIRE PAYMENT OF DELINQUENT TAXES FOR THE TOWN OF BANNER ELK BEFORE RECORDING DEEDS CONVEYING PROPERTY SUBJECT TO THE DELINQUENT TAXES.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of Chapter 305 of the Session Laws of 1963, as rewritten by Section 7 of S.L. 1997-410, reads as rewritten:

"Section 1. The Register of Deeds of Avery County shall not receive for recordation any deed unless the following conditions are met:

(1) The deed is accompanied by a certificate from the Avery County Tax Collector to the effect that all delinquent county taxes and all delinquent taxes for municipalities for which the county collects taxes have been paid with respect to the property described in the deed.

(2) If the property described in the deed is located in whole or in part in the Town of Newland, the deed is accompanied by a certificate from the tax collector for the town to the effect that all delinquent municipal taxes have been paid with respect to the property.

(3) If the property described in the deed is located in whole or in part in the Town of Banner Elk, the deed is accompanied by a certificate from the tax collector for the town to the effect that all delinquent municipal taxes have been paid with respect to the property."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1307

Short Title: Avery Local Act. (Local)

Sponsors: Representatives Thompson and Buchanan.

Referred to: Rules, Calendar and Operations of the House.

May 18, 1998

A BILL TO BE ENTITLED

AN ACT REGARDING AVERY COUNTY AND INCORPORATED MUNICIPALITIES LOCATED THEREIN.

The General Assembly of North Carolina enacts:

Section 1. This act applies only to Avery County and incorporated municipalities located therein.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1309

Short Title: Burke Local Act. (Local)

Sponsors: Representatives Thompson and Buchanan.

Referred to: Rules, Calendar and Operations of the House.

May 18, 1998

A BILL TO BE ENTITLED

AN ACT REGARDING BURKE COUNTY AND INCORPORATED MUNICIPALITIES LOCATED THEREIN.

The General Assembly of North Carolina enacts:

Section 1. This act applies only to Burke County and incorporated municipalities located therein.

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1309 A BILL TO BE ENTITLED AN ACT REGARDING BURKE COUNTY AND INCORPORATED MUNICIPALITIES LOCATED THEREIN.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☑ With a favorable report as to committee substitute bill ~~(# ——)~~, ☑ which changes the title, unfavorable as to original bill ~~(Committee Substitute Bill # ——)~~, (and recommendation that the committee substitute bill ~~# ——~~) be re-referred to the Committee on Finance.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1309
Proposed Committee Substitute H1309-PCS9013-LBX1

Short Title: Banner Elk Annexations. (Local)

Sponsors:

Referred to:

May 18, 1998

A BILL TO BE ENTITLED

AN ACT TO ALLOW BANNER ELK TO VOLUNTARILY ANNEX CERTAIN PROPERTY LOCATED WITHIN ITS EXTRATERRITORIAL PLANNING JURISDICTION EVEN THOUGH IT IS CLOSER TO THE VILLAGE OF SUGAR MOUNTAIN.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-58.1(b)(2) does not apply to the Town of Banner Elk when the area proposed for annexation is closer to the Village of Sugar Mountain if the area proposed for annexation is within the extraterritorial jurisdiction of the Town of Banner Elk under Article 19 of Chapter 160A of the General Statutes.

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1757 A BILL TO BE ENTITLED AN ACT TO DISAPPROVE THE CHILD CARE RULES ON PLAYGROUND EQUIPMENT AND CERTIFICATION THAT ARE TO BECOME EFFECTIVE JULY 1, 1998.

☐ With a favorable report.

☑ With a favorable report and recommendation that the bill be re-referred to the Committee on ~~☐ Appropriations ☐ Finance~~ ☑ Human Resources.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1757

Short Title: Disapproval of Certain Rules. (Public)

Sponsors: Representatives Capps; and Davis.

Referred to: Rules, Calendar and Operations of the House.

June 22, 1998

A BILL TO BE ENTITLED

AN ACT TO DISAPPROVE THE CHILD CARE RULES ON PLAYGROUND EQUIPMENT AND CERTIFICATION THAT ARE TO BECOME EFFECTIVE JULY 1, 1998.

The General Assembly of North Carolina enacts:

Section 1. (a) Pursuant to G.S. 150B-21.3(b), 10 NCAC 3U .0605, A CONDITION OF OUTDOOR PLAY EQUIPMENT, adopted by the Child Care Commission of the Department of Health and Human Services and approved by the Rules Review Commission on March 19, 1998, is disapproved.

(b) Pursuant to G.S. 150B-21.3(b), 10 NCAC 3U .0703, GENERAL STATUTORY REQUIREMENTS; 10 NCAC 3U .0707, IN-SERVICE TRAINING REQUIREMENTS; and 10 NCAC 3U .0708, MEETING IN-SERVICE REQUIREMENTS, amended by the Child Care Commission of the Department of Health and Human Services and approved by the Rules Review Commission on March 19, 1998, are disapproved.

(c) Pursuant to G.S. 150B-21.3(b), 10 NCAC 3U .0704, PRESERVICE REQUIREMENTS FOR ADMINISTRATORS, and 10 NCAC 3U .0710, PRESERVICE REQUIREMENTS FOR TEACHERS AND AIDES, amended by the Child Care Commission of the Department of Health and Human Services and approved by the Rules Review Commission on April 15, 1998, are disapproved.

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 626 A BILL TO BE ENTITLED AN ACT RELATING TO CARTERET COUNTY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☑ With a favorable report as to committee substitute bill ~~(#)~~, ☑ which changes the title, unfavorable as to original bill ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on ,)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 626
Proposed Committee Substitute H626-PCSA495-RN

Short Title: Carteret/New Hanover No-Wake Zones. (Local)

Sponsors:

Referred to:

March 26, 1997

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH NO-WAKE ZONES IN THE TOWNS OF MOREHEAD CITY AND CEDAR POINT IN CARTERET COUNTY AND WRIGHTSVILLE BEACH IN NEW HANOVER COUNTY.

The General Assembly of North Carolina enacts:

Section 1. It is unlawful to operate a vessel at greater than no-wake speed in the waters of Spooners Creek in the Town of Morehead City in Carteret County. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 2. It is unlawful to operate a vessel at greater than no-wake speed in that portion of the waters adjacent to the Town of Cedar Point in Carteret County from Daybeacon 44 south along the intracoastal waterway to Daybeacon 46B. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 3. It is unlawful to operate a vessel at greater than no-wake speed in the waters of Lee's Cut in the Town of Wrightsville Beach in New Hanover County. No-wake speed is idle speed or a slow speed creating no appreciable wake.

Section 4. The Towns of Morehead City, Cedar Point, and Wrightsville Beach or their designees, may place and maintain markers in accordance with the Uniform Waterway Marking System and any supplementary standards for that system adopted by the Wildlife Resources Commission. All markers of the no-wake speed zones shall be buoys or floating signs placed in the water and shall be in sufficient number and size to give adequate warning of the no-wake speed zone to vessels approaching from various directions.

Section 5. Violation of this act is a Class 3 misdemeanor.

Section 6. This act is enforceable under G.S. 75A-17 as if it were a provision of Chapter 75A of the General Statutes.

Section 7. This act is effective when it becomes law, and each no-wake zone established in this act is enforceable after markers complying with Section 4 of this act are placed in the water to mark that no-wake zone.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 626

Short Title: Carteret Local Act. (Local)

Sponsors: Representative Smith.

Referred to: Rules, Calendar and Operations of the House.

March 26, 1997

A BILL TO BE ENTITLED

AN ACT RELATING TO CARTERET COUNTY.

The General Assembly of North Carolina enacts:

Section 1. This act applies to Carteret County only.

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

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, JULY 15, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paula Duffie	NC Farm Bureau
Tommy Wortz	Carolina Medical System
Michelle Cook	Weyerhaeuser
Douglas H. Van Essen	NC State Cosmetic Arts Board
Carolyn Woodard	NC State Cosmetic Arts Board
Roslyn Savitt	NC Child Care Coalition
Kim Smith	NCLM
Cara Cowell	BPMH
David Ferrell	HMCC&C PA.
Jim Broome	State Pats

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
July 28, 1998

The Committee on Rules, Calendar, and Operations of the House met July 28, 1998, at 6:00 p.m. in the House Conference Room. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Crawford, Culp, Dockham, Esposito, Gulley, Hill, McMahan, Miner, Mitchell, and Thompson

Chairman Morgan announced that at an earlier date, enabling resolutions had been passed authorizing the memorial resolutions set forth in the following bills.

HJR 1760 - A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSARY OF THE NATIONAL ORDER OF WOMEN LEGISLATORS

HJR 1761 - A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JEFF HAILEN ENLOE, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY

HJR 1762 - A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ERNEST BRYAN MESSER, FORMER MEMBER OF THE GENERAL ASSEMBLY

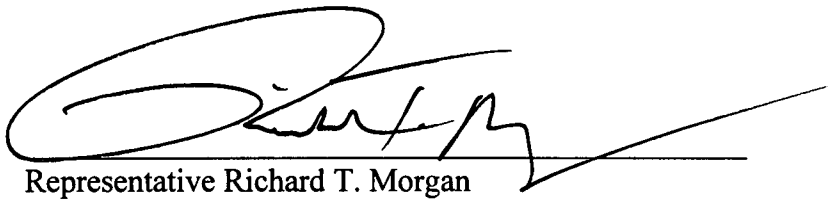
HJR 1763 - A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM CLINTON "BUCK" HARRIS, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY

SJR 1111 - A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ARCHIBALD KIMBROUGH DAVIS, FORMER MEMBER OF THE GENERAL ASSEMBLY

SJR 1603 - A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSARY OF THE NATIONAL ORDER OF WOMEN LEGISLATORS

Representative Thompson moved for a favorable report for the above listed bills and the motion carried.

The meeting adjourned at 6:05 p.m.



Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.J.R. 1760 A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSARY OF THE NATIONAL ORDER OF WOMEN LEGISLATORS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1760

Sponsors: Representatives Alexander, Boyd-McIntyre, Russell; Adams, Allen, Baddour, Berry, Black, Bonner, Bowie, Brawley, Church, Clary, Cunningham, Daughtry, Dedmon, Earle, Easterling, Esposito, Fox, Gardner, Goodwin, Hall, Hardaway, Hensley, Hightower, Hill, Howard, Hurley, Insko, Jarrell, Jeffus, Luebke, Michaux, Moore, Morris, Mosley, Neely, Nesbitt, Nye, Owens, Preston, Ramsey, Redwine, Reynolds, Sherrill, Shubert, Smith, Sutton, Tolson, Wainwright, Warwick, Watson, C. Wilson, and Yongue.

Referred to: Rules, Calendar and Operations of the House.

July 20, 1998

A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSARY OF THE NATIONAL ORDER OF WOMEN LEGISLATORS.

Whereas, 1998 will mark the 150th anniversary of the Women's Rights Movement in the United States, a bold and courageous civil rights movement that began in 1848 in Seneca Falls, New York, at the first Women's Rights Convention ever held; and

Whereas, the Declaration of Sentiments issued by that convention represents a work as fundamental to our nation's commitment to liberty and personal freedom as does our Declaration of Independence; and

Whereas, the Declaration of Sentiments launched a movement that has changed this nation and the hopes of its women irrevocably; and

Whereas, the resulting Women's Rights Movement has had a profound impact on all aspects of American life and has opened new and well-deserved opportunities for women in all fields of endeavor; and

Whereas, despite one and one-half centuries of efforts now spanning seven generations of unceasing work to achieve equality for one-half the American population, the twenty-first century will find an ever-increasing need for both women

and men to share in the fundamental responsibilities for our national life and the blessings that must result from full and equal participation in society; and

Whereas, the National Order of Women Legislators, established in 1938, was formed not long after women's suffrage was added to the United States Constitution as the 19th Amendment; and

Whereas, not only have women won the right to vote, they are being elected to public office at all levels of government; and

Whereas, it is the strongly-held belief of this legislature that, while much remains to be accomplished, the Women's Rights Movement has been tremendously successful in changing the status of women in this country; and

Whereas, on the 60th anniversary of the National Order of Women Legislators, Inc., the General Assembly pauses to pay tribute for the life and accomplishments of Lillian E. Clement of Buncombe County, who in 1921 was elected to the House of Representatives, becoming the first woman to serve in the North Carolina General Assembly; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the life and memory of Lillian E. Clement and commends the National Order of Women Legislators upon the occasion of the organization's 60th Anniversary and celebrates the Order's 60 years of leadership and commitment to public service.

Section 2. This resolution is effective upon ratification.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.J.R. 1761 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JEFF HAILEN ENLOE, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1761

Sponsors: Representatives Beall and Ramsey.

Referred to: Rules, Calender and Operations of the House.

July 21, 1998

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JEFF HAILEN ENLOE, JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Jeff Hailen Enloe, Jr. was born in Franklin, North Carolina, on September 2, 1914, to Jeff H. Enloe, Sr. and Jessie Hester Enloe; and

Whereas, Jeff Hailen Enloe, Jr. graduated from Franklin High School in 1932 and North Carolina State University in 1936, where he received a BS degree in Agriculture; and

Whereas, Jeff Hailen Enloe, Jr. proudly served his country during World War II as a member of the United States Navy; and

Whereas, Jeff Hailen Enloe, Jr. worked for the United States Department of Agriculture for 34 years; and

Whereas, Jeff Hailen Enloe, Jr. served his district and the State with distinction in the North Carolina House of Representatives from 1975 through 1988; and

Whereas, Jeff Hailen Enloe, Jr. served on numerous boards and commissions including the State Health Coordinating Council and the Advisory Budget Committee; and

Whereas, Jeff Hailen Enloe, Jr. was an active member of the Memorial United Methodist Church; and

Whereas, Jeff Hailen Enloe, Jr. died on September 26, 1997; and

Whereas, Jeff Hailen Enloe, Jr. is survived by his wife of 51 years, Ruth Drummond Enloe; four sons, William A. Enloe, Jay H. Enloe, III, James R. Enloe, and Gregory M. Enloe; two grandchildren, Cynthia Enloe and Timothy Enloe; and several other close family members; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the life and memory of Jeff Hailen Enloe, Jr. and expresses appreciation for the service he rendered.

Section 2. The General Assembly extends its deepest sympathy to the family of Jeff Hailen Enloe, Jr. for the loss of a beloved husband, father, grandfather, and friend.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Jeff Hailen Enloe, Jr.

Section 4. This resolution is effective upon ratification.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.J.R. 1762 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ERNEST BRYAN MESSER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997
RATIFIED BILL

RESOLUTION 40
HOUSE JOINT RESOLUTION 1762

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ERNEST BRYAN MESSER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Ernest Bryan Messer was born in Waynesville, North Carolina, on December 21, 1913, to Forest W. Messer and Effie Furr Messer; and

Whereas, Ernest Bryan Messer graduated from Lee Edwards High School in 1931 and received a BA degree from Carson Newman College in 1935; and

Whereas, Ernest Bryan Messer was a teacher and served as a basketball coach for the Haywood County Schools from 1935 to 1939; and

Whereas, during World War II, Ernest Bryan Messer proudly served his country as a member of the United States Navy, where he attained the rank of lieutenant; and

Whereas, after his service in the Navy, Ernest Bryan Messer began working for Champion International, Inc., until his retirement in 1977; and

Whereas, Ernest Bryan Messer served with honor and distinction as a member of the North Carolina House of Representatives for 10 terms between 1963 and 1981, during which time he served as the first Chair of the Committee on Aging and was instrumental in sponsoring legislation benefiting senior citizens; and

Whereas, in November of 1981, Governor James B. Hunt, Jr. appointed Ernest Bryan Messer as Assistant Secretary of the Division of Aging, a position that he held until May of 1985; and

Whereas, Ernest Bryan Messer helped to develop North Carolina's Senior Games; and

Whereas, Ernest Bryan Messer established himself as a leader by serving as President of the Board of Directors of the Haywood County Mental Health Association; as a member of the Board of Directors of the Champion YMCA and the Champion Credit Union; as Chair of the Haywood County Democratic Executive Committee, the Canton Chapter Red Cross Bloodmobile, and the Inplant United Fund Drive; and as a trustee of the Haywood Technical Institute; and

Whereas, Ernest Bryan Messer contributed to his community as a member of numerous civic and fraternal organizations, including the Canton Lions Club, Haywood Planning Board, Haywood County Historical Association, Canton Toastmasters Club, American Legion, and Veterans of Foreign Wars; and

Whereas, Ernest Bryan Messer was awarded the Layman's Award for Distinguished Service to Education by Phi Delta Kappa of Western Carolina University in 1974; and

Whereas, Ernest Bryan Messer was an active member of the Canton First Baptist Church, where he was a former Sunday school teacher and Training Union director; and

Whereas, Ernest Bryan Messer died on June 14, 1997; and

Whereas, Ernest Bryan Messer is survived by his wife of 62 years, Jincy Owen Messer; a daughter, Patsy M. Poovey; two grandsons, Brant Poovey and Phillip Poovey; and other close relatives; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly expresses its deep appreciation for the life and accomplishments of Ernest Bryan Messer and for the great service he rendered to his nation, the State of North Carolina, and his community.

Section 2. The General Assembly expresses its deepest sympathy to the family of Ernest Bryan Messer for the loss of a beloved husband, father, grandfather, and friend.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Ernest Bryan Messer.

Section 4. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 6th day of August, 1998.

DENNIS A. WICKER

Dennis A. Wicker
President of the Senate

HAROLD J. BRUBAKER

Harold J. Brubaker
Speaker of the House of Representatives

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.J.R. 1763 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM CLINTON "BUCK" HARRIS JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

HOUSE JOINT RESOLUTION 1763

Sponsors: Representative Neely.

Referred to: Rules, Calendar and Operations of the House.

July 22, 1998

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLIAM CLINTON "BUCK" HARRIS JR., FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, William Clinton "Buck" Harris Jr. was born in Raleigh, North Carolina, on January 1, 1913, to William C. Harris Sr. and Juliet Crews Harris; and

Whereas, Buck Harris received his undergraduate and law degrees from the University of North Carolina at Chapel Hill; and

Whereas, Buck Harris had a passion for sports and was a contributing member of the University of North Carolina at Chapel Hill's Southern Conference Championship Basketball Team in 1935; and

Whereas, Buck Harris proudly served his country as a Lt. Commander in the United States Navy during World War II as Captain of Destroyer Escort 26; and

Whereas, after his military service, Buck Harris began the law firm of Harris and Poe with Charles A. Poe. Later, the firm became Harris, Cheshire, Leager and Southern and eventually merged with the firm of Poyner and Spruill; and

Whereas, Buck Harris served his profession as a member of the American Bar Association, the North Carolina Bar Association, and the Wake County Bar Association; and

Whereas, Buck Harris served with honor and distinction as a member of the North Carolina House of Representatives from 1957 through 1962; and

Whereas, Buck Harris was a member of the Board of Trustees of the University of North Carolina at Chapel Hill and Virginia Episcopal School and was a member of the Wake County Board of Directors of Branch Banking & Trust; and

Whereas, Buck Harris served as the first Chair of the Raleigh Human Relations Council and the first Chair of the Board of Directors of North Carolina Blue Cross Blue Shield Corporation; and

Whereas, Buck Harris was an active contributor to the affairs of his community, serving as a member of the Raleigh Jaycees, the Carolina Country Club, Sphinx Club, Terpsichorean Club, Nine O'Clock Cotillion, and Capital Cotillion; and

Whereas, Buck Harris died at the age of 84 on September 24, 1997, leaving his wife, Jean Erskine Harris; two sons, W.C. "Buck" Harris III, Malcolm E. Harris; a daughter, Sally F. Harris; and six grandchildren; and

Whereas, Buck Harris will be remembered by all who knew him as a warm and giving man devoted to his family, his community, his profession, and to public service; and

Whereas, North Carolina and the City of Raleigh have lost one of their most beloved and respected citizens with the passing of Buck Harris; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly honors the memory of William Clinton "Buck" Harris Jr. and expresses the gratitude and appreciation of this State and its citizens for his life and service to his community and to North Carolina.

Section 2. The General Assembly expresses its deep sorrow to the family and friends of William Clinton "Buck" Harris Jr. for the loss of a beloved husband, father, grandfather, and a true friend.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of William Clinton "Buck" Harris Jr.

Section 4. This resolution is effective upon ratification.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
S.J.R. 1111 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ARCHIBALD KIMBROUGH DAVIS, FORMER MEMBER OF THE GENERAL ASSEMBLY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE JOINT RESOLUTION 1111*

Sponsors: Senators Horton; Albertson, Allran, Ballance, Ballantine, Basnight, Blust, Carpenter, Carrington, Clark, Cochrane, Dalton, Dannelly, Forrester, Foxx, Garwood, Hartsell, Hoyle, Jenkins, Kerr, Kinnaird, Ledbetter, Lee, Lucas, Martin of Pitt, McDaniel, Miller, Moore, Odom, Perdue, Phillips, Plyler, Purcell, Rand, Rucho, Shaw of Cumberland, Shaw of Guilford, Soles, Warren, Webster, Weinstein, Wellons, and Winner.

Referred to: Rules and Operations of the Senate.

May 13, 1998

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ARCHIBALD KIMBROUGH DAVIS, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Archibald Kimbrough Davis was born in Winston-Salem on January 22, 1911, to Dr. Thomas Whitmell Davis and Frances Conrad Davis; and

Whereas, Archie Davis graduated from Woodberry Forest School in 1929, and the University of North Carolina at Chapel Hill in 1932, and thereafter began a career in banking with Wachovia Bank and Trust Company in Winston-Salem, his hometown, eventually rising by 1955 to the position of Chairman of the Board, which position he held until his retirement in 1974; and

Whereas, Archie Davis throughout his life retained the love of history and scholarship acquired during his youth and, upon his retirement as Chairman of the Board of Wachovia Bank, then the largest bank in the Southeast, he promptly reenrolled as a student at his beloved Chapel Hill and remained a registered student there until his death; and

Whereas, after he was awarded a master of arts degree from the university at the age of 64, he continued his studies, concentrating on his fascination with the War Between the States and especially the role of North Carolina in that conflict. His doctoral dissertation, a biography of Colonel Henry K. Burgwin, Jr., was published by the University of North Carolina Press in 1985 under the title Boy Colonel of the Confederacy; and

Whereas, during his career he was so esteemed that he was elected not only as President of the 18,000 member American Bankers Association but also President of the 5,000,000 member United States Chamber of Commerce, the only man ever to be head of both organizations; and

Whereas, service to his native State was a guiding principle of Archie Davis's life. His service included serving as a member of the North Carolina Senate from 1958 to 1962, as President of the Research Triangle Foundation, a signal economic engine for our State with which he remained involved for 28 years, as Chair of the Duke Endowment, as a member of the Mary Duke Biddle Foundation, as a Trustee of the National Humanities Center, as a member of the Board of Trustees of The University of North Carolina, Salem Academy and College, the North Caroliniana Society, as a member of the Board of Archives of the Moravian Church, and his personal involvement in numerous other organizations of our State. Indeed, he once said "If you don't want me to do something for my State, don't ask."; and

Whereas, during his long and productive life, Archie Davis was the exemplar of a North Carolina gentleman and was known for his innate courtesy, his self-effacement, his approachability, his consideration for the feelings of others, making him not only revered but beloved by all with whom he came in contact; and

Whereas, Archie Davis died on March 13, 1998, at the age of 87; and

Whereas, Archie Davis is survived by his wife, Mary Louise Haywood Davis; a daughter, Bonnie Bennett; three sons, Archie H. Davis IV, John H. Davis, and Dr. Thomas W. Davis; eight grandchildren; and other relatives and friends; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The North Carolina General Assembly expresses its deep appreciation for the life and accomplishments of Archibald Kimbrough Davis and for the great service and contributions that he rendered to our State, Forsyth County, and the City of Winston-Salem.

Section 2. The North Carolina General Assembly extends its deepest sympathy to the family and friends of Archibald Kimbrough Davis.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Archibald Kimbrough Davis.

Section 4. This resolution is effective upon ratification.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
S.J.R. 1603 A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSAY OF THE NATIONAL ORDER OF WOMEN LEGISLATORS.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997
RATIFIED BILL

RESOLUTION 41
SENATE JOINT RESOLUTION 1603

A JOINT RESOLUTION HONORING LILLIAN E. CLEMENT, THE FIRST WOMAN TO SERVE IN THE NORTH CAROLINA GENERAL ASSEMBLY, ON THE SIXTIETH ANNIVERSARY OF THE NATIONAL ORDER OF WOMEN LEGISLATORS.

Whereas, 1998 will mark the 150th anniversary of the Women's Rights Movement in the United States, a bold and courageous civil rights movement that began in 1848 in Seneca Falls, New York, at the first Women's Rights Convention ever held; and

Whereas, the Declaration of Sentiments issued by that convention represents a work as fundamental to our nation's commitment to liberty and personal freedom as does our Declaration of Independence; and

Whereas, the Declaration of Sentiments launched a movement that has changed this nation and the hopes of its women irrevocably; and

Whereas, the resulting Women's Rights Movement has had a profound impact on all aspects of American life and has opened new and well-deserved opportunities for women in all fields of endeavor; and

Whereas, despite one and one-half centuries of efforts now spanning seven generations of unceasing work to achieve equality for one-half the American population, the twenty-first century will find an ever-increasing need for both women and men to share in the fundamental responsibilities for our national life and the blessings that must result from full and equal participation in society; and

Whereas, the National Order of Women Legislators, established in 1938, was formed not long after women's suffrage was added to the United States Constitution as the 19th Amendment; and

Whereas, not only have women won the right to vote, they are being elected to public office at all levels of government; and

Whereas, it is the strongly-held belief of this legislature that, while much remains to be accomplished, the Women's Rights Movement has been tremendously successful in changing the status of women in this country; and

Whereas, on the 60th anniversary of the National Order of Women Legislators, Inc., the General Assembly pauses to pay tribute for the life and accomplishments of Lillian E. Clement of Buncombe County, who in 1921 was elected to the House of Representatives, becoming the first woman to serve in the North Carolina General Assembly; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The General Assembly honors the life and memory of Lillian E. Clement and commends the National Order of Women Legislators upon the

occasion of the organization's 60th Anniversary and celebrates the Order's 60 years of leadership and commitment to public service.

Section 2. This resolution is effective upon ratification.

In the General Assembly read three times and ratified this the 11th day of August, 1998.

DENNIS A. WICKER

Dennis A. Wicker
President of the Senate

HAROLD J. BRUBAKER

Harold J. Brubaker
Speaker of the House of Representatives

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE - JULY 28, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Laura DeVivo	DENR
Kim Smith	NC League of Municipalities
David Ferrell	Hofer, McNamara, Caldwell, et al
Amy Jo Bain	Smith Anderson
Mary Merschbacher	Pappas & Gerrell
Susan Ladanni	NAI Interwest

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
August 12, 1998

The Committee on Rules, Calendar, and Operations of the House met August 12, 1998, at 3:30 p.m. in Room 421 in the Legislative Office Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representatives Crawford, Culp, Dockham, Esposito, Gulley, Hill, McMahan, Miner, Mitchell, Neely, Thompson, and Wilson.

The following bills were brought before the committee:

Senate Finance Committee substitute for HB 794 - A BILL TO BE ENTITLED AN ACT TO MAKE SUBSTANTIVE CHANGES TO THE NORTH CAROLINA ENGINEERING AND LAND SURVEYING ACT, introduced by Representative Ives, was back before the committee for recommendation on concurrence. Representative Sherrill was recognized to explain the bill. The bill was temporarily displaced.

HB 1533 - A BILL TO BE ENTITLED AN ACT TO AFFECT THE HALIFAX-ROANOKE RAPIDS AIRPORT AUTHORITY, introduced by Representative Crawford. It was a blank bill and Representative Crawford moved that a proposed committee substitute be adopted for the purpose of discussion. The vote was unanimous. He explained that the substitute changes the name of the Halifax County Airport to the Halifax-Regional Airport and it adds Northampton County. Representative Crawford moved for a favorable report to the committee substitute, unfavorable to the original bill and the motion carried.

HB 1607 - A BILL TO BE ENTITLED AN ACT TO AMEND LOCAL LAWS IN UNION COUNTY, introduced by Representative Shubert. It was a blank bill and Representative Miner moved for adoption of a committee substitute for the purpose of discussion and the vote was unanimous. Representative Shubert was recognized to explain the bill. She stated that Weddington is in Representative Talent's area but he could not be at the meeting and asked her to bring it forward. The citizens in the area of a proposed extra-territorial jurisdiction will be permitted to vote on whether the county shall continue to zone or whether the Town of Weddington shall zone. Only the citizens affected will be voting and the Town of Weddington will pay for the cost of any vote taken. Representative Wilson moved for a favorable report to the committee substitute, unfavorable to the original bill and the motion carried.

HB 794 was called up again for recommendation on concurrence. Representative Sherrill was recognized to explain the Senate changes. She stated that they were basically technical changes because the bill was passed last year so they had to change the effective date to July 1, 1999. They restored the current experience requirement for applicants with a high school education. The Board of Land Surveyors and Board of

Engineers has confirmed that increasing those particular experience requirements were not intended and the current requirement should continue in place. They pulled the updated version of the statute in the bill so it shows that the amendments made last year concurred. Representative Mitchell moved that the Rules Committee recommend to the House that the House do concur with the Senate Committee Substitute and the motion carried.

HR 1764 - A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES M. POYNER, FORMER MEMBER OF THE GENERAL ASSEMBLY, introduced by Representative Blue, was displaced because the Senate Resolution has already been acted on.

HJR 1765 - A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GUS NICKOLAS ECONOMOS, FORMER MEMBER OF THE GENERAL ASSEMBLY, introduced by Representative Black. Chairman Morgan stated that this is the last of the memorializing resolutions which were authorized by the enabling resolutions. Representative Dockham moved for a favorable report and the motion carried.

SB 905 - A BILL TO BE ENTITLED AN ACT TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS AND TO PROVIDE FOUR-YEAR TERMS FOR MEMBERS OF THE SENATE, introduced by Senator Hoyle. Representative Neely moved for adoption of a committee substitute for the purpose of discussion and debate and the vote was unanimous. Committee Counsel Linwood Jones explained the changes that included length of session would still be 120 days for the long session and 60 days for the short session, both could be extended by 10 days one time each. It would take effect, if the voters approve it this fall, beginning with the 2001 long session. It also includes a study that would take place before the bill goes into effect to allow the General Assembly to decide what changes it needs to make in the rules, procedures, and committee operations to prepare for the change and also if the General Assembly is not going to be in town as much, the thinking was to also study what to do about confirmation procedures, what to do about legislative oversight and legislative investigations of the executive branch. Senator Hoyle was recognized and said he thought the bill was a great step in the right direction. Phil Kirk with the Citizens for Business and Industry was recognized to let the Committee know what has been going on in the Virginia Legislature. Virginia meets 30 days one year and 60 days the next year. North Carolina had more special sessions than Virginia and the North Carolina special sessions lasted longer than those of Virginia. See Attachment 1.

Committee Counsel Linwood Jones went over the comparison of session length limits among the 12 southern states - None in North Carolina; 30 legislative days within a period of 105 calendar days in Alabama; 60 calendar days in Arkansas; 60 calendar days in Florida; 40 legislative days in Georgia; 60 legislative days in Kentucky; 125 calendar days in Mississippi; 60 legislative days and 30 in Louisiana alternating between years; 90 calendar days in Maryland; 90 legislative days in Tennessee; South Carolina has an actual

date by which they end as the first Thursday in June; and Virginia as 60 and 30 calendar days.

Representative Gully still had the same objections that members in a large area of the state can complete part of a days work before coming in on Monday and when they leave on Thursday, they have time to plan for a full days work on Friday. If we change we will be working earlier on Mondays, later on Thursdays and probably on Fridays.

Chairman Morgan stated that he had put the bill before the Committee in July and again in August and it might be before the Committee in September and October, but the Committee would talk about it.

Representative Mitchell ask Counsel Linwood Jones if Virginia met on Mondays and Fridays and Mr. Jones responded that he thought that they did meet on Mondays and Fridays. As a follow up, Representative Mitchell commented that according to an NCSL magazine article, Virginia had a higher per capita cost than North Carolina and he wanted to know about the difference. Mr. Jones stated that Virginia has a centralized staff like North Carolina and he wasn't sure about the per capita.

Senator Hoyle stated that the bill is about preserving a citizen's legislature.

Representative Mitchell asked of Staff member Gerry Cohen about the per capita. Mr. Cohen stated that our expenses are on the lower end because North Carolina has a relatively small staff for the size of our state. Most states the size of North Carolina have a much larger central staff and district staff who work in Member's district offices.

Representative McMahan said he believes for those members that have full time jobs, the problem is not having an ending date for session. He believes that the members do need some discipline and he strongly supports this bill.

Representative Neely stated that the problem in North Carolina is the way in which it meets. Members are here for a couple of months and they have committee meetings, a brief session in the afternoon and then three or four hours off. Most working people come to work at 8:00, work all day long and go home at 5:30. If sessions are reorganized, committee meetings could be held during those eight hours and work would be done. The purpose of this two year hiatus is to allow time to study and begin to implement. There would have to be a cultural shift in the General Assembly. It would take cooperation with the Senate. He said he believes we could keep it a citizen's legislature if members put themselves into it.

Representative Dockham commented that the General Assembly needs good citizens to serve. He supports the bill and would vote for it if given the opportunity.

Representative Culp said he believes the General Assembly should have a beginning date and an ending date.

Representative Mitchell asked Gerry Cohen if when Virginia does their budget, does the House have to wait on the Senate or vice versa? Gerry Cohen stated that budget negotiations are seven days a week for several weeks before the end of session in Virginia. His understanding is that they have separate budgets and they go to conference.

Representative Culp ask Gerry Cohen if there had been a public vote on this before and Mr. Cohen said it was 29%.

Representative Mitchell moved to amend the committee substitute on page 1, line 11 and page 2, line 16. Linwood Jones explained the technical amendments that on page 1 where it talks about the short session and that this could be construed to be talking about the next short session in the year 2000 when it actually refers to the year 2002. The words "beginning in 2002" needs to be inserted just as it is on line 8 beginning in 2001 for the long session. The amendment on page 2 is a typo and should be Section 5

Representative Mitchell moved for adoption of the technical amendment and the vote was unanimous.

Representative Dockham moved that the committee substitute as amended be rolled unto a new committee substitute and be given a favorable report and an unfavorable report to the Senate committee substitute. The motion carried.

The meeting adjourned at 4:20 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
Attachment 1
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

X Senate Committee Substitute #2 for
H.B. 794 A BILL TO BE ENTITLED AN ACT TO MAKE SUBSTANTIVE CHANGES TO THE NORTH CAROLINA ENGINEERING AND LAND SURVEYING ACT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☒ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 6

HOUSE BILL 794*
Committee Substitute Favorable 5/28/97
Committee Substitute #2 Favorable 6/25/97
Committee Substitute #3 Favorable 7/31/97
Senate Commerce Committee Substitute Adopted 6/2/98
Senate Finance Committee Substitute #2 Adopted 7/21/98

Short Title: Engineering and Land Surveying Changes. (Public)

Sponsors:

Referred to:

April 3, 1997

A BILL TO BE ENTITLED

AN ACT TO MAKE SUBSTANTIVE CHANGES TO THE NORTH CAROLINA ENGINEERING AND LAND SURVEYING ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 89C-2 reads as rewritten:

"**§ 89C-2. Declarations; prohibitions.**

In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering and the practice of land surveying in this State are hereby declared to be subject to regulation in the public interest. It shall be unlawful for any person to practice or to offer to practice engineering or land surveying in this State, as defined in the provisions of this Chapter, or to use in connection with ~~his~~ the person's name or otherwise assume or advertise any title or description tending to convey the impression that ~~he~~ the person is either a professional engineer or a ~~registered~~ professional land surveyor, unless ~~such~~ the person has been duly ~~registered as such.~~ licensed. The right to engage in the practice of engineering or land surveying ~~shall be deemed~~ is a personal right, based on the qualifications of the ~~individual~~ person as evidenced by ~~his~~ the person's certificate of ~~registration,~~ licensure, which shall not be transferable."

Section 2. G.S. 89C-3 reads as rewritten:

"**§ 89C-3. Definitions.**

The following definitions apply in this Chapter:

(1) Board. -- The North Carolina State Board of ~~Registration~~ Examiners for ~~Professional~~ Engineers and ~~Land~~ Surveyors provided for by this Chapter.

(1a) Business firm. -- A partnership, firm, association, or another organization or group that is not a corporation and is acting as a unit.

(2) Engineer. -- A person who, by reason of ~~his~~ special knowledge and use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering.

(3) ~~Engineer-in-training.~~ Engineering intern. -- A person who complies with the requirements for education, experience and character, and has passed an examination in the fundamental engineering subjects, as provided in this Chapter.

(3a) Inactive licensee. -- Licensees who are not engaged in the practice of engineering or land surveying in this State.

(4) ~~Land-surveyor-in-training.~~ Land surveyor intern. -- A person who has qualified for, taken, and passed an examination on the basic disciplines of land surveying as provided in this Chapter.

(5) Person. -- Any natural person, firm, partnership, corporation or other legal entity.

(6) Practice of engineering. --

a. Any service or creative work, the adequate performance of which requires engineering education, training, and experience, in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning, and design of engineering works and systems, planning the use of land and water, engineering surveys, and the observation of construction for the purposes of assuring compliance with drawings and specifications, including the consultation, investigation, evaluation, planning, and design for either private or public use, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this Chapter, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents ~~himself~~ the person to be a professional engineer, or through the use of some other title implies that ~~he~~ the person is a professional engineer or that ~~he~~ the person is ~~registered~~ licensed under this Chapter; or who holds ~~himself~~ the person out as able to perform, or who does perform any engineering service or work not exempted by this Chapter, or any other service designated by the practitioner which is recognized as engineering.

b. The term 'practice of engineering' shall not be construed to permit the location, description, establishment or reestablishment of property lines or descriptions of land boundaries for conveyance. The term does not include the assessment of an underground storage tank required by applicable rules at closure or change in service unless there has been a discharge or release of the product from the tank.

(7) Practice of land ~~surveying by registered land surveyors.~~ surveying. --

a. ~~Any service or work, the adequate performance of which involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence to the act of measuring and locating lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes, for the monumenting of property boundaries, and for the platting and layout of lands and subdivisions thereof, including the topography, alignment and grades of street and incidental drainage within the subdivision, and for the preparation and perpetuation of maps, record plats, field note records, and property descriptions that represent these surveys.~~ Providing professional services such as consultation, investigation, testimony, evaluation, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location, size, shape, or physical features of the earth, improvements on the earth, the space above the earth, or any part of the earth, whether the gathering of

information for the providing of these services is accomplished by conventional ground measurements, by aerial photography, by global positioning via satellites, or by a combination of any of these methods, and the utilization and development of these facts and interpretations into an orderly survey map, plan, report, description, or project. The practice of land surveying includes the following:

1. Locating, relocating, establishing, laying out, or retracing any property line, easement, or boundary of any tract of land;
2. Locating, relocating, establishing, or laying out the alignment or elevation of any of the fixed works embraced within the practice of professional engineering;
3. Making any survey for the subdivision of any tract of land, including the topography, alignment and grades of streets and incidental drainage within the subdivision, and the preparation and perpetuation of maps, record plats, field note records, and property descriptions that represent these surveys;
4. Determining, by the use of the principles of land surveying, the position for any survey monument or reference point, or setting, resetting, or replacing any survey monument or reference point;
5. Determining the configuration or contour of the earth's surface or the position of fixed objects on the earth's surface by measuring lines and angles and applying the principles of mathematics or photogrammetry;
6. Providing geodetic surveying which includes surveying for determination of the size and shape of the earth both horizontally and vertically and the precise positioning of points on the earth utilizing angular and linear measurements through spatially oriented spherical geometry; and
7. Creating, preparing, or modifying electronic or computerized data, including land information systems and geographic information systems relative to the performance of the practice of land surveying.

b. The term 'practice of land surveying' shall not be construed to permit the design or preparation of specifications for (i) major highways; (ii) wastewater systems; (iii) wastewater or industrial waste treatment works; (iv) pumping or lift stations; (v) water supply, treatment, or distribution systems;

(vi) streets or storm sewer systems except as incidental to a subdivision.

(8) Professional engineer. -- A person who has been duly ~~registered and~~ licensed as a professional engineer by the Board established by this Chapter.

(8a) Professional engineer, retired. -- A person who has been duly licensed as a professional engineer by the Board and who chooses to relinquish or not to renew a license and who applies to and is approved by the Board to be granted the use of the honorific title 'Professional Engineer, Retired'.

(9) ~~Registered~~ Professional land surveyor. -- A person who, by reason of ~~his~~ special knowledge of mathematics, surveying principles and methods, and legal requirements which are acquired by education and/or practical experience, is qualified to engage in the practice of land surveying, ~~as herein defined,~~ as attested by ~~his registration~~ the person's licensure as a ~~registered~~ professional land surveyor by the Board.

(9a) Professional land surveyor, retired. -- A person who has been duly licensed as a professional land surveyor by the Board and who chooses to relinquish or not to renew a license and who applies to and is approved by the Board to be granted the use of the honorific title 'Professional Land Surveyor, Retired'.

(10) Responsible charge. -- Direct control and personal supervision, either of engineering work or of land surveying, as the case may be."

Section 3. G.S. 89C-4 reads as rewritten:

"**§ 89C-4. State Board of ~~Registration;~~ Examiners for Engineers and Surveyors; appointment; terms.**

A State Board of ~~Registration~~ Examiners for ~~Professional~~ Engineers and ~~Land~~ Surveyors, whose duty it is to administer the provisions of this Chapter, is created. The Board shall consist of four ~~registered~~ licensed professional engineers, three ~~registered~~ licensed professional land surveyors and two public members, who are neither professional engineers nor professional land surveyors. Of the land surveyor members, one and only one may hold dual ~~registration~~ licenses as a professional land surveyor and professional engineer. All of the members shall be appointed by the Governor. Appointments of the engineer and land surveyor members shall preferably, but not necessarily, be made from a list of nominees submitted by the professional societies for engineers and land surveyors in this State. Each member of the Board shall receive a certificate of appointment from the Governor and shall file with the Secretary of State ~~his~~ a written oath or affirmation for the faithful discharge of ~~his~~ the duties.

Members of the Board serve for staggered five-year terms, and no member may be appointed for more than two full terms. Members serve until the expiration of their respective terms and until their respective successors are appointed. If a vacancy

occurs during a term, the Governor shall appoint a successor from the same classification as the person causing the vacancy to serve for the remainder of the unexpired term. If the vacancy is not filled within 90 days after it occurs, the Board may appoint a provisional member to serve until the appointment by the Governor becomes effective. The provisional member during his tenure has all the powers and duties of a regular member."

Section 4. G.S. 89C-5 reads as rewritten:

"**§ 89C-5. Board members; qualifications.**

Each engineer member of the Board shall be a resident of North Carolina and shall be a ~~registered~~ licensed professional engineer engaged in the lawful practice of engineering in North Carolina for at least six years.

Each land surveyor member of the Board shall be a resident of North Carolina and shall be a ~~registered~~ licensed professional land surveyor engaged in the lawful practice of land surveying in North Carolina for at least six years.

Each public member of the Board shall be a resident of North Carolina."

Section 5. G.S. 89C-6 reads as rewritten:

"**§ 89C-6. Compensation and expenses of Board members.**

Each member of the Board, when attending to the work of the Board or any of its committees, shall receive as compensation for ~~his service~~ services the per diem and, in ~~addition thereto,~~ addition, shall be reimbursed for travel expenses and incidentals not exceeding the maximum set forth by law. In addition to per diem allowances, travel and incidentals, the secretary of the Board may, with the approval of the Board, receive such reasonable additional compensation as is compatible with the actual hours of work required by the duties of ~~his~~ the office."

Section 6. G.S. 89C-8 reads as rewritten:

"**§ 89C-8. Organization of the Board; meetings; election of officers.**

The Board shall hold at least two regular meetings each year. Special meetings may be held at such times and upon such notice as the rules and regulations of the Board may provide. The Board shall elect annually from its members a ~~chairman,~~ chair, a ~~vice-chairman,~~ vice-chair, and a secretary. A quorum of the Board shall consist of not less than five members. The Board shall operate under its rules and regulations supplemented by Robert's Rules of Order."

Section 7. G.S. 89C-9 reads as rewritten:

"**§ 89C-9. Executive ~~secretary;~~ director; duties and liabilities.**

The Board shall employ an executive ~~secretary~~ director who is not a member of the Board. The executive ~~secretary~~ director shall be a full-time employee of the Board and perform ~~such~~ the duties assigned to ~~him~~ the director by the secretary subject to the approval of the Board. The executive ~~secretary~~ director shall receive a salary and compensation fixed by the Board. The executive ~~secretary~~ director shall give a surety bond satisfactory to the Board conditioned upon the faithful performance of ~~his~~ the director's ~~duties.~~ duties assigned. The premium on ~~said~~ the bond shall be a necessary and proper expense of the Board."

Section 8. G.S. 89C-10 reads as rewritten:

"**§ 89C-10. Board powers.**

(a) The Board ~~shall have the power to~~ may adopt and amend all ~~rules and regulations. Additionally, the Board shall have the power to adopt such rules,~~ rules and rules of ~~procedure, and regulations,~~ procedure as may be reasonably necessary for the proper performance of its duties, the regulation of its procedures, meetings, records, the ~~giving of~~ administration of ~~examinations and the conduct thereof,~~ examinations, and the ~~power~~ authority to enforce ~~such~~ the rules of professional conduct as ~~may, from time to time,~~ may be adopted by the Board pursuant to G.S. 89C-20.

The action by the Board in carrying out any of the powers specified ~~above~~ in this section shall be binding upon all persons ~~registered~~ licensed under this Chapter, including corporations and business firms holding certificates of authorization.

(b) The Board shall adopt and have an official seal, which shall be affixed to each certificate issued.

(c) The Board ~~is hereby authorized~~ may in the name of the State ~~to~~ apply for relief, by injunction, in the established manner provided in cases of civil procedure, without bond, to enforce the provisions of this Chapter, or to restrain any violation ~~thereof.~~ of the provisions of this Chapter. In ~~such proceedings,~~ proceedings for injunctive relief, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation ~~thereof.~~ of the provisions of this Chapter. The members of the Board shall not be personally liable under this proceeding.

(d) The Board may subject an applicant for ~~registration~~ licensure to ~~such~~ any examination ~~as it deems~~ necessary to determine ~~his~~ the applicant's qualifications.

(e) The Board ~~shall have the power to~~ may issue an appropriate certificate of ~~registration~~ licensure to any applicant who, in the opinion of the Board, has met the requirements of this Chapter.

(f) It shall be the responsibility and duty of the Board to conduct a regular program of investigation concerning all matters within its jurisdiction under the provisions of this Chapter. The investigation of a ~~registrant~~ licensee is confidential until the Board issues a citation to the ~~registrant.~~ licensee. The Board may expend its funds for salaries, fees, and per diem expenses, in connection with its investigations, provided that no ~~such~~ funds other than per diem expenses shall be paid to any member of the Board in connection with its investigations, nor may any member of the Board give testimony and ~~thereafter~~ later sit in deciding on any matter which may directly involve punitive action ~~under such~~ for the testimony.

(g) The Board ~~is authorized and empowered to~~ may use its funds to establish and conduct instructional programs for persons who are currently ~~registered~~ licensed to practice engineering or land surveying, as well as refresher courses for persons interested in obtaining adequate instruction or programs of study to qualify them for ~~registration~~ licensure to practice engineering or land surveying. The Board may expend its funds for these purposes and ~~is authorized and empowered~~ may not only ~~to~~ conduct, sponsor, and arrange for instructional programs, but also ~~to~~ may carry out ~~such~~ instructional programs through extension courses or other ~~media, and the~~ media. The Board may enter into plans or agreements with community colleges, public or

private institutions of higher learning, ~~both public and private,~~ State and county boards of education, or with the governing authority of any industrial education center for the purpose of planning, scheduling or arranging ~~such~~ courses, instruction, extension courses, or in assisting in obtaining courses of study or programs in the field of engineering and land surveying. The Board shall ~~make every effort practical to~~ encourage the educational institutions in this State to offer courses necessary to complete the educational requirements of this Chapter. For the purpose of carrying out these objectives, the Board ~~is authorized to make and promulgate such~~ may adopt rules ~~and regulations~~ as may be necessary for ~~such~~ the educational programs, instruction, extension services, or for entering into plans or contracts with persons or educational and industrial institutions.

(h) The Board may license sponsors of continuing professional competency activities who agree to conduct programs in accordance with standards adopted by the Board. Sponsors shall pay a license fee established by the Board, not to exceed two hundred fifty dollars ($250.00) for licensure under this subsection. The license fee shall accompany the application. Sponsors shall renew their licenses annually on a form provided by the Board."

Section 9. G.S. 89C-11 reads as rewritten:

"**§ 89C-11. Secretary; duties and liabilities; expenditures.**

The secretary of the Board shall receive and account for all moneys derived from the operation of the Board as provided in this Chapter, and shall deposit them in one or more special funds in banks or other financial institutions carrying deposit insurance and authorized to do business in North Carolina. The fund or funds shall be designated as 'Fund of the Board of ~~Registration~~ Examiners for ~~Professional~~ Engineers and ~~Land~~ Surveyors' and shall be drawn against only for the purpose of implementing provisions of this Chapter as herein provided. All expenses certified by the Board as properly and necessarily incurred in the discharge of its duties, including authorized compensation, shall be paid out of ~~said~~ this fund on the warrant signed by the secretary of the ~~Board; provided, however, that at~~ Board. At no time shall the total of warrants issued exceed the total amount of funds accumulated under this Chapter. The secretary of the Board shall give a surety bond satisfactory to the State Board of ~~Registration~~ Examiners for ~~Professional~~ Engineers and ~~Land~~ Surveyors, conditioned upon the faithful performance of ~~his duties.~~ the duties assigned. The premium on ~~said~~ the bond ~~shall be regarded as~~ is a proper and necessary expense of the Board. The secretary of the Board may delegate to the executive ~~secretary~~ director certain routine duties, such as receipt and disbursement of funds in stated amounts by a written authorization, which has the unanimous approval of the Board."

Section 10. G.S. 89C-12 reads as rewritten:

"**§ 89C-12. Records and reports of Board; evidence.**

The Board shall keep a record of its proceedings and a register of all applicants for ~~registration,~~ licensure, showing for each the date of application, name, age, education, and other qualifications, place of business and place of residence, whether the applicant was rejected or a certificate of ~~registration~~ licensure granted, and the date

~~of such action.~~ licensure was rejected or granted. The books and register of the Board shall be prima facie evidence of all matters recorded ~~therein,~~ by the Board, and a copy duly certified by the secretary of the Board under seal shall be admissible in evidence as if the original were produced. A roster showing the names and places of business and of residence of all ~~registered~~ licensed professional engineers and all ~~registered~~ licensed professional land surveyors shall be prepared by the secretary of the Board current to the month of January of each ~~year; such~~ year. The roster shall be printed by the Board out of the Board's fund ~~of said Board~~ and distributed as ~~set forth~~ described in the Board's ~~rules and regulations.~~ rules. On or before the first day of May of each year, the Board shall submit to the Governor a report on its transactions for the preceding year, and shall file with the Secretary of State a copy of ~~such~~ the report, together with a complete statement of the receipts and expenditures of the ~~Board,~~ Board attested by the ~~affidavits of the chairman~~ chair and the ~~secretary,~~ secretary and a copy of the ~~said~~ the roster of ~~registered~~ licensed professional engineers and ~~registered~~ professional land surveyors."

Section 11. G.S. 89C-13 reads as rewritten:

"**§ 89C-13. General requirements for ~~registration.~~ licensure.**

(a) Engineer Applicant. -- To be eligible for ~~admission to examination for~~ licensure as a professional ~~engineer~~ engineer, an applicant must be of good character and reputation. An applicant desiring to take the examination in the fundamentals of engineering ~~only~~ must submit three character ~~references.~~ references, one of whom shall be a professional engineer. An applicant desiring to take the examination in the principles and practice of engineering must submit five references, two of whom shall be professional engineers having personal knowledge of ~~his~~ the applicant's engineering experiences.

The following shall be considered as minimum evidence satisfactory to the Board that the applicant is qualified for ~~registration.~~ licensure:

(1) As a professional engineer (shall meet one):

a. ~~Registration~~ Licensure by Comity or Endorsement. -- A person holding a certificate of ~~registration~~ licensure to engage in the practice of engineering, on the basis of comparable qualifications, issued to ~~him~~ the person by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or of Canada, who completes an application for licensure and submits five references, two of which shall be from professional engineers having personal knowledge of the applicant's engineering experience, and ~~who~~ who, in the opinion of the Board, meets the requirements of this Chapter, based on verified evidence may, upon application, be ~~registered~~ licensed without further examination.

A person holding a certificate of qualification issued by the Committee on National Engineering Certification of the National Council of ~~Engineering Examiners,~~ Examiners for

Engineering and Surveying whose qualifications meet the requirements of this Chapter, may upon application, be ~~registered~~ licensed without further examination.

b. ~~E.I.T.~~ E.I. Certificate, Experience, and Examination. -- A holder of a certificate of ~~engineer-in-training~~ engineering intern issued by the Board, and with a specific record of an additional four years or more of progressive experience on engineering projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering, shall be admitted to ~~an eight-hour examination in~~ the principles and practice of ~~engineering.~~ engineering examination. Upon passing ~~such~~ the examination, the applicant shall be granted a certificate of ~~registration~~ licensure to practice professional engineering in this State, provided ~~he~~ the applicant is otherwise qualified.

c. Graduation, Experience, and Examination. -- A graduate of an engineering curriculum of four years or more approved by the Board as being of satisfactory standing, and with a specific record of an additional four years or more of progressive experience on engineering projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering, shall be admitted to ~~an eight-hour written examination in~~ the fundamentals of ~~engineering;~~ engineering examination, and ~~an eight-hour written examination in~~ the principles and practice of ~~engineering.~~ engineering examination. Upon passing ~~such~~ the examinations, the applicant shall be granted a certificate of ~~registration~~ licensure to practice professional engineering in this State, provided ~~he~~ the applicant is otherwise qualified.

d. Graduation, Experience, and Examination. -- A graduate of an engineering or related science curriculum of four years or more, other than the ones approved by the Board as being of satisfactory standing or with an equivalent education and engineering experience satisfactory to the Board and with a specific record of eight years or more of progressive experience on engineering projects of a grade and character which indicates to the Board that the applicant may be competent in the fundamentals of engineering, shall be admitted to ~~an eight-hour written examination in~~ the fundamentals of ~~engineering;~~ engineering examination and ~~an eight-hour written examination in~~ the principles and practice of ~~engineering.~~ engineering examination. Upon passing ~~such~~ the examinations, the applicant shall be granted

a certificate of ~~registration~~ licensure to practice professional engineering in this State, provided ~~he~~ the applicant is otherwise qualified.

e. Long-Established Practice. -- ~~An individual~~ A person with a specific record of 20 years or more of progressive experience on engineering projects of a grade and character which indicates to the Board that the applicant may be competent to practice engineering shall be admitted to ~~an eight-hour written examination in~~ the principles and practice of ~~engineering.~~ engineering examination. Upon passing ~~such~~ the examination, the applicant shall be granted a certificate of ~~registration~~ licensure to practice professional engineering in this State, provided ~~he~~ the applicant is otherwise qualified.

At its discretion the Board may require an applicant to submit exhibits, drawings, designs, or other tangible evidence of engineering work ~~executed by him and~~ which ~~he~~ the applicant personally accomplished or supervised.

The following shall be considered as minimum evidence that the applicant is qualified for certification:

(2) As an ~~engineer-in-training~~ engineering intern (shall meet one):

a. Graduation and Examination. -- A graduate of an engineering curriculum or related science curriculum of four years or more, approved by the Board as being of satisfactory standing, or a student who has attained senior status in an accredited engineering program, shall be admitted to ~~an eight-hour written examination in~~ the fundamentals of ~~engineering.~~ engineering examination. The applicant shall be notified if the examination was passed or not passed and if passed he shall be certified as an ~~engineer-in-training,~~ engineering intern if ~~he~~ the applicant is otherwise qualified.

b. Graduation, Experience, and Examination. -- A graduate of an engineering or related science curriculum of four years or more, other than the ones approved by the Board as being of satisfactory standing, or with equivalent education and engineering experience satisfactory to the Board and with a specific record of four or more years of progressive experience on engineering projects of a grade and character satisfactory to the Board, shall be admitted to ~~an eight-hour written examination in~~ the fundamentals of ~~engineering.~~ engineering examination. The applicant shall be notified if the examination was passed or not passed and if ~~passed he~~ passed, the applicant shall be certified as an

~~engineer-in-training~~ engineering intern if ~~he~~ the applicant is otherwise qualified.

(b) Land Surveyor Applicant. -- To be eligible for admission to examination for land ~~surveyor-in-training,~~ surveyor intern or ~~registered~~ professional land surveyor, an applicant must be of good character and reputation and shall submit five references with ~~his~~ the application for ~~registration~~ licensure as a land surveyor, two of which references shall be ~~registered~~ professional land surveyors having personal knowledge of ~~his~~ the applicant's land surveying experience, or in the case of an application for certification as a land ~~surveyor-in-training~~ surveyor intern by three references, one of which shall be a ~~registered~~ licensed land surveyor having personal knowledge of the applicant's land surveying experience.

The evaluation of a land surveyor applicant's qualifications shall involve a consideration of ~~his~~ the applicant's education, technical and land surveying experience, exhibits of land surveying projects with which ~~he~~ the applicant has been associated, and recommendations by ~~references, and reviewing of these categories during an oral examination.~~ references. The land surveyor applicant's qualifications may be reviewed at an interview if the Board ~~deems~~ determines it necessary. Educational credit for institute courses, correspondence courses, ~~etc.,~~ or other courses shall be determined by the Board.

The following shall be considered a minimum evidence satisfactory to the Board that the applicant is qualified for ~~registration~~ licensure as a professional land surveyor or for certification as a land ~~surveyor-in-training,~~ surveyor intern respectively:

(1) As a ~~registered~~ professional land surveyor (shall meet one):

a. Rightful possession of a ~~B.S.~~ bachelor of science degree in surveying or other equivalent curricula, all approved by the Board and a record satisfactory to the Board of ~~one year~~ two years or more of progressive practical ~~experience~~ experience, one year of which shall have been under a practicing ~~registered~~ professional land surveyor and satisfactorily passing ~~such~~ any oral and written ~~examination, taken in the presence of and~~ examination required by the Board, all of which shall determine and indicate that the ~~candidate~~ applicant is competent to practice land surveying. The applicant may ~~elect~~ be qualified by the Board to take the first examination (Surveying Fundamentals) immediately after obtaining the ~~B.S.~~ bachelor of science degree at the first regularly scheduled examination thereafter. Upon passing the first examination and successful completion of the experience required by this subdivision, the applicant may apply to take the second examination (Principles and Practice of Land Surveying). An applicant who passes both examinations and completes the educational and experience requirements of this subdivision shall be granted ~~registration~~ licensure as a professional land surveyor.

b. Rightful possession of an associate degree in surveying technology approved by the Board and a record satisfactory to the Board of ~~three~~ four years of progressive practical experience, ~~two~~ three years of which shall have been under a practicing ~~registered~~ licensed land surveyor, and satisfactorily passing ~~such~~ any written and oral examination ~~taken in the presence of and as~~ required by the Board, all of which shall determine and indicate that the ~~candidate~~ applicant is competent to practice land surveying. The applicant may ~~elect~~ apply to the Board to take the first examination (Surveying Fundamentals) immediately after obtaining the associate degree at the first regularly scheduled examination thereafter. Upon passing the first examination and successfully completing ~~years of progressive practical experience under a practicing registered land surveyor,~~ the practical experience required under this subdivision, the applicant may ~~elect~~ apply to the Board to take the second examination ~~(Principles and Practice of Land Surveying) prior to, during, or after completion of the additional experience required by this subdivision.~~ (Principles and Practice of Land Surveying). An applicant who passes both examinations and successfully completes the educational and experience requirements of this subdivision shall be granted ~~registration~~ licensure as a professional land surveyor.

~~c. Land Surveyor in Training Certificate, Experience, and Examination. — A holder of a certificate of land surveyor in training issued by the Board, and with a specific record of an additional two years or more of progressive surveying experience, one year of which shall have been under a practicing registered land surveyor, of a grade and character which indicates to the Board that the applicant may be competent to practice land surveying, shall be admitted to two four hour examinations. Upon passing such examinations, the applicant shall be granted a certificate of registration to practice land surveying in this State, provided he is otherwise qualified.~~

d. Graduation from a high school or the completion of a high school equivalency certificate and a record satisfactory to the Board of seven years of progressive practical experience, six years of which shall have been under a practicing ~~registered~~ licensed land surveyor, and satisfactorily passing ~~such~~ any oral and written ~~examination written in the presence of and~~ examinations required by the Board, all of

which shall determine and indicate that the candidate is competent to practice land surveying. The applicant may be qualified by the Board to take the first examination (Surveying Fundamentals) upon graduation from high school or the completion of a high school equivalency certificate and successfully completing six years of progressive practice experience, five of which shall have been under a practicing licensed land surveyor. The applicant may apply to take the second examination (Principles and Practice of Land Surveying) upon passing the first examination and successfully completing four years of progressive practical experience, two of which shall have been under a practicing licensed land surveyor.

e. Repealed by Session Laws 1985 (Regular Session, 1986), c. 977, s. 7.

f. ~~Registration~~ Licensure by Comity or Endorsement. -- A person holding a certificate of ~~registration~~ licensure to engage in the practice of land surveying issued on comparable qualifications from a state, territory, or possession of the United States will be given comity considerations. However, ~~he~~ the applicant may be asked to take ~~such~~ any examinations as the Board ~~deems necessary~~ requires to determine ~~his~~ the applicant's qualifications, but in any event, ~~he~~ the applicant shall be required to pass ~~a written~~ an examination which shall include questions on laws, procedures, and practices pertaining to the practice of land surveying in North Carolina.

g. A licensed professional engineer who can satisfactorily demonstrate to the Board that ~~his~~ the professional engineer's formal academic training in acquiring a degree and field experience in engineering includes land surveying, to the extent necessary to reasonably qualify the applicant in the practice of land surveying, may apply for and may be granted permission to take the ~~two four-hour examinations on the~~ principles and practice of land surveying examination and the ~~two four-hour examinations on the~~ fundamentals of land ~~surveying.~~ surveying examination. Upon satisfactorily passing the examinations, the applicant ~~will~~ shall be granted a license to practice land surveying in the State of North Carolina.

h. Professional Engineers in Land Surveying. -- Any person presently licensed to practice professional engineering under this Chapter shall upon ~~his~~ application be licensed to practice land surveying, providing ~~his~~ a written application

is filed with the Board within one year next after June 19, 1975.

i. Photogrammetrists. -- Any person presently practicing photogrammetry with at least seven years of experience in the profession, two or more of which shall have been in responsible charge of photogrammetric mapping projects meeting National Map Accuracy Standards shall, upon application, be licensed to practice land surveying, provided:

1. The applicant submit certified proof of graduation from high school, high school equivalency, or higher degree;
2. The applicant submit proof of employment in responsible charge as a photogrammetrist practicing within the State of North Carolina to include itemized reports detailing methods, procedures, amount of applicant's personal involvement and the name, address, and telephone numbers of the client for five projects completed by the applicant with the State. A final map for one of the five projects shall also be submitted;
3. Five references to the applicant's character and quality of work, three of which shall be from professional land surveyors, are submitted to the Board; and
4. The application is submitted to the Board by July 1, 1999. After July 1, 1999, no photogrammetrist shall be licensed without meeting the same requirements as to education, length of experience, and testing required of all land surveying applicants.

The Board shall require an applicant to submit exhibits, drawings, plats or other tangible evidence of land surveying work executed by ~~him~~ the applicant under proper supervision and which ~~he~~ the applicant has personally accomplished or supervised.

Land surveying encompasses a number of disciplines including geodetic surveying, hydrographic surveying, cadastral surveying, engineering surveying, route surveying, photogrammetric (aerial) surveying, and topographic surveying. A professional land surveyor shall practice only within the surveyor's area of expertise.

(2) As a land ~~surveyor-in-training~~ surveyor intern (shall meet one):

a. Rightful possession of an associate degree in surveying technology approved by the Board and satisfactorily passing a written ~~or~~ and oral examination ~~taken in the presence of~~ ~~and~~ as required by the Board.

b. Rightful possession of a ~~B.S.~~ bachelors degree in surveying or other equivalent curricula in surveying all approved by the Board and satisfactorily passing ~~such~~ any oral and written examinations ~~written in the presence of and~~ required by the Board.

c. Graduation from high school or the completion of a high school equivalency certificate and a record satisfactory to the Board of five years of progressive, practical experience, four years of which shall have been under a practicing ~~registered~~ licensed land surveyor and satisfactorily passing any oral and written examinations ~~taken in the presence of and as~~ required by the Board.

The Board shall require an applicant to submit exhibits, drawings, plats, or other tangible evidence of land surveying work executed by ~~him~~ the applicant under proper supervision and which ~~he~~ the applicant has personally accomplished or supervised."

Section 12. G.S. 89C-14 reads as rewritten:

"**§ 89C-14. Application for ~~registration; registration~~ licensure; license fees.**

(a) Application for ~~registration~~ licensure as a professional engineer or ~~registered~~ professional land surveyor shall be on a form prescribed and furnished by the Board. It shall contain statements made under oath, showing the applicant's education and a detailed summary of ~~his~~ the applicant's technical and engineering or land surveying experience, and shall include the names and complete mailing addresses of the references, none of whom ~~should~~ may be immediate members of the applicant's family or members of the Board.

The Board may accept the certified information on the copy of a current formal certificate of qualifications issued by the National Council of ~~Engineering Examiners Committee or National Engineering Certification for Professional Engineer applicants~~ Examiners for Engineering and Surveying in lieu of the same information that is required for the form prescribed and furnished by the Board.

(b) An applicant for ~~registration~~ licensure who is required to take the written examination shall pay ~~a fee equal to the cost of the examination to the Board plus an additional amount~~ to the Board an application fee not to exceed one hundred dollars ($100.00). The Board may charge any fee necessary to defray the cost of any required examinations. The fee shall accompany the application. The fee for comity ~~registration~~ licensure of engineers and land surveyors who hold unexpired certificates in another state or a territory of the United States or in Canada shall be the total current fee as fixed by the Board.

(c) The certification fee for a corporation is the amount set by the Board ~~in accordance with G.S. 55B-10.~~ but shall not exceed one hundred dollars ($100.00). The fee shall accompany the application. The certification fee for a business firm is the same as the fee for a corporation. The fee for renewal of a certificate of ~~registration~~ licensure of a corporation is the amount set by the Board ~~in accordance with G.S. 55B-11.~~ but shall not exceed seventy-five dollars ($75.00). The fee for

renewal of a certificate of ~~registration~~ licensure for a business firm is the same as the renewal fee for a corporation.

(d) Should the Board deny the issuance of a certificate of ~~registration~~ licensure to any applicant, the unobligated portion of fees paid shall be returned by the Board to the applicant.

(e) A candidate failing an examination may apply, and be considered by the Board, for reexamination at the end of six months. The Board shall make such reexamination charge as is necessary to defray the cost of the examination.

A candidate ~~failing an examination three times will not be permitted to take a reexamination until he has made a written appeal to the Board and his tentative qualifications for the examination are reviewed and reaffirmed by the Board.~~ with a combination of three failures or unexcused absences on an examination shall only be eligible after submitting a new application with appropriate application fee, and be considered by the Board for reexamination at the end of 12 months. After the end of the 12-month period, the applicant may take the examination no more than once every calendar year."

Section 13. G.S. 89C-15 reads as rewritten:

"**§ 89C-15. Examinations.**

(a) The examinations will be held at ~~such~~ the times and places as the Board directs. The Board shall determine the passing grade on examinations. All examinations shall be approved by the entire Board.

(b) Written examinations will be given in sections and may be taken only after the applicant has met the other minimum requirements as given in ~~G.S. 89C-13,~~ G.S. 89C-13 and has been approved by the Board for admission to the examination as follows:

(1) Engineering Fundamentals. -- Consists of an eight-hour examination on the fundamentals of engineering. Passing this examination qualifies the ~~examinee~~ applicant for an ~~engineer-in-training~~ engineering intern certificate, provided ~~he~~ the applicant has met all other requirements for ~~certification~~ licensure required by this Chapter.

(2) Principles and Practice of Engineering. -- Consists of an eight-hour examination on applied engineering. Passing this examination qualifies the ~~examinee~~ applicant for ~~registration~~ licensure as a professional engineer, provided ~~he~~ the applicant has met the other requirements for registration required by this Chapter.

(3) Surveying Fundamentals. -- Consists of ~~two four-hour examinations~~ an eight-hour examination on the elementary disciplines of land surveying. Passing ~~both of these examinations~~ this examination qualifies the ~~examinee~~ applicant for a land ~~surveyor-in-training~~ surveyor intern certificate provided ~~he~~ the applicant has met all other requirements for certification required by this Chapter.

(4) Principles and Practices of Land Surveying. -- Consists of ~~two four-hour examinations~~ a six-hour examination on the basic and

applied disciplines of land ~~surveying, one examination on basic disciplines and the other examination covering applied disciplines.~~ surveying and a two-hour examination on requirements specific to the practice of land surveying in North Carolina. Passing each of these examinations qualifies the ~~examinee~~ applicant for a ~~registered~~ professional land surveyor certificate provided ~~he~~ the applicant has met all other requirements for certification required by this Chapter."

Section 14. G.S. 89C-16 reads as rewritten:

"**§ 89C-16. Certificates of ~~registration;~~ licensure; effect; seals.**

(a) The Board shall issue to any applicant, who, in the opinion of the Board, has met the requirements of this Chapter, a certificate of ~~registration~~ licensure giving the ~~registrant~~ licensee proper authority to practice ~~his~~ the profession in this State. The certificate of ~~registration~~ licensure for a professional engineer shall carry the designation 'professional engineer,' and for a land surveyor, ~~'registered~~ 'professional land surveyor,' shall give the full name of the ~~registrant~~ licensee with ~~his serial~~ the Board designated licensure number and shall be signed by the ~~chairman~~ chair and the secretary under the seal of the Board.

(b) This certificate shall be prima facie evidence that the person named ~~thereon~~ on the certificate is entitled to all rights, privileges and responsibilities of a professional engineer or a ~~registered~~ professional land surveyor, while the ~~said~~ certificate of ~~registration~~ licensure remains unrevoked or unexpired.

(c) Each ~~registrant hereunder~~ licensee shall upon ~~registration~~ licensure obtain a seal of a design authorized by the Board bearing the ~~registrant's~~ licensee's name, ~~serial~~ license number, and the legend, 'professional engineer,' or ~~'registered~~ 'professional land surveyor.' Final drawings, specifications, plans and reports prepared by a ~~registrant~~ licensee shall, when issued, be certified and stamped with the ~~said~~ seal or facsimile ~~thereof~~ of the seal unless the ~~registrant~~ licensee is exempt under the provisions of G.S. 89C-25(7). It shall be unlawful for a ~~registrant~~ licensee to affix, or permit ~~his~~ the licensee's seal and signature or facsimile ~~thereof~~ of the seal and signature to be affixed to any drawings, specifications, plans or reports after the expiration of a certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade any provision of this Chapter. A professional engineer practicing land surveying shall use ~~his registered~~ the licensee's land surveyor seal."

Section 15. G.S. 89C-17 reads as rewritten:

"**§ 89C-17. Expirations and renewals of certificates.**

Certificates for ~~registration~~ licensure shall expire on the last day of the month of December next following their issuance or renewal, and shall become invalid on that date unless renewed. When necessary to protect the public health, safety, or welfare, the Board shall require ~~such~~ any evidence ~~as it deems~~ necessary to establish the continuing competency of engineers and land surveyors as a condition of renewal of licenses. When the Board is satisfied as to the continuing competency of an applicant, it shall issue a renewal of the certificate upon payment by the applicant of a fee fixed by the Board but not to exceed ~~fifty dollars ($50.00).~~ seventy-five dollars ($75.00).

The secretary of the Board shall notify by mail every person ~~registered~~ licensed under this Chapter of the date of expiration of ~~his~~ the certificate, the amount of the fee required for its renewal for one year, and any requirement as to evidence of continued competency. The notice shall be mailed at least one month in advance of the expiration date of the certificate. Renewal shall be effected at any time during the month of January immediately following, by payment to the secretary of the Board of a renewal fee, as determined by the Board, which shall not exceed ~~fifty dollars ($50.00).~~ seventy-five dollars ($75.00). Failure on the part of any registrant to renew ~~his~~ the certificate annually in the month of January, as required above, shall deprive the registrant of the right to practice until renewal has been effected. Renewal may be effected at any time during the first ~~36~~ 12 months immediately following its invalidation ~~of payment of the renewal fee increased ten percent (10%) for each month or fraction of a month that payment for renewal is delayed.~~ by payment of the established renewal fee and a late penalty of one hundred dollars ($100.00). Failure of a ~~registrant~~ licensee to renew ~~his registration~~ the license for a period of ~~36~~ 12 months shall require the individual, prior to resuming practice in North Carolina, to submit an application ~~therefor~~ on the prescribed form, and to meet all other requirements for ~~registration~~ licensure as set forth in Chapter 89C. The secretary of the Board is instructed to remove from the official roster of engineers and land surveyors the names of all ~~registrants~~ licensees who have not effected their renewal by the first day of February immediately following the date of their expiration. The Board may ~~enact~~ adopt rules to provide for renewals in distress or hardship cases due to military service, prolonged illness, or prolonged absence from the State, where the applicant for renewal demonstrates to the Board that ~~he~~ the applicant has maintained ~~his~~ active knowledge and professional status as an engineer or land surveyor, as the case may be. It shall be the responsibility of each ~~registrant~~ licensee to inform the Board promptly concerning change in address. A licensee may request and be granted inactive status. No inactive licensee may practice in this State unless otherwise exempted in this Chapter. A licensee granted inactive status shall pay annual renewal fees but shall not be subject to annual continuing professional competency requirements. A licensee granted inactive status may return to active status by meeting all requirements of the Board, including demonstration of continuing professional competency as a condition of reinstatement."

Section 16. G.S. 89C-18 reads as rewritten:

"**§ 89C-18. Duplicate certificates.**

The Board may issue a duplicate certificate of ~~registration~~ licensure or certificate of authorization to replace any certificate that has been lost, destroyed, or mutilated and may charge a fee of up to twenty-five dollars ($25.00) for issuing the certificate."

Section 17. G.S. 89C-19 reads as rewritten:

"**§ 89C-19. Public works; requirements where public safety involved.**

This State and its political subdivisions such as counties, cities, towns, or other political entities or legally constituted boards, commissions, public utility companies, or authorities, or officials, or employees ~~thereof~~ of these entities shall not engage in the practice of engineering or land surveying involving either public or private

property where the safety of the public is directly involved without the project being under the supervision of a professional engineer for the preparations of plans and specifications for engineering projects, or a ~~registered~~ professional land surveyor for land surveying projects, as provided for the practice of the respective professions by this Chapter.

An official or employee of the State or any political subdivision specified in this section, holding the positions set out in this section as of June 19, 1975, shall be exempt from the provisions of this section so long as such official or employee is engaged in substantially the same type of work as is involved in ~~his~~ the present position.

Nothing in this section shall be construed to prohibit inspection, maintenance and service work done by employees of the State of North Carolina, any political subdivision ~~thereof,~~ of the State, or any municipality ~~therein~~ including construction, installation, servicing, and maintenance by regular full-time employees of, secondary roads and drawings incidental ~~thereto,~~ to work on secondary roads, streets, street lighting, traffic-control signals, police and fire alarm systems, waterworks, steam, electric and sewage treatment and disposal plants, the services of superintendents, inspectors or foremen regularly employed by the State of North Carolina or any political subdivision ~~thereof,~~ of the State, or municipal ~~corporation therein.~~ corporation.

The provisions in this section shall not be construed to alter or modify the requirements of Article 1 of Chapter 133 of the General Statutes."

Section 18. G.S. 89C-20 reads as rewritten:

"**§ 89C-20. Rules of professional conduct.**

In the interest of protecting the safety, health, and welfare of the public, the Board shall ~~promulgate and~~ adopt rules of professional conduct applicable to the practice of engineering and land surveying. These rules, when adopted, shall be construed to be a reasonable exercise of the police power vested in the Board of ~~Registration~~ Examiners for ~~Professional~~ Engineers and Land Surveyors. Every person ~~registered~~ licensed by the Board shall subscribe to and observe the adopted rules as the standard of professional conduct for the practice of engineering and land ~~surveying.~~ surveying and shall cooperate fully with the Board in the course of any investigation. In the case of violation of the rules of professional conduct, the Board shall ~~have the responsibility and duty to~~ proceed in accordance with G.S. 89C-22."

Section 19. G.S. 89C-21 reads as rewritten:

"**§ 89C-21. Disciplinary action -- Reexamination, revocation, suspension, reprimand, or civil penalty.**

(a) The Board may reprimand the licensee, suspend, refuse to renew, or revoke the certificate of ~~registration,~~ licensure, or, as appropriate, require reexamination, for any engineer or land surveyor, who is found:

(1) Guilty of the practice of any fraud or deceit in obtaining a certificate of ~~registration~~ licensure or certificate of authorization.

(2) Guilty of any gross negligence or misconduct in the practice of ~~his~~ the profession.

(3) Guilty of any felony or any crime involving moral turpitude.
(4) Guilty of violation of the Rules of Professional Conduct, as adopted by the Board.
(5) To have been declared insane or incompetent by a court of competent jurisdiction and has not ~~thereafter~~ later been lawfully declared sane or competent.
(6) Guilty of professional incompetence. In the event the Board finds that a certificate holder is incompetent the Board may, in its discretion, require oral or written examinations, or other indication of the certificate holder's fitness to practice ~~his profession~~ engineering or land surveying and suspend ~~his~~ the license during any such period.

(b) The Board ~~shall have the power to~~ may (i) revoke a certificate of authorization, or (ii) to suspend a certificate of authorization for a period of time not exceeding two years, of any corporation or business firm where one or more of its officers or directors have committed any act or have been guilty of any conduct which would authorize a revocation or suspension of their certificates of ~~registration~~ licensure under the provision of this section.

(c) The Board may levy a civil penalty not in excess of two thousand dollars ($2,000) for any engineer or land surveyor who violates any of the provisions of subdivisions (1) through (4) of subsection (a) of this section. All civil penalties collected by the Board shall be deposited in the General Fund of North Carolina.

(d) Before imposing and assessing a civil penalty and fixing the ~~amount thereof,~~ amount, the Board shall, as a part of its deliberation, take into consideration the following factors:

(1) The nature, gravity, and persistence of the particular violations;
(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment;
(3) Whether the violation(s) were done willfully and maliciously; and
(4) Any other factors which would tend to either mitigate or aggravate the violation(s) found to exist."

Section 20. G.S. 89C-22 reads as rewritten:

"**§ 89C-22. Disciplinary action -- Charges; procedure.**

(a) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct, or violation of the rules of professional conduct, against any Board registrant. The charges shall be in writing and shall be sworn to by the person or persons making them and shall be filed with ~~the secretary of~~ the Board.

(b) All charges, unless dismissed by the Board as unfounded or trivial, shall be heard by the Board as provided under the requirements of Chapter 150B of the General Statutes.

(c) If, after ~~such~~ a hearing, a majority of the Board votes in favor of sustaining the charges, the Board shall reprimand, levy a civil penalty, suspend, refuse to renew, or revoke the ~~registrant's certificate of registration.~~ licensee's certificate.

(d) A ~~registrant~~ licensee who is aggrieved by a final decision of the Board may appeal for judicial review as provided by Article 4 of Chapter 150B.

(e) The Board may, upon petition of an individual or an entity whose certificate has been revoked, for sufficient ~~reasons it may deem sufficient,~~ reasons as it may determine, reissue a certificate of ~~registration~~ licensure or authorization, provided that a majority of the members of the Board vote in favor of such issuance."

Section 21. G.S. 89C-23 reads as rewritten:

"§ 89C-23. Unlawful to practice engineering or land surveying without ~~registration;~~ licensure; unlawful use of title or terms; penalties; Attorney General to be legal adviser.

Any person who shall practice, or offer to practice, engineering or land surveying in this State without first being ~~registered~~ licensed in accordance with the provisions of this Chapter, or any person, firm, partnership, organization, association, corporation, or other entity using or employing the words 'engineer' or 'engineering' or 'professional engineer' or 'professional engineering' or 'land surveyor' or 'land surveying,' or any modification or derivative ~~thereof~~ of those words in its name or form of business or activity except as ~~registered~~ licensed under this Chapter or in pursuit of activities exempted by this Chapter, or any person presenting or attempting to use the certificate of ~~registration~~ licensure or the seal of another, or any person who shall give any false or forged evidence of any kind to the Board or to any member ~~thereof~~ of the Board in obtaining or attempting to obtain a certificate of ~~registration,~~ licensure, or any person who shall falsely impersonate any other ~~registrant~~ licensee of like or different name, or any person who shall attempt to use an expired or revoked or nonexistent certificate of ~~registration,~~ licensure, or who shall practice or offer to practice when not qualified, or any person who falsely claims that ~~he~~ the person is registered under this Chapter, or any person who shall violate any of the provisions of this Chapter, in addition to injunctive procedures set out hereinbefore, shall be guilty of a Class 2 misdemeanor. In no event shall there be representation of or holding out to the public of any engineering expertise by ~~unregistered~~ unlicensed persons. It shall be the duty of all duly constituted officers of the State and all political subdivisions ~~thereof~~ of the State to enforce the provisions of this Chapter and to prosecute any persons violating ~~same.~~ them.

The Attorney General of the State or ~~his~~ an assistant shall act as legal adviser to the Board and render ~~such~~ any legal assistance ~~as may be~~ necessary ~~in carrying~~ to carry out the provisions of this Chapter. The Board may employ counsel and necessary assistance to aid in the enforcement of this Chapter, and the compensation and expenses ~~therefor~~ for the assistance shall be paid from funds of the Board."

Section 22. G.S. 89C-24 reads as rewritten:

"§ 89C-24. ~~Registration~~ Licensure of corporations and business firms that engage in the practice of engineering or land surveying.

A corporation or business firm may not engage in the practice of engineering or land surveying in this State unless it is ~~registered with~~ licensed by the Board and has paid ~~the required registration fee.~~ an application fee established by the Board in an amount not to exceed one hundred dollars ($100.00). A corporation or business firm

is subject to the same duties and responsibilities as an individual ~~registrant. Registration~~ licensee. Licensure of a corporation or business firm does not affect the requirement that all engineering or land surveying work done by the corporation or business firm be performed by or under the responsible charge of individual registrants, nor does it relieve the individual registrants within a corporation or business firm of their design and supervision responsibilities.

This section applies to every corporation that is engaged in the practice of engineering or land surveying, regardless of when it was incorporated. A corporation that is not exempt from Chapter 55B of the General Statutes by application of G.S. 55B-15 must be incorporated under that Chapter."

Section 23. G.S. 89C-25 reads as rewritten:

"**§ 89C-25. Limitations on application of Chapter.**

This Chapter shall not be construed to prevent or affect:

(1) The practice of architecture, landscape architecture, or contracting or any other legally recognized profession or trade.

(2) The practice of professional engineering or land surveying in this State or by any person not a resident of this State and having no established place of business in this State when this practice does not aggregate more than 90 days in any calendar year, whether performed in this State or elsewhere, or involve more than one specific project; provided, however, that ~~such~~ the person is ~~legally qualified by registration~~ licensed to practice the ~~said~~ profession in ~~his~~ the person's own state or country, in which the requirements and qualifications for obtaining a certificate of ~~registration~~ licensure are satisfactory to the Board; in which case the person shall apply for and the Board will issue a temporary permit.

(3) The practice of professional engineering or land surveying in this State not to aggregate more than 90 days by any person residing in this State, but whose residence has not been of sufficient duration for the Board to grant or deny ~~registration;~~ licensure; provided, however, ~~such~~ the person shall have filed an application for ~~registration~~ licensure as a professional engineer or ~~registered~~ professional land surveyor and shall have paid the fee provided for in G.S. 89C-14, and provided that ~~such a~~ the person is ~~legally qualified by registration~~ licensed to practice professional engineering or professional land surveying in ~~his~~ the person's own state or country in which the requirements and qualifications for obtaining a certificate of ~~registration~~ licensure are satisfactory to the Board, in which case the person shall apply for and the Board will issue a temporary permit.

(4) Engaging in engineering or land surveying as an employee or assistant under the responsible charge of a professional engineer or ~~registered~~ professional land surveyor or as an employee or assistant of a nonresident professional engineer or a nonresident ~~registered~~

professional land surveyor provided for in subdivisions (2) and (3) of this section, provided that ~~said~~ the work as an employee may not include responsible charge of design or supervision.

(5) The practice of professional engineering or land surveying by any person not a resident of, and having no established place of business in this State, as a consulting associate of a professional engineer or ~~registered~~ professional land surveyor ~~registered~~ licensed under the provisions of this Chapter; provided, the nonresident is qualified for ~~such~~ performing the professional service in ~~his~~ the person's own state or country.

(6) Practice by members of the armed forces or employees of the government of the United States while engaged in the practice of engineering or land surveying solely for ~~said~~ the government on government-owned works and projects; or practice by those employees of the Natural Resources Conservation Service having federal engineering job approval authority that involves the planning, designing, or implementation of best management practices on agricultural lands.

(7) The internal engineering or surveying activities of a person, firm or corporation engaged in manufacturing, processing, or producing a product, including the activities of public service corporations, public utility companies, authorities, State agencies, railroads, or membership cooperatives, or the installation and servicing of their product in the field; or research and development in connection with the manufacture of that product or their service; or of their research affiliates; or their employees in the course of their employment in connection with the manufacture, installation, or servicing of their product or service in the field, or on-the-premises maintenance of machinery, equipment, or apparatus incidental to the manufacture or installation of the product or service of a firm by the employees of the firm upon property owned, leased or used by the firm; inspection, maintenance and service work done by employees of the State of North Carolina, any political subdivision ~~thereof,~~ of the State, or any municipality ~~therein~~ including construction, installation, servicing, maintenance by regular full-time employees of streets, street lighting, traffic-control signals, police and fire alarm systems, waterworks, steam, electric and sewage treatment and disposal plants; the services of superintendents, inspectors or foremen regularly employed by the State of North Carolina or any political subdivision ~~thereof,~~ of the State or a municipal ~~corporation therein;~~ corporation; provided, however, that the internal engineering or surveying activity is not a holding out to or an offer to the public of engineering or any service thereof as prohibited by this Chapter. Engineering work,

not related to the foregoing exemptions, where the safety of the public is directly involved shall be under the responsible charge of a ~~registered~~ licensed professional engineer, or in accordance with standards prepared or approved by a ~~registered~~ licensed professional engineer.

(8) The (i) preparation of fire sprinkler planning and design drawings by a fire sprinkler contractor licensed under Article 2 of Chapter 87 of the General Statutes, or (ii) the performance of internal engineering or survey work by a manufacturing or communications common carrier company, or by a research and development company, or by employees of ~~such~~ those corporations provided that ~~such~~ the work is in connection with, or incidental to products of, or nonengineering services rendered by ~~such~~ those corporations or their affiliates.

(9) The routine maintenance or servicing of machinery, equipment, facilities or structures, the work of mechanics in the performance of their established functions, or the inspection or supervision of construction by a foreman, superintendent, or agent of the architect or professional engineer, or services of an operational nature performed by an employee of a laboratory, a manufacturing plant, a public service corporation, or governmental operation.

(10) The design of land application irrigation systems for an animal waste management plan, required by G.S. 143-215.10C, by a designer who exhibits, by at least three years of relevant experience, proficiency in soil science and basic hydraulics, and who is thereby listed as an Irrigation Design Technical Specialist by the North Carolina Soil and Water Conservation Commission."

Section 24. G.S. 89C-25.1 reads as rewritten:

"**§ 89C-25.1. Supervision of ~~unregistered~~ unlicensed individuals by ~~registered~~ licensed person.**

In all circumstances in which ~~unregistered~~ unlicensed individuals are permitted under this Chapter to perform engineering or land surveying work, or both, under the supervision of a ~~registered~~ licensed engineer, land surveyor, or both, the Board may by regulation establish a reasonable limit on the number of ~~unregistered~~ unlicensed individuals which a ~~registrant~~ licensee of the Board may directly or personally supervise at one time."

Section 25. G.S. 89C-28 reads as rewritten:

"**§ 89C-28. Existing ~~registration~~ licensure not affected.**

Nothing in this Chapter shall be construed as affecting the status of ~~registration~~ licensure of any professional engineer or ~~registered~~ land surveyor who is rightfully in possession of a certificate of ~~registration~~ licensure duly issued by the Board and valid as of July 1, 1975."

Section 26. This act is effective when it becomes law and applies to persons applying for licenses on or after that date and to persons practicing engineering and land surveying on or after that date.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1533 A BILL TO BE ENTITLED AN ACT TO AFFECT THE HALIFAX-ROANOKE RAPIDS AIRPORT AUTHORITY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill ~~(# ____)~~, ☑ which changes the title, unfavorable as to original bill ~~(Committee Substitute Bill # ____, (and recommendation that the committee substitute bill # ____) be re-referred to the Committee on ____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1533
Proposed Committee Substitute H1533-PCS4212-LK2

Short Title: Halifax Regional Airport. (Local)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO ENABLE THE COUNTY OF HALIFAX, THE COUNTY OF NORTHAMPTON, AND THE CITY OF ROANOKE RAPIDS TO ESTABLISH AN AIRPORT AUTHORITY FOR THE MAINTENANCE OF REGIONAL AIRPORT FACILITIES.

The General Assembly of North Carolina enacts:

Section 1. Section 1 of S.L. 1997-275 reads as rewritten:

"Section 1. There is hereby created the '~~Halifax-Roanoke Rapids~~ Halifax Regional Airport Authority' (for brevity hereinafter referred to as the 'Airport Authority'), which shall be a body both corporate and politic, having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by general law and future acts of the General Assembly. For purposes of this act the word 'City' when used alone shall mean the City of Roanoke Rapids and the word 'County' when used alone shall mean either Halifax County or Northampton County."

Section 2. Section 2 of S.L. 1997-275 reads as rewritten:

"Section 2. The Airport Authority shall consist of ~~seven~~ nine members, ~~three~~ two of whom shall be appointed to staggered three-year terms by the Roanoke Rapids City ~~Council~~ Council, two of whom shall be appointed to staggered three-year terms by the Northampton County Board of Commissioners, ~~and three~~ four of whom shall be appointed to staggered three-year terms by the Halifax County Board of ~~Commissioners~~ Commissioners, and one of whom shall be appointed by the other ~~six~~ eight members of the Airport Authority. The members appointed by the Roanoke

Rapids City Council shall be qualified voters of the City of Roanoke Rapids, the members appointed by the Northampton County Board of Commissioners shall be qualified voters of the County of Northampton, and the members appointed by the Halifax County Board of Commissioners ~~and the Airport Authority~~ shall be qualified voters of the County of Halifax. Each member appointed from Halifax County shall take and subscribe before the Clerk of Superior Court of Halifax County an oath of ~~office and~~ office. Each member appointed from Northampton County shall take and subscribe before the Clerk of Superior Court of Northampton County an oath of office. They shall file the same with the Halifax County Board of ~~Commissioners~~ Commissioners, the Northampton County Board of Commissioners, and the Roanoke Rapids City Council. Membership on the Halifax County Board of ~~Commissioners~~ Commissioners, the Northampton County Board of Commissioners, or the Roanoke Rapids City Council and the Airport Authority shall not constitute double office holding within the meaning of Article VI, Section 9 of the Constitution of North Carolina."

Section 3. Section 3 of S.L. 1997-275 reads as rewritten:

"Section 3. The Airport Authority may adopt suitable bylaws for its management. The members of the Airport Authority ~~shall~~ may receive compensation, per diem, or otherwise as the Roanoke Rapids City ~~Council or~~ Council, the Halifax County Board of ~~Commissioners~~ Commissioners, or the Northampton County Board of Commissioners from time to time determines and be paid their actual traveling expenses incurred in transacting the business and at the instance of the Airport Authority. Members of the Airport Authority shall not be personally liable for their acts as members of the Airport Authority, except for acts resulting from misfeasance or malfeasance."

Section 4. Subsection (a) of Section 4 of S.L. 1997-275 reads as rewritten:

"(a) The Airport Authority shall constitute a body, both corporate and politic, and shall have the following powers and authority:

(1) To purchase, acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports and landing fields for the use of airplanes and other aircraft within the limits of the County and for this purpose to purchase, improve, own, hold, lease, or operate real or personal property. The Airport Authority may exercise these powers alone or in conjunction with the City of Roanoke ~~Rapids~~ Rapids, the County of Northampton, or the County of Halifax.

(2) To sue and be sued in the name of the Airport Authority, to make contracts and hold any personal property necessary for the exercise of the powers of the Airport Authority, and acquire by purchase, lease, or otherwise any existing lease, leasehold right, or other interest in any existing airport located in the County.

(3) To charge and collect reasonable and adequate fees and rents for the use of airport property or for services rendered in the operation of the airport.

(4) To make all reasonable rules and regulations it deems necessary for the proper maintenance, use, operation, and control of the airport and provide penalties for the violation of these rules and regulations; provided, the rules and regulations and schedules of fees not be in conflict with the laws of North Carolina, and the regulations of the Federal Aviation Administration. The Airport Authority may administer and enforce any airport zoning regulations adopted by the City of Roanoke ~~Rapids~~ Rapids, the County of Northampton, or the County of Halifax.

(5) To issue bonds pursuant to Article 5 of Chapter 159 of the General Statutes.

(6) To sell, lease, or otherwise dispose of any property, real or personal, belonging to the Airport Authority, according to the procedures described in Article 12 of Chapter 160A of the General Statutes, but no sale of real property shall be made without the approval of the Halifax County Board of ~~Commissioners~~ Commissioners, the Northampton County Board of Commissioners, and the Roanoke Rapids City Council.

(7) To purchase any insurance that the Federal Aviation Administration or the Airport Authority shall deem necessary. The Airport Authority shall be responsible for any and all insurance claims or liabilities.

(8) To deposit or invest and reinvest any of its funds as provided by the Local Government Finance Act, as it may be amended from time to time, for the deposit or investment of unit funds.

(9) To purchase any of its outstanding bonds or notes.

(10) To operate, own, lease, control, regulate, or grant to others, for a period not to exceed 25 years, the right to operate on any airport premises restaurants, snack bars, vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, motels, hotels, barber shops, automobile parking and storage facilities, automobile service establishments, and all other types of facilities as may be directly or indirectly related to the maintenance and furnishing to the general public of a complete air terminal installation.

(11) To contract with persons, firms, or corporations for terms not to exceed 25 years, for the operation of airline-scheduled passenger and freight flights, nonscheduled flights, and any other airplane activities not inconsistent with the grant agreements under which the airport property is held.

(12) To erect and construct buildings, hangars, shops, and other improvements and facilities, not inconsistent with or in violation of the agreements applicable to and the grants under which the real property of the airport is held; to lease these improvements and facilities for a term or terms not to exceed 25 years; to borrow money for use in making and paying for these improvements and facilities, secured by and on the credit only of the lease agreements in respect to these improvements and facilities, and to pledge and assign the leases and lease agreements as security for the authorized loans.

(13) Subject to the limitations set out in this act, to have all the same power and authority granted to cities and counties pursuant to Chapter 63 of the General Statutes, Aeronautics.

(14) To have a corporate seal, which may be altered at will."

Section 5. Section 8 of S.L. 1997-275 reads as rewritten:

"Section 8. The Airport Authority shall make an annual report to the Halifax County Board of ~~Commissioners~~ Commissioners, the Northampton County Board of Commissioners, and the Roanoke Rapids City Council setting forth in detail the operations and transactions conducted by it pursuant to this act. The Airport Authority shall not have the power to pledge the credit of Halifax ~~County~~ County, Northampton County, or the City of Roanoke Rapids, or any subdivision thereof, or to impose any obligation on Halifax ~~County~~ County, Northampton County, or the City of Roanoke Rapids, or any of their subdivisions, except when that power is expressly granted by statute."

Section 6. Section 9 of S.L. 1997-275 reads as rewritten:

"Section 9. Subject to the limitations as set out in this act, all rights and powers given and granted to counties or municipalities by general law, which may now be in effect or enacted in the future relating to the development, regulation, and control of municipal airports and the regulation of aircraft are vested in the Airport Authority. The Halifax County Board of ~~Commissioners~~ Commissioners, the Northampton County Board of Commissioners, or the Roanoke Rapids City Council may delegate their powers under these acts to the Airport Authority, and the Airport Authority shall have concurrent rights with Halifax ~~County~~ County, Northampton County, and the City of Roanoke Rapids to control, regulate, and provide for the development of aviation in Halifax ~~County.~~ County and Northampton County."

Section 7. Section 12 of S.L. 1997-275 reads as rewritten:

"Section 12. The Halifax County Board of ~~Commissioners~~ Commissioners, the Northampton County Board of Commissioners, or the Roanoke Rapids City Council may appropriate funds derived from any source including ad valorem taxes to carry out the provisions of this act in any proportion or upon any basis as may be determined by the Halifax County Board of ~~Commissioners~~ Commissioners, the Northampton County Board of Commissioners, or the Roanoke Rapids City Council."

Section 8. Section 15 of S.L. 1997-275 reads as rewritten:

"Section 15. The powers granted to the Airport Authority shall not be effective until the members of the Airport Authority have been appointed by the Halifax County Board of ~~Commissioners~~ Commissioners, the Northampton County Board of Commissioners, and the Roanoke Rapids City Council, and nothing in this act shall require the Board of Commissioners or City Council to make the initial appointments. It is the intent of this act to enable but not to require the formation of the ~~Halifax-Roanoke Rapids~~ Halifax Regional Airport Authority."

Section 9. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1533

Short Title: Halifax/Roanoke Rapids Airport. (Local)

Sponsors: Representatives Crawford; and Hardaway.

Referred to: Rules, Calendar and Operations of the House.

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO AFFECT THE HALIFAX-ROANOKE RAPIDS AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

Section 1. This act affects the Halifax-Roanoke Rapids Airport Authority created by S.L. 1997-275.

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1607 A BILL TO BE ENTITLED AN ACT TO AMEND LOCAL LAWS IN UNION COUNTY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☑ which changes the title, unfavorable as to original bill ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1607
Proposed Committee Substitute H1607-PCSA498-RW002

Short Title: Weddington ETJ. (Local)

Sponsors:

Referred to:

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF WEDDINGTON TO EXERCISE ITS STATUTORY POWER TO EXTEND ITS EXTRATERRITORIAL PLANNING AND ZONING JURISDICTION UPON APPROVAL OF THE RESIDENTS IN THE AREA AFFECTED.

Whereas, the Town of Weddington is located in a rapidly growing area of the State; and

Whereas, the Town wishes to protect the beauty it is known for in the region; and

Whereas, reasonable planning and zoning regulations lead to better living conditions for all residents; and

Whereas, the Town is considering extending its extraterritorial planning and zoning jurisdiction to promote appropriate development around the Town; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Town of Weddington may extend its extraterritorial planning and zoning jurisdiction in accordance with G.S. 160A-360 upon approval of a majority of the qualified resident voters in the area to be added to the jurisdiction. Any cost incurred by the County for an election held pursuant to this act shall be reimbursed by the Town of Weddington.

Section 2. This act applies only to the Town of Weddington.

Section 3. This act becomes effective when it becomes law, and applies to ordinances extending the Town of Weddington's extraterritorial planning and zoning jurisdiction enacted on or after the effective date of this act.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1607

Short Title: Union County Local Bill. (Local)

Sponsors: Representative Shubert.

Referred to: Rules, Calendar and Operations of the House.

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO AMEND LOCAL LAWS IN UNION COUNTY.

The General Assembly of North Carolina enacts:

Section 1. This act amends local laws in Union County.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1764

Sponsors: Representative Blue.

Referred to: Rules, Calendar and Operations of the House.

July 30, 1998

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES M. POYNER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, James M. Poyner was born in Raleigh, North Carolina, on September 18, 1914, to James Marion Poyner and Mary Sherwood Smedes Poyner; and

Whereas, James M. Poyner received a bachelors degree in Chemical Engineering in 1935 and a masters degree in Chemical Engineering in 1937 from North Carolina State University; and

Whereas, while a student at North Carolina State University, James M. Poyner began and led the popular "Jimmy Poyner's Famous Collegians" orchestra; and

Whereas, James M. Poyner received his law degree from Duke University in 1940 and began a law practice in the City of Raleigh; and

Whereas, during World War II, James M. Poyner served his country in the United States Army's Chemical War Unit and was awarded the Legion of Merit Medal; and

Whereas, after the war, James M. Poyner began the firm Poyner, Geraghty, Hartsfield and Townsend. The firm eventually merged to form Poyner and Spruill; and

Whereas, James M. Poyner was elected to two terms in the General Assembly, where he served as a member of the Senate, representing Wake County from 1955 until 1958; and

Whereas, James M. Poyner distinguished himself in the field of business, becoming the founder of Eastern Standard Insurance Company and cofounder of the Business Development Corporation of North Carolina and the Cameron-Brown Mortgage Company (now First Union Mortgage); and

Whereas, James M. Poyner served as director of the First Union National Bank and The Richmond Corporation and was President of the North Carolina Bar Association; and

Whereas, James M. Poyner played a prominent role in the development of the Research Triangle Park, helping to organize and lead corporate recruitment efforts; and

Whereas, James M. Poyner was active in his community, serving as President and Director of the Raleigh YMCA, Chair of the Raleigh Chamber of Commerce, Trustee of St. Mary's College, and Chair of the Board of Directors of the North Carolina Symphony Society; and

Whereas, James M. Poyner helped to establish Camps Sea Gull and Seafarer; and

Whereas, James M. Poyner helped to develop several country clubs, was a member of the Board of Directors of the Country Club of North Carolina in Pinehurst for 25 years, and served as chair of the World Golf Hall of Fame for seven years; and

Whereas, James M. Poyner was a founding member of St. Michael's Episcopal Church; and

Whereas, James M. Poyner died on December 30, 1997, at the age of 83; and

Whereas, James M. Poyner is survived by his wife of 52 years, Florence Chan Poyner; four daughters, Susan Poyner Moore, Chan Poyner Pike, Margaret Poyner Galbraith, and Edythe Poyner Lumsden; a son, James Marion Poyner III; and eight grandchildren; and

Whereas, the General Assembly wishes to pay tribute to its former member for his dedication and leadership; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly wishes to honor the life and memory of James M. Poyner and express its appreciation for his service to the citizens of the State of North Carolina.

Section 2. The General Assembly joins the family and friends of James M. Poyner in mourning the loss of one of the State's most respected citizens.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of James M. Poyner.

Section 4. This resolution is effective upon ratification.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.J.R. 1765 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GUS NICKOLAS ECONOMOS, FORMER MEMBER OF THE GENERAL ASSEMBLY.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1765

Sponsors: Representative Black.

Referred to: Rules, Calendar and Operations of the House.

August 3, 1998

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF GUS NICKOLAS ECONOMOS, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Gus Nickolas Economos was born in Charlotte, North Carolina, on April 11, 1930, to Nickolas Economos and Christine Trohillis Economos; and

Whereas, Gus Economos graduated from Charlotte Technical High School in 1949 and attended the University of North Carolina at Charlotte; and

Whereas, Gus Economos served his country as a corporal in the United States Army during the Korean War; and

Whereas, Gus Economos was a restaurateur and was co-owner of Gondola Restaurants, Inc.; and

Whereas, Gus Economos served the people of Mecklenburg County and the State of North Carolina as a member of the North Carolina House of Representatives from 1977 to 1984; and

Whereas, Gus Economos was a member of the North Carolina Restaurant Association, the United States Chamber of Commerce, and the Charlotte Chamber of Commerce. He was also an active member of the Congressional Action Committee and the State Legislation Committee of the Chamber of Commerce; and

Whereas, Gus Economos was actively involved in his community, serving as a member of several civic organizations, including the Charlotte Civitan Club; and

Whereas, Gus Economos was a member of the Greek Orthodox Holy Trinity Cathedral in Charlotte; and

Whereas, Gus Economos became afflicted with Lou Gehrig's disease in 1990, but lived courageously until his death on October 16, 1995; and

Whereas, Gus Economos is survived by his wife, Patricia Swaffer Economos; three sons, Nickolas Economos, Robert Economos, and Larry Economos;

a daughter, Nancy Economos Hall; and seven grandchildren, Zoe, Alex, Ellen, Christine, Emily, Faith, and Luke; Now, therefore,

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly expresses its deep appreciation for the life and accomplishments of Gus Nickolas Economos and for the great service he rendered to the nation, the State of North Carolina, the County of Mecklenburg, and the City of Charlotte.

Section 2. The General Assembly extends its sympathy to the family of Gus Nickolas Economos for the loss of a beloved husband, father, and friend.

Section 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Gus Nickolas Economos.

Section 4. This resolution is effective upon ratification.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ Committee Substitute for
S.B. 905 A BILL TO BE ENTITLED AN ACT TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS AND TO PROVIDE FOUR-YEAR TERMS FOR MEMBERS OF THE SENATE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#~~———~~), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 905
Select Committee on Session Limits Committee Substitute Adopted 4/30/97
Third Edition Engrossed 5/1/97
Corrected Copy 10/22/97
Proposed House Committee Substitute S905-PCS6871-RN003

Short Title: Session Length Limits. (Public)

Sponsors:

Referred to:

April 16, 1997

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 11(1) of Article II of the Constitution of North Carolina reads as rewritten:

"(1) **Regular sessions.** The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Beginning with the regular session in 2001, during an odd-numbered year the General Assembly shall remain in session for no more than 120 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days. If the regular session meets in even-numbered years beginning in 2002, the General Assembly shall remain in session for no more than 60 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days. Any reconvened session called under Section 5 of Article III of this Constitution shall be excluded from the calculations of this section. Neither house shall proceed upon public business unless a majority of all of its members are actually present. No valid action, other than a resolution of adjournment, may be taken by the General Assembly after the time limits prescribed in this section have expired."

Section 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election in November 1998, which election shall be conducted under the laws then governing elections in

the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment limiting the length of the legislative session."

Section 3. If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.

Section 4. The Legislative Research Commission may study legislative procedures, bill deadlines, committee operations, and other issues impacted by a limited legislative session, including the strengthening of the legislature's interim oversight and investigatory responsibilities and its confirmation procedures for gubernatorial appointees. The Legislative Research Commission may report its findings and recommendations to the 1999 General Assembly (2000 Regular Session).

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 905
Select Committee on Session Limits Committee Substitute Adopted 4/30/97
Third Edition Engrossed 5/1/97
Corrected Copy 10/22/97
Proposed House Committee Substitute S905-PCS6869-RN003

Short Title: Session Length Limits. (Public)

Sponsors:

Referred to:

April 16, 1997

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS.

The General Assembly of North Carolina enacts:

Section 1. Section 11(1) of Article II of the Constitution of North Carolina reads as rewritten:

"(1) **Regular sessions.** The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Beginning with the regular session in 2001, during an odd-numbered year the General Assembly shall remain in session for no more than 120 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days. If the regular session meets in even-numbered years, the General Assembly shall remain in session for no more than 60 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days. Any reconvened session called under Section 5 of Article III of this Constitution shall be excluded from the calculations of this section. Neither house shall proceed upon public business unless a majority of all of its members are actually present. No valid action, other than a resolution of adjournment, may be taken by the General Assembly after the time limits prescribed in this section have expired."

Section 2. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the general election in November 1998, which election shall be conducted under the laws then governing elections in

the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment limiting the length of the legislative session."

Section 3. If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.

Section 4. The Legislative Research Commission may study legislative procedures, bill deadlines, committee operations, and other issues impacted by a limited legislative session, including the strengthening of the legislature's interim oversight and investigatory responsibilities and its confirmation procedures for gubernatorial appointees. The Legislative Research Commission may report its findings and recommendations to the 1999 General Assembly (2000 Regular Session).

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 4

SENATE BILL 905
Select Committee on Session Limits Committee Substitute Adopted 4/30/97
Third Edition Engrossed 5/1/97
Corrected Copy 10/22/97

Short Title: Session Length Limits. (Public)

Sponsors:

Referred to:

April 16, 1997

A BILL TO BE ENTITLED

AN ACT TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS AND TO PROVIDE FOUR-YEAR TERMS FOR MEMBERS OF THE SENATE.

The General Assembly of North Carolina enacts:

Section 1. Section 11(1) of Article II of the Constitution of North Carolina reads as rewritten:

"(1) **Regular sessions.** The General Assembly shall meet in regular session in 1973 and every two years thereafter on the day prescribed by law. Beginning with the regular session in 1999, during an odd-numbered year the General Assembly shall remain in session for no more than 135 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days. The month of December following the beginning of the term is also included in the calculation. If the General Assembly upon convening of the regular session meets for not more than two consecutive calendar days and then adjourns for not less than 30 days, that period of adjournment shall be excluded from the 135 days. If the regular session meets in even-numbered years, the General Assembly shall remain in session for no more than 60 calendar days, except that this period may be extended by joint resolution once per regular session for not more than 10 days, but the month in December following the election is excluded from the calculation. Any reconvened session called under Section 5 of Article III of this Constitution shall be excluded from the calculations of this section. Neither house shall proceed upon public

business unless a majority of all of its members are actually present. No valid action, other than a resolution of adjournment, may be taken by the General Assembly after the time limits prescribed in this section have expired."

Section 2. Section 9 of Article II of the Constitution of North Carolina reads as rewritten:

"**Sec. 9. Term of office.**

The term of office of Senators and Representatives shall commence on the first ~~day of January~~ Monday in December next after their election."

Section 3. Section 2 of Article II of the Constitution of North Carolina reads as rewritten:

"**Sec. 2. Number of Senators.**

The Senate shall be composed of 50 Senators, ~~biennially~~ quadrennially chosen by ballot."

Section 4. Section 8 of Article II of the Constitution of North Carolina reads as rewritten:

"**Sec. 8. Elections.**

The election for members of the ~~General Assembly~~ House of Representatives shall be held for the respective districts in 1972 and every two years thereafter, at the places and on the day prescribed by law. The election for members of the Senate shall be held for the respective districts in 1998 and every four years thereafter, at the places and on the day prescribed by law."

Section 5. Section 14(1) of Article II of the Constitution of North Carolina reads as rewritten:

"(1) **President Pro Tempore - ~~succession to~~ acting presidency.** The Senate shall elect from its membership a President Pro Tempore, who shall become Acting President of the Senate upon the failure of the Lieutenant Governor-elect to qualify, or upon succession by the Lieutenant Governor to the office of Governor, or upon the death, resignation, or removal from office of the President of the Senate, and who shall serve as Acting President of the Senate ~~until the expiration of his term of office as Senator.~~ until:

(a) That person ceases to be President Pro Tempore; or

(b) The qualification of a new Lieutenant Governor

whichever comes first."

Section 6. The amendments set out in Sections 1 through 5 of this act shall be submitted to the qualified voters of the State at the general election in November 1998, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendments limiting the length of the legislative session and making the term of members of the Senate four years, beginning with members elected in 1998."

Section 7. If a majority of votes cast on the question are in favor of the amendments set out in Sections 1 through 5 of this act, the State Board of Elections shall certify the amendments to the Secretary of State. The constitutional amendments shall apply to members of the Senate elected in the 1998 general election so that they shall serve four-year terms. The Secretary of State shall enroll the amendments so certified among the permanent records of that office.

Section 8. This act is effective when it becomes law.

Attachment 1

COMMONWEALTH OF VIRGINIA

C. M. MILLER, JR.
DIRECTOR

GENERAL ASSEMBLY BUILDING
910 CAPITOL STREET, 2ND FLOOR
RICHMOND, VIRGINIA 23219

(804) 786-3591
FAX (804) 371-0169

DIVISION OF LEGISLATIVE SERVICES

July 15, 1998

Phillip J. Kirk, Jr., President
North Carolina Citizens for Business & Industry
P. O. Box 2508
Raleigh, North Carolina 27602

Re: Length of the legislative sessions in North Carolina

Dear Phillip:

There is a major policy issue which should be addressed before a debate for shorter sessions can be won. Do the citizens of North Carolina prefer a "true citizen legislature?" By "true citizen legislature", I mean representatives that have full-time professions, occupations and other such tasks which consume a major portion of a representative's time. If the answer to this question is "no," then I see no compelling justification for shorter sessions.

Virginians cherish the citizen legislature. It is treason in and around the capitol to even think about attacking or challenging this governing concept. Members of the Virginia General Assembly are all wedded to the citizen legislature and, therefore, make the processes and institutions they have established work toward that ultimate goal.

As a result, the Virginia General Assembly is made up of a very diverse group of representatives, including bankers, lawyers, accountants, merchants, farmers, business owners, teachers, insurance agents, brokers, ministers, consultants, pharmacists, veterinarians and technicians. Less than 5 percent of the members can be considered as without full-time employment outside of their legislative responsibilities.

I will now specifically address your questions:

1. Does session limits increase the frequency and length of special sessions?

Virginia has had eleven special sessions since our Constitution was rewritten and adopted in 1970.

1981 and 1982 Special Sessions were necessitated by redistricting. The 1982 session lasted 1 day. The 1981 session covered a long period, but the members met in Richmond for a total of less than 10 days. The rest of the Special Session was spent in recess awaiting federal action under the Voting Rights Act.

The 1986 special session lasted 12 days. The General Assembly funded a $10 billion transportation program to enhance highway construction; mass-transit, seaports and airports.

In 1987, the Special Session was held on the same day as the reconvened session and lasted one day. Members were required to be in Richmond on that particular day anyway. The Comprehensive Conflict of Interests Act was adopted.

In 1989, a three-day special session was held to address the federal retiree's income tax issue subsequent to Davis v. Michigan.

In 1990, a special session was conducted immediately following the reconvened session. It lasted only a couple of minutes.

In 1991, a special session was conducted relating to redistricting. The session lasted less than three days.

In 1992, a special session was conducted in conjunction with the reconvened session. It lasted only a couple of hours.

In 1993, a special session was conducted in conjunction with the reconvened session and lasted less than one day. The session's purpose was to approve funding for new prison construction.

In 1994, a special session to finalize and resolve the federal retiree's income tax issue was held and lasted about ten days.

In 1998, a special session was held for three days to adopt a reduction in the car tax at a cost of $400 million and to provide nearly $100 million for school construction.

In summary, eleven special sessions may appear to be many. However, with the exception of three of the sessions, the special sessions were either conducted in conjunction with the reconvened session or were held to address issues that could not have been brought up at a regular session because the issue did not exist at that time.

2. Has the influence of the bureaucracy grown because of short sessions?

No. The size of State government has actually been reduced. (Number of full time State employees, that is) The Governor does not allow agency directors to address the General Assembly. Communication takes place through the Governor's Chief of Staff and the eight cabinet secretaries. As a result, you don't have one hundred agency directors running to the General Assembly with their hands out. The downside, however, is that the agencies cannot provide the insider information often sought after by legislators.

3. How long has Virginia had a limit on sessions?

Virginia has had limits on the length of sessions since 1851. That Constitution provided for 90-day sessions, but only provided for meetings "once in every two years." The 1970 Constitution brought Virginia to the alternating 60/30 day sessions.

4. Isn't there a lot of work done in a hurry during the last week in extraordinarily long sessions?

Absolutely! This may be the biggest adjustment North Carolina members would physically feel. Long committee meetings (many hours), long-floor sessions (sometimes going into the morning hours) and weekend sessions are a necessity. Virginia has at least two weekend floor sessions each term. What would not necessarily be different is the flurry of work during the last week of the session. Hard decisions make procrastinators out of us all. Many of the difficult measures are resolved near the end of the session. My

understanding from North Carolina staff is that this is not unusual in North Carolina as well.

5. How often do various committees meet between sessions? Has this increased since imposing session limits?

Only one committee in the House of Delegates has regular monthly meetings and one committee in the Senate (House Appropriations, and Senate Finance). These committees have responsibility for the budget. During the interim, these committees conduct studies and attend to budget oversight, monitoring and planning. They keep abreast of budget actions and in-actions.

All other standing committees have the authority to meet, but most never do during the interim. Following a 60-day session, all the standing committees will meet at least once during the interim to act on carry-over legislation. The rules require committee action prior to a December 20 deadline.

By joint resolution, some 90 studies are directed to be conducted through joint subcommittees or commissions. Some never meet, but most meet long enough to develop definitive recommendations. This could be as little as one meeting or as many as four meetings. Typically, as many as 8 to 10 members serve on a joint subcommittee. There are several permanent legislative commissions that meet during the interim. These commissions have separate full-time staff that drive the work of these commissions. (Joint Health Care Commission, Commission on Youth, Crime Commission, Housing Commission, the Joint Commission on Science and Technology, and the Joint Legislative Audit and Review Commission (JLARC)) These Commissions are the most proactive of the interim legislative entities. Most of the Commission's staff are small, however, JLARC is the exception with a staff of approximately 35.

In conclusion, I am convinced that limiting session activities can work in any state the size of Virginia if that State is committed to true representative democracy and a citizen legislature. Virginia's issues are typical of those faced by any state, large or small. There are many things I can say about the Virginia legislative process. It is not perfect, but it serves Virginia's citizens well. Legislators generally are very resistant to changing any process that

they know and are familiar with. Our Joint Rules Committee reviews annually the legislative process, but often is reluctant to try anything new. There has been a big push by the press and some members to limit introductions of bills. This is an issue which is still being looked at and may one day be tried as a pilot.

Good luck to you and let me know if you have additional questions.

Sincerely,

E. M. Miller, Jr.
Director

EMMjr:sll

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE - AUGUST 12, 1998

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Brenda Dougherty	Sprint
Leslie Bevacqua	NCCBI
Doug Lassiter	NC STA
S. Lynne Hamlet	Sen. Lee
Nigel Gregory	Poyner & Spruill
Cindy Ellen	NCRMA
Ann Cox	NCRMA
Ed Regan	N.C.A.C.C.
Tim Duncan	WCSR
Grisse Parker	Bone & Associates
R. Rogers	DENR
K. Hall	NCSA
Tim Mulvaney	NCAICU
KEG	CSC

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
September 2, 1998

The Committee on Rules, Calendar, and Operations of the House met September 2, 1998, at 3:00 p.m. in Room 421 in the Legislative Office Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair and Representatives Crawford, Culp, Dockham, Esposito, Gulley, McMahan, Mitchell, Neely, Thompson and Wilson.

The following bills were discussed:

HB 1633 - A BILL TO BE ENTITLED AN ACT REGARDING MITCHELL COUNTY AND GOVERNMENTAL UNITS LOCATED THEREIN, introduced by Representative Buchanan. Representative Gulley moved for adoption of a committee substitute for the purpose of discussion and the vote was unanimous. Representative Buchanan explained that the bill pertains to Spruce Pines in Mitchell County. A surveyor made an error in 1921 and left out about 78 families out of three communities that this covers. About 15 of these families want to remain in the city limits and the others do not This substitute gives the town the authority to act on whatever they want to by ordinance. Representative Thompson was recognized and he spoke in favor of the bill. He then moved for a favorable report to the committee substitute, with a re-referral to the Committee on Finance, unfavorable to the original bill. The motion carried. There was a title change to this bill.

HB 1429 - A BILL TO BE ENTITLED AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEE, TO SET THE INSURANCE REGULATORY CHARGE FOR CALENDAR YEAR 1998, TO AMEND PROVISIONS IN THE INSURANCE LAWS DEALING WITH EXAMINATIONS OF INSURANCE COMPANIES AND AUDITS OF THEIR FINANCIAL STATEMENTS, AND TO CLARIFY THE LAW ON INSURERS' FUNDING AGREEMENT RESERVES, introduced by Representative Wilson. Representative Wilson moved for adoption of a committee substitute for the purpose of discussion and the vote was unanimous. Representative Wilson was recognized and explained that on page 3, it deals with mortgage assets and mortgage loans that are held by insurance companies. This is a clarification of the language. The bill in total deals with the regulatory fee, financial examinations of insurance companies outside the state, and other various items. Representative Dockham moved for a favorable report to the committee substitute, unfavorable to the original bill. The motion carried. There was a title change to the bill.

SB 1407 - A BILL TO BE ENTITLED AN ACT TO PROVIDE BENEFITS UNDER THE REGISTERS OF DEEDS' SUPPLEMENTAL PENSION FUND ACT TO REGISTERS OF DEEDS WHO ARE OTHERWISE NOT ELIGIBLE SOLELY

BECAUSE THE COUNTY DOES NOT PARTICIPATE IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, introduced by Senator Carpenter. Senator Carpenter explained that 99 counties in the state have the register of deeds under the retirement system. This bill amends the register of deeds supplemental pension fund act to provide benefits to the register of deeds who are not under the retirement system because the county in which they serve does not participate in the local government employees retirement system. Representative Beall was recognized and spoke in favor of the bill. Stanley Moore, Fiscal Research, said that the system was created to cover the register of deeds. All the register of deeds collect fees and send them to a trust fund. Ninety nine counties get a benefit but Graham county is not a member of the retirement system so they do not receive any benefits.

After a short discussion, Representative Neely moved for a favorable report and the motion carried.

The meeting adjourned at 3:15 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1633 A BILL TO BE ENTITLED AN ACT REGARDING MITCHELL COUNTY AND GOVERNMENTAL UNITS LOCATED THEREIN.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill ~~(#_____)~~, ☒ which changes the title, unfavorable as to original bill (~~Committee Substitute Bill #_____~~), (and recommendation that the committee substitute bill ~~#_____~~) be re-referred to the Committee on Finance.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1633
Proposed Committee Substitute H1633-PCS6469-LB1

Short Title: Spruce Pine Boundary Correction. (Local)

Sponsors:

Referred to:

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO ALLOW CORRECTION OF AN ERROR IN A 1921 SURVEY OF AN ANNEXATION TO THE TOWN OF SPRUCE PINE.

The General Assembly of North Carolina enacts:

Section 1. (a) The corporate limits of the Town of Spruce Pine are reduced by excluding any parcels which had not been billed for ad valorem taxes in 1997 which were billed in 1998, as a result of a new survey discovering that these parcels were in the area annexed by Chapter 27, Private Laws of 1921.

(b) Notwithstanding subsection (a) of this section, the owners of any of such parcels may make written request to the Clerk of the Town of Spruce Pine that their parcel remain in the corporate limits. Said request must be made no later than 15 February 1999. Upon receipt of such request or requests the Town of Spruce Pine may by ordinance provide for all or part of those parcels (and any streets, roads and rights-of-way used by those parcels for access) to be and remain within the corporate limits of the Town of Spruce Pine. Upon the adoption of said ordinance those parcels included within the Ordinance together with the streets, roads and rights-of-way included therein shall be included within the corporate limits of the Town of Spruce Pine. Any such Ordinance shall be adopted on or before June 30, 1999.

Section 2. This act becomes effective February 11, 1921, except that the areas covered by ordinance adopted under Section 1(b) of this act shall be considered to have been in the corporate limits only from and after June 30, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1633

Short Title: Mitchell County Local Bill. (Local)

Sponsors: Representative Buchanan.

Referred to: Rules, Calendar and Operations of the House.

May 28, 1998

A BILL TO BE ENTITLED

AN ACT REGARDING MITCHELL COUNTY AND GOVERNMENTAL UNITS LOCATED THEREIN.

The General Assembly of North Carolina enacts:

Section 1. This act applies only to Mitchell County and governmental units located therein.

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

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x Committee Substitute #2 for
H.B. 1429 A BILL TO BE ENTITLED AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEE, TO SET THE INSURANCE REGULATORY CHARGE FOR CALENDAR YEAR 1998, TO AMEND PROVISIONS IN THE INSURANCE LAWS DEALING WITH EXAMINATIONS OF INSURANCE COMPANIES AND AUDITS OF THEIR FINANCIAL STATEMENTS, AND TO CLARIFY THE LAW ON INSURERS' FUNDING AGREEMENT RESERVES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill (# 3), ☒ which changes the title, unfavorable as to ~~original bill~~ (Committee Substitute Bill # 2), (~~and recommendation that the committee substitute bill #) be re-referred to the Committee on .~~)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE BILL 1429*
Committee Substitute Favorable 6/24/98
Committee Substitute #2 Favorable 7/9/98
Proposed Committee Substitute H1429-PCS6465

Short Title: Set Reg. Fees/Company Exams. (Public)

Sponsors:

Referred to:

May 25, 1998

A BILL TO BE ENTITLED

AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEE, TO SET THE INSURANCE REGULATORY CHARGE FOR CALENDAR YEAR 1998, TO AMEND PROVISIONS IN THE INSURANCE LAWS DEALING WITH EXAMINATIONS OF INSURANCE COMPANIES AND AUDITS OF THEIR FINANCIAL STATEMENTS, TO CLARIFY THE LAW ON INSURERS' FUNDING AGREEMENT RESERVES, TO AMEND THE LAW GOVERNING INSURERS' INVESTMENTS IN MORTGAGE LOANS AND MORTGAGE SECURITIES, AND TO CONFORM THE INSURANCE SURCHARGE LAW TO A RECENT ENACTMENT.

The General Assembly of North Carolina enacts:

Section 1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) of each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1998.

Section 2. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six percent (6%) for the 1998 calendar year.

Section 3. G.S. 58-7-50(d) reads as rewritten:

"(d) This section is subject to the exceptions provided in G.S. 58-7-55. <u>The Commissioner may allow a domestic insurer to maintain certain records or assets outside this State.</u>"

Section 4. G.S. 58-2-131(a) reads as rewritten:

"(a) This section and G.S. 58-2-132 ~~and G.S. 58-2-133~~ through G.S. 58-2-134 shall be known and may be cited as the Examination Law. The purpose of the Examination Law is to provide an effective and efficient system for examining the activities, operations, financial condition, and affairs of all persons transacting the business of insurance in this State and all persons otherwise subject to the Commissioner's jurisdiction; and to enable the Commissioner to use a flexible system of examinations that directs resources that are appropriate and necessary for the administration of the insurance statutes and rules of this State."

Section 5. G.S. 58-2-131(b) reads as rewritten:

"(b) As used in this ~~section, G.S. 58-2-132 and G.S. 58-2-133,~~ section and G.S. 58-2-132 through G.S. 58-2-134, unless the context clearly indicates otherwise:

(1) 'Commissioner' includes an authorized representative or designee of the Commissioner.

(2) 'Examination' means an examination conducted under the Examination Law.

(3) 'Examiner' means any person authorized by the Commissioner to conduct an examination.

(4) 'Insurance regulator' means the official or agency of another jurisdiction that is responsible for the regulation of a foreign or alien insurer.

(5) 'Person' includes a trust or any affiliate of a person."

Section 6. Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-2-134. Cost of certain examinations.**

An insurer shall reimburse the Department for the actual expenses incurred by the Department in any examination of those records or assets conducted pursuant to G.S. 58-2-131, 58-2-132, or 58-2-133 when:

(1) The insurer maintains part of its records or assets outside this State under G.S. 58-7-50 or G.S. 58-7-55 and the examination is of the records or assets outside this State.

(2) The insurer requests an examination of its records or assets.

(3) The Commissioner examines an insurer that is impaired or insolvent or is unlikely to be able to meet obligations with respect to known or anticipated claims or to pay other obligations in the normal course of business.

The amount paid by an insurer for an examination of records or assets shall not exceed one hundred thousand dollars ($100,000), unless the insurer and the Commissioner agree on a higher amount."

Section 7. G.S. 58-7-16(f) reads as rewritten:

"(f) The Commissioner has sole authority to regulate the issuance and sale of funding agreements on behalf of insurers. In addition to the authority in G.S. 58-2-40, the Commissioner may adopt rules relating to:

(1) Standards to be followed in the approval of forms of funding agreements.
(2) Reserves to be maintained by insurers issuing funding agreements.
(3) Accounting and reporting of funds credited under funding agreements.
(4) Disclosure of information to be given to holders and prospective holders of funding agreements.
(5) Qualification and compensation of persons selling funding agreements on behalf of insurers.

In determining minimum valuation reserves to be maintained by insurers issuing funding agreements, the Commissioner may use any relevant actuarial guideline, regulation, interpretation, or paper published by the Society of Actuaries or the American Academy of Actuaries that the Commissioner considers reasonable."

Section 8. G.S. 58-2-131(d) reads as rewritten:

"(d) The Commissioner may conduct an examination of any insurer whenever the Commissioner deems it to be prudent for the protection of policyholders but shall at a minimum conduct ~~an~~ a regular examination of every domestic insurer not less frequently than once every ~~three~~ five years. In scheduling and determining the nature, scope, and frequency of examinations, the Commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other criteria as set forth in the NAIC Examiners' Handbook."

Section 9. G.S. 58-2-205 reads as rewritten:

"**§ 58-2-205. CPA audits of financial statements.**

The Commissioner ~~is authorized to~~ may adopt rules to provide for audits and opinions of insurers' financial statements by certified public accountants. ~~Such~~ These rules shall be ~~in accordance with~~ substantially similar to the NAIC model rule that requires audited financial reports, as amended. The Commissioner may adopt, amend, or repeal provisions of these rules under G.S. 150B-21.1 in order to keep these rules current with the NAIC model rule."

Section 10. G.S. 150B-21.1 is amended by adding a new subsection to read:

"(a2) Notwithstanding the provisions of subsection (a) of this section, the Commissioner of Insurance may adopt a temporary rule to implement the provisions of G.S. 58-2-205 after prior notice or hearing or upon any abbreviated notice or hearing. When the Commissioner adopts a temporary rule pursuant to this subsection, the Commissioner must submit the reference to this subsection as the Commissioner's statement of need to the Codifier of Rules."

Section 11. G.S. 58-7-170(c) reads as rewritten:

"(c) ~~The cost of investments made by insurers in mortgage loans, authorized by G.S. 58-7-179, with any one person shall not exceed the lesser of five percent (5%) of the insurer's admitted assets or ten percent (10%) of the insurer's capital and surplus. An insurer shall not invest in additional mortgage loans without the Commissioner's consent if the admitted value of all mortgage loans held by the insurer exceeds an~~

~~aggregate of sixty percent (60%) of the admitted assets of the insurer, if (i) the admitted value of all mortgage pass-through securities permitted by G.S. 58-7-173(17) does not exceed twenty-five percent (25%) of the admitted assets of the insurer and (ii) the admitted value of other mortgage loans permitted by G.S. 58-7-179 does not exceed forty percent (40%) of the admitted assets of the insurer.~~

~~An insurer that, as of October 1, 1993, has mortgage investments that exceed the aggregate limitation specified in this subsection shall submit to the Commissioner no later than January 31, 1994, a plan to bring the amount of mortgage investments into compliance with the limitations by January 1, 2001.~~

The cost of investments made by an insurer in mortgage loans authorized by G.S. 58-7-179 with any one person, or in mortgage pass-through securities and derivatives of mortgage pass-through securities authorized by G.S. 58-7-173(1), (2), (8), or (17), and backed by a single collateral package, shall not exceed three percent (3%) of the insurer's admitted assets. An insurer shall not invest in additional mortgage loans or mortgage pass-through securities and derivatives of mortgage pass-through securities without the Commissioner's consent if the admitted value of all those investments held by the insurer exceeds an aggregate of sixty percent (60%) of the admitted assets of the insurer. Within the aggregate sixty percent (60%) limitation, the admitted value of all mortgage pass-through securities and derivatives of mortgage pass-through securities permitted by G.S. 58-7-173(17) shall not exceed thirty-five percent (35%) of the admitted assets of the insurer. The admitted value of other mortgage loans permitted by G.S. 58-7-179 shall not exceed forty percent (40%) of the admitted assets of the insurer. Mortgage pass-through securities authorized by G.S. 58-7-173(1), (2), or (8) shall only be subject to the single collateral package limitation and the sixty percent (60%) aggregate limitation. No later than January 31, 1999, an insurer that has mortgage investments that exceed the limitations specified in this subsection shall submit to the Commissioner a plan to bring the amount of mortgage investments into compliance with the specified limitations by January 1, 2004."

Section 12. G.S. 58-6-25(a) reads as rewritten:

"(a) Charge Levied. -- There is levied on each insurance company an annual charge for the purposes stated in subsection (d) of this section. As used in this section, the term "insurance company" means a company that pays the gross premiums tax levied in G.S. 105-228.5 and G.S. 105-228.8, except a service corporation subject to Article 65 of this Chapter. A health maintenance organization subject to Article 67 of this Chapter is not subject to those taxes and is therefore not subject to the charge levied in this section. The charge levied in this section is in addition to all other fees and taxes. The charge shall be at a percentage rate of the company's premium tax liability for the taxable year. In determining an insurance company's premium tax liability for a taxable year, the following shall be disregarded:

(1) ~~additional~~ Additional taxes imposed by G.S. ~~105-228.8,~~ 105-228.8.

(2) The ~~the~~ additional local fire and lightning tax imposed by G.S. ~~105-228.5(d)(4), and any~~ 105-228.5(d)(4).

(3) Any tax credits for guaranty or solvency fund assessments under G.S. 105-228.5A or G.S. ~~97-133(a) shall be disregarded.~~ 97-133(a).

(4) Any tax credits allowed under Chapter 105 of the General Statutes other than tax payments made by or on behalf of the taxpayer."

Section 13. Section 1 of this act becomes effective July 1, 1998. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 3

HOUSE BILL 1429*
Committee Substitute Favorable 6/24/98
Committee Substitute #2 Favorable 7/9/98

Short Title: Set Reg. Fees/Company Exams. (Public)

Sponsors:

Referred to:

May 25, 1998

A BILL TO BE ENTITLED

AN ACT TO SET THE PUBLIC UTILITY REGULATORY FEE, TO SET THE INSURANCE REGULATORY CHARGE FOR CALENDAR YEAR 1998, TO AMEND PROVISIONS IN THE INSURANCE LAWS DEALING WITH EXAMINATIONS OF INSURANCE COMPANIES AND AUDITS OF THEIR FINANCIAL STATEMENTS, AND TO CLARIFY THE LAW ON INSURERS' FUNDING AGREEMENT RESERVES.

The General Assembly of North Carolina enacts:

Section 1. The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is nine-hundredths percent (0.09%) of each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 1998.

Section 2. The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six percent (6%) for the 1998 calendar year.

Section 3. G.S. 58-7-50(d) reads as rewritten:

"(d) This section is subject to the exceptions provided in G.S. 58-7-55. The Commissioner may allow a domestic insurer to maintain certain records or assets outside this State."

Section 4. G.S. 58-2-131(a) reads as rewritten:

"(a) This section and G.S. 58-2-132 ~~and G.S. 58-2-133~~ through G.S. 58-2-134 shall be known and may be cited as the Examination Law. The purpose of the Examination Law is to provide an effective and efficient system for examining the

activities, operations, financial condition, and affairs of all persons transacting the business of insurance in this State and all persons otherwise subject to the Commissioner's jurisdiction; and to enable the Commissioner to use a flexible system of examinations that directs resources that are appropriate and necessary for the administration of the insurance statutes and rules of this State."

Section 5. G.S. 58-2-131(b) reads as rewritten:

"(b) As used in this ~~section, G.S. 58-2-132 and G.S. 58-2-133,~~ section and G.S. 58-2-132 through G.S. 58-2-134, unless the context clearly indicates otherwise:

(1) "Commissioner" includes an authorized representative or designee of the Commissioner.

(2) "Examination" means an examination conducted under the Examination Law.

(3) "Examiner" means any person authorized by the Commissioner to conduct an examination.

(4) "Insurance regulator" means the official or agency of another jurisdiction that is responsible for the regulation of a foreign or alien insurer.

(5) "Person" includes a trust or any affiliate of a person."

Section 6. Article 2 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-2-134. Cost of certain examinations.**

An insurer shall reimburse the Department for the actual expenses incurred by the Department in any examination of those records or assets conducted pursuant to G.S. 58-2-131, 58-2-132, or 58-2-133 when:

(1) The insurer maintains part of its records or assets outside this State under G.S. 58-7-50 or G.S. 58-7-55 and the examination is of the records or assets outside this State.

(2) The insurer requests an examination of its records or assets.

(3) The Commissioner examines an insurer that is impaired or insolvent or is unlikely to be able to meet obligations with respect to known or anticipated claims or to pay other obligations in the normal course of business.

The amount paid by an insurer for an examination of records or assets shall not exceed one hundred thousand dollars ($100,000), unless the insurer and the Commissioner agree on a higher amount."

Section 7. G.S. 58-7-16(f) reads as rewritten:

"(f) The Commissioner has sole authority to regulate the issuance and sale of funding agreements on behalf of insurers. In addition to the authority in G.S. 58-2-40, the Commissioner may adopt rules relating to:

(1) Standards to be followed in the approval of forms of funding agreements.

(2) Reserves to be maintained by insurers issuing funding agreements.

(3) Accounting and reporting of funds credited under funding agreements.

(4) Disclosure of information to be given to holders and prospective holders of funding agreements.

(5) Qualification and compensation of persons selling funding agreements on behalf of insurers.

In determining minimum valuation reserves to be maintained by insurers issuing funding agreements, the Commissioner may use any relevant actuarial guideline, regulation, interpretation, or paper published by the Society of Actuaries or the American Academy of Actuaries that the Commissioner considers reasonable."

Section 8. G.S. 58-2-131(d) reads as rewritten:

"(d) The Commissioner may conduct an examination of any insurer whenever the Commissioner deems it to be prudent for the protection of policyholders but shall at a minimum conduct ~~an~~ a regular examination of every domestic insurer not less frequently than once every ~~three~~ five years. In scheduling and determining the nature, scope, and frequency of examinations, the Commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants, and other criteria as set forth in the NAIC Examiners' Handbook."

Section 9. G.S. 58-2-205 reads as rewritten:

"**§ 58-2-205. CPA audits of financial statements.**

The Commissioner ~~is authorized to~~ may adopt rules to provide for audits and opinions of insurers' financial statements by certified public accountants. ~~Such~~ These rules shall be ~~in accordance with~~ substantially similar to the NAIC model rule that requires audited financial reports, as amended. The Commissioner may adopt, amend, or repeal provisions of these rules under G.S. 150B-21.1 in order to keep these rules current with the NAIC model rule."

Section 10. G.S. 150B-21.1 is amended by adding a new subsection to read:

"(a2) Notwithstanding the provisions of subsection (a) of this section, the Commissioner of Insurance may adopt a temporary rule to implement the provisions of G.S. 58-2-205 after prior notice or hearing or upon any abbreviated notice or hearing. When the Commissioner adopts a temporary rule pursuant to this subsection, the Commissioner must submit the reference to this subsection as the Commissioner's statement of need to the Codifier of Rules."

Section 11. Section 1 of this act becomes effective July 1, 1998. The remainder of this act is effective when it becomes law.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
S.B. 1407 A BILL TO BE ENTITLED AN ACT TO PROVIDE BENEFITS UNDER THE REGISTERS OF DEEDS' SUPPLEMENTAL PENSION FUND ACT TO REGISTERS OF DEEDS WHO ARE OTHERWISE NOT ELIGIBLE SOLELY BECAUSE THE COUNTY DOES NOT PARTICIPATE IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 1407

Short Title: Reg. of Deeds Supp. Pension Change. (Public)

Sponsors: Senator Carpenter.

Referred to: Pensions & Retirement and Insurance.

May 28, 1998

A BILL TO BE ENTITLED

AN ACT TO PROVIDE BENEFITS UNDER THE REGISTERS OF DEEDS' SUPPLEMENTAL PENSION FUND ACT TO REGISTERS OF DEEDS WHO ARE OTHERWISE NOT ELIGIBLE SOLELY BECAUSE THE COUNTY DOES NOT PARTICIPATE IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 161-50.4 reads as rewritten:

"**§ 161-50.4. Eligibility.**

(a) Each county register of deeds who has retired with at least 12 years eligible service as register of deeds from the Local Governmental Employees' Retirement System or an equivalent locally sponsored plan before June 30, 1988, and those who retire on or after June 30, 1988, but before July 1, 1991, and who have completed at least 12 years of eligible service as register of deeds is entitled to receive a monthly pension under this Article, beginning July 1, 1988. Effective July 1, 1991, each county register of deeds who retires with at least 10 years of eligible service as register of deeds is entitled to receive a monthly pension under this Article.

(a1) Notwithstanding the provisions of subsection (a) of this section, effective January 1, 1996, any county register of deeds who separates from service as register of deeds after completing at least 10 years of eligible service as register of deeds, but who does not commence retirement with the Local Governmental Employees' Retirement System, shall have the right to receive a monthly pension under this Article payable upon retirement with the Local Governmental Employees' Retirement System.

(a2) Each county register of deeds who is not eligible to retire with the Local Governmental Employees' Retirement System solely because the county has not elected to participate as an employer with the Local Governmental Employees' Retirement System and who has either (i) attained the age of 65, (ii) attained 30 years of creditable service regardless of age, or (iii) attained the age of 60 with not less than 25 years of creditable service, and who has completed at least 10 years of creditable service as a register of deeds is entitled to receive a monthly pension under this Article, provided that register of deeds is not eligible to receive any retirement benefits from any State or locally sponsored plan.

(b) Each eligible retired register of deeds as defined in subsection ~~(a) or (a1)~~ (a), (a1), or (a2) of this section relating to service and retirement status on January 1 of each calendar year shall be entitled to receive a monthly pension under this Article beginning with the month of January of the same calendar year."

Section 2. G.S. 161-50.5 is amended by adding a new subsection to read:

"(a1) A register of deeds eligible under G.S. 161-50.4 (a2) shall be entitled to receive an annual pension benefit, payable in equal monthly installments as determined under the provisions of subsection (a) of this section, but reduced by an amount equal to the benefit that would be payable from the Local Governmental Employees' Retirement System if the register of deeds had been a member of the Local Governmental Employees' Retirement System and all of the years of local service were creditable to that System."

Section 3. This act becomes effective July 1, 1998.

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, SEPT. 2, 1998

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Robert Rhew	Jordan Price Wall
Christa Barbee	CAPA
Alan Mills	Bailey & Dixon LLP
Bernard Allen	SOS
Amy Jo Barr	Smith Anderson
Zeb Alley	ZDA PA
Laura Hartsell	MCIC
Lee-Ann Coe	FFF
David Simmons	ZDA PA
Alicia Gregory	Poyner & Spruill
Kim Smith	NCLM
Rob Hancock	Myers & Reed
Susan Mapleham	EGTS
[illegible]	Rule Call & Sluyter
J Crotts	NCASA
Wade Hale	NCSOI
Barry Smith	Freedom Communications
Sheila McKenney	NCDOT
Deborah Proctor	NC DOI
Pam Magnum	GPA
Katherine Davis	ElectriCities
Natalie Haskins	Charlotte Chamber
John McAlister	Duke Energy
[illegible]	CDL
Carl Williams	NCHBA
Alice Garland	FC
Heather Fine	OSA

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, SEPT. 2, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Martha Glass	DOA
Brenda Dougherty	Sprint

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
September 9, 1998

The Committee on Rules, Calendar, and Operations of the House met September 9, 1998, at 1:00 p.m. in Room 421 in the Legislative Office Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair and Representatives Dockham, Esposito, Gulley, McMahan, Neely and Thompson.

SB 1176 - A BILL TO BE ENTITLED AN ACT TO CUT OFF PER DIEM FOR MEMBERS OF THE GENERAL ASSEMBLY, introduced by Senator Perdue, was brought before the Committee. Chairman Morgan recognized Committee Counsel Linwood Jones to explain the bill. He explained that this bill cuts off per diem essentially for any legislative business having to do with the 1997-1998 session on Friday, September 11th. It would cut off the conference committee and any standing committee. It would allow per diem for study committees and other official legislative business.

Representative Esposito moved for adoption of a committee substitute for the purpose of discussion and debate and the vote was unanimous. Stanley Moore, Fiscal Research, was recognized by the Chair to explain the bill. He stated that the substitute includes public school salaries which provides teacher salary schedules as proposed in the original house budget bill, the school based administrator salaries which provides increases that were proposed in the original house budget. Part II - Salaries and Benefits provides the Governor a 3% pay raise, the Council of State a 3% pay raise, non-elected department heads a 3% pay raise, certain executive offices a 3% pay raise, judicial branch officials a 3% pay raise, the clerks of court a 3% pay raise, the assistant and deputy clerk provides a 3% pay raise in addition to the step increase that they are entitled to or according to their pay plan. The magistrates pay plan is 3% if they are not eligible for a step increase, or if they are eligible for a step increase, they would get the step. It provides that the General Assembly Principal Clerks salaries shall be set by the Legislative Services Commission. The Sergeant-at-Arms gets 3%, legislative employees get 3%, community college personnel get 3% to be distributed by rules established by the state board, the University System, EPA salaries is 3% according to rules set up by the Board of Governors. Central Office School personnel get 3%, non-certified personnel get 3%. On page 18, a compensation bonus provides a 1% one time bonus to be paid to folks other than the governor, council of state, department heads, the executive branch officials, judicial officials, clerks of court, teachers, principals, and assistant principals to be paid no later than October. On page 19, most state employee salary increases - this is according to the comprehensive pay plan for State Personnel Act employees provides a 1% COLA, 2% career growth, and a one time 1% merit bonus. On page 21 it provides for the salary adjustment fund - any remaining funds left over can be used to adjust salaries. Page 21 Retiree COLAS and Formula Increase - provides a 2 ½% COLA to retirees of the state, judicial, legislative, and local retirement system so increases the

formula in the local system by 1 point and gives an adjusting increase of .6. On pages 26 and 27 it sets the employer contribution rates to the different retirement systems for this fiscal year on a non-recurring basis.

Chairman Morgan asked if those sections of the bill had been heard by the Pensions and Retirement Committee? Stanley Moore replied that all these provisions had gone through Appropriations and the Pensions Committee respectively."

Committee Counsel Linwood Jones was recognized to go over the final section of the bill. He stated that the final section of the bill on page 27, line 31, continues to cut off per diem but only for members of the Senate.

Representative Neely asked if everything in the bill, other than the per diem section, had already been dealt with in other committees and Chairman Morgan stated that it had been.

Representative Neely then asked if there was anything in the bill that affects legislative pay and benefits other than the per diem section and COLA which is already part of the across board raise. Chairman Morgan replied that there was nothing except the portion of the bill that has already been through Pensions and Retirement.

After a short discussion, Representative Esposito moved for a favorable report to the committee substitute and unfavorable to the original bill. Motion carried.

The meeting adjourned at 1:10 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Report
Bill
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ Committee Substitute for
S.B. 1176 A BILL TO BE ENTITLED AN ACT TO CUT OFF PER DIEM FOR MEMBERS OF THE GENERAL ASSEMBLY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 1176
Rules and Operations of the Senate Committee Substitute Adopted 9/2/98
Third Edition Engrossed 9/3/98
Proposed House Committee Substitute S1176-PCS3661-RN001

Short Title: Salaries and Benefits/No Per Diem. (Public)

Sponsors:

Referred to:

May 20, 1998

A BILL TO BE ENTITLED

AN ACT TO ENACT THE SALARIES AND RETIREMENT BENEFITS FOR THE 1998-99 FISCAL YEAR AND TO CUT OFF PER DIEM FOR MEMBERS OF THE SENATE.

The General Assembly of North Carolina enacts:

PART I. PUBLIC SCHOOLS SALARIES

TEACHER SALARY SCHEDULES

Section 1. (a) Effective for the 1998-99 school year, the Director of the Budget may transfer from the Reserve for Compensation Increase for the 1998-99 fiscal year funds necessary to implement the teacher salary schedule set out in subsection (b) of this section, including funds for the employer's retirement and social security contributions and funds for annual longevity payments at one percent (1%) of base salary for 10 to 14 years of State service, one and one-half percent (1.5%) of base salary for 15 to 19 years of State service, two percent (2%) of base salary for 20 to 24 years of State service, and four and one-half percent (4.5%) of base salary for 25 or more years of State service, commencing July 1, 1998, for all teachers whose salaries are supported from the State's General Fund. These funds shall be allocated to individuals according to rules adopted by the State Board of Education and the

Superintendent of Public Instruction. The longevity payment shall be paid in a lump sum once a year.

(b)(1) For the 1998-99 school year, the following monthly salary schedules shall apply to certified personnel of the public schools who are classified as teachers. The schedule contains 30 steps with each step corresponding to one year of teaching experience.

1998-99 Monthly Salary Schedule
"A" Teachers

Years of Experience	"A" Teachers	NBPTS Certification
0	2,310	N/A
1	2,352	N/A
2	2,395	N/A
3	2,551	2,857
4	2,678	2,999
5	2,779	3,112
6	2,826	3,165
7	2,874	3,218
8	2,923	3,273
9	2,972	3,328
10	3,021	3,383
11	3,071	3,439
12	3,123	3,497
13	3,176	3,557
14	3,230	3,617
15	3,285	3,679
16	3,341	3,741
17	3,398	3,805
18	3,456	3,870
19	3,516	3,937
20	3,577	4,006
21	3,640	4,076
22	3,703	4,147
23	3,767	4,219
24	3,832	4,291
25	3,899	4,366
26	3,968	4,444
27	4,038	4,522
28	4,109	4,602
29+	4,182	4,683

1998-99 Monthly Salary Schedule
"G" Teachers

Years of Experience	"G" Teachers	NBPTS Certification
0	2,454	N/A

1	1	2,499	N/A
2	2	2,545	N/A
3	3	2,710	3,035
4	4	2,845	3,186
5	5	2,953	3,307
6	6	3,003	3,363
7	7	3,054	3,420
8	8	3,106	3,478
9	9	3,158	3,536
10	10	3,210	3,595
11	11	3,263	3,654
12	12	3,318	3,716
13	13	3,375	3,780
14	14	3,432	3,843
15	15	3,490	3,908
16	16	3,550	3,976
17	17	3,610	4,043
18	18	3,672	4,112
19	19	3,736	4,184
20	20	3,801	4,257
21	21	3,868	4,332
22	22	3,934	4,406
23	23	4,002	4,482
24	24	4,072	4,560
25	25	4,143	4,640
26	26	4,216	4,721
27	27	4,290	4,804
28	28	4,366	4,889
29	29+	4,443	4,976

(2) Certified public school teachers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "G" teachers. Certified public school teachers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified personnel of the public schools who are classified as "G" teachers.

(c) Effective for the 1998-99 school year, the first step of the salary schedule for school psychologists shall be equivalent to Step 5, corresponding to five years of experience, on the salary schedule established in this section for certified personnel of the public schools who are classified as "G" teachers. Certified psychologists shall be placed on the salary schedule at an appropriate step based on their years of experience. Certified psychologists shall receive longevity payments based on years of State service in the same manner as teachers.

Certified psychologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for certified

psychologists. Certified psychologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for certified psychologists.

(d) Effective for the 1998-99 school year, speech pathologists who are certified as speech pathologists at the masters degree level and audiologists who are certified as audiologists at the masters degree level and who are employed in the public schools as speech and language specialists and audiologists shall be paid on the school psychologist salary schedule.

Speech pathologists and audiologists with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for speech pathologists and audiologists. Speech pathologists and audiologists with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for speech pathologists and audiologists.

(e) The State Board of Education shall study the current salary schedules for nurses and other allied health professionals. The State Board shall report to the Joint Legislative Education Oversight Committee prior to December 15, 1998, on the results of its study and on any recommended modifications to the current salary schedules.

SCHOOL-BASED ADMINISTRATOR SALARIES

Section 2. (a) Funds appropriated to the Reserve for Compensation Increase shall be used for the implementation of the salary schedule for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

(b) The salary schedule for school-based administrators shall apply only to principals and assistant principals. The salary schedule for the 1998-99 fiscal year, commencing July 1, 1998, is as follows:

	Assistant Principals			Principal I		
Step	Base	Base + 1%	Base + 2%	Base	Base + 1%	Base + 2%
4	$2,873	$2,902	$2,930	--	--	--
5	2,983	3,013	3,043	--	--	--
6	3,033	3,063	3,094	--	--	--
7	3,085	3,116	3,147	--	--	--
8	3,137	3,168	3,200	$3,137	$3,168	$3,200
9	3,190	3,222	3,254	3,190	3,222	3,254
10	3,242	3,274	3,307	3,242	3,274	3,307
11	3,296	3,329	3,362	3,296	3,329	3,362
12	3,351	3,385	3,418	3,351	3,385	3,418
13	3,409	3,443	3,477	3,409	3,443	3,477

14	3,466	3,501	3,535	3,466	3,501	3,535
15	3,525	3,560	3,596	3,525	3,560	3,596
16	3,586	3,622	3,658	3,586	3,622	3,658
17	3,646	3,682	3,719	3,646	3,682	3,719
18	3,709	3,746	3,783	3,709	3,746	3,783
19	3,773	3,811	3,848	3,773	3,811	3,848
20	3,839	3,877	3,916	3,839	3,877	3,916
21	3,907	3,946	3,985	3,907	3,946	3,985
22	3,973	4,013	4,052	3,973	4,013	4,052
23	4,042	4,082	4,123	4,042	4,082	4,123
24	4,113	4,154	4,195	4,113	4,154	4,195
25	4,184	4,226	4,268	4,184	4,226	4,268
26	4,258	4,301	4,343	4,258	4,301	4,343
27	4,333	4,376	4,420	4,333	4,376	4,420
28	4,410	4,454	4,498	4,410	4,454	4,498
29	4,487	4,532	4,577	4,487	4,532	4,577
30	4,577	4,623	4,669	4,577	4,623	4,669
31	4,669	4,716	4,762	4,669	4,716	4,762
32	--	--	--	4,762	4,810	4,857

Step	Principal II Base	Principal II Base + 1%	Principal II Base + 2%	Principal III Base	Principal III Base + 1%	Principal III Base + 2%
4	--	--	--	--	--	--
5	--	--	--	--	--	--
6	--	--	--	--	--	--
7	--	--	--	--	--	--
8	--	--	--	--	--	--
9	--	--	--	--	--	--
10	$3,296	$3,329	$3,362	--	--	--
11	3,351	3,385	3,418	--	--	--
12	3,409	3,443	3,477	$3,466	$3,501	$3,535
13	3,466	3,501	3,535	3,525	3,560	3,596
14	3,525	3,560	3,596	3,586	3,622	3,658
15	3,586	3,622	3,658	3,646	3,682	3,719
16	3,646	3,682	3,719	3,709	3,746	3,783
17	3,709	3,746	3,783	3,773	3,811	3,848
18	3,773	3,811	3,848	3,839	3,877	3,916
19	3,839	3,877	3,916	3,907	3,946	3,985
20	3,907	3,946	3,985	3,973	4,013	4,052
21	3,973	4,013	4,052	4,042	4,082	4,123
22	4,042	4,082	4,123	4,113	4,154	4,195
23	4,113	4,154	4,195	4,184	4,226	4,268
24	4,184	4,226	4,268	4,258	4,301	4,343
25	4,258	4,301	4,343	4,333	4,376	4,420
26	4,333	4,376	4,420	4,410	4,454	4,498
27	4,410	4,454	4,498	4,487	4,532	4,577
28	4,487	4,532	4,577	4,577	4,623	4,669
29	4,577	4,623	4,669	4,669	4,716	4,762
30	4,669	4,716	4,762	4,762	4,810	4,857
31	4,762	4,810	4,857	4,857	4,906	4,954
32	4,857	4,906	4,954	4,954	5,004	5,053

33	4,954	5,004	5,053	5,053	5,104	5,154
34	5,053	5,104	5,154	5,154	5,206	5,257
35	--	--	--	5,257	5,310	5,362
36	--	--	--	5,362	5,416	5,469

	Principal IV			Principal V		
Step	Base	Base + 1%	Base + 2%	Base	Base + 1%	Base + 2%
4	--	--	--	--	--	--
5	--	--	--	--	--	--
6	--	--	--	--	--	--
7	--	--	--	--	--	--
8	--	--	--	--	--	--
9	--	--	--	--	--	--
10	--	--	--	--	--	--
11	--	--	--	--	--	--
12	--	--	--	--	--	--
13	$3,586	$3,622	$3,658	--	--	--
14	3,646	3,682	3,719	$3,709	$3,746	$3,783
15	3,709	3,746	3,783	3,773	3,811	3,848
16	3,773	3,811	3,848	3,839	3,877	3,916
17	3,839	3,877	3,916	3,907	3,946	3,985
18	3,907	3,946	3,985	3,973	4,013	4,052
19	3,973	4,013	4,052	4,042	4,082	4,123
20	4,042	4,082	4,123	4,113	4,154	4,195
21	4,113	4,154	4,195	4,184	4,226	4,268
22	4,184	4,226	4,268	4,258	4,301	4,343
23	4,258	4,301	4,343	4,333	4,376	4,420
24	4,333	4,376	4,420	4,410	4,454	4,498
25	4,410	4,454	4,498	4,487	4,532	4,577
26	4,487	4,532	4,577	4,577	4,623	4,669
27	4,577	4,623	4,669	4,669	4,716	4,762
28	4,669	4,716	4,762	4,762	4,810	4,857
29	4,762	4,810	4,857	4,857	4,906	4,954
30	4,857	4,906	4,954	4,954	5,004	5,053
31	4,954	5,004	5,053	5,053	5,104	5,154
32	5,053	5,104	5,154	5,154	5,206	5,257
33	5,154	5,206	5,257	5,257	5,310	5,362
34	5,257	5,310	5,362	5,362	5,416	5,469
35	5,362	5,416	5,469	5,469	5,524	5,578
36	5,469	5,524	5,578	5,578	5,634	5,690
37	5,578	5,634	5,690	5,689	5,746	5,803
38	--	--	--	5,803	5,861	5,919
39	--	--	--	--	--	--
40	--	--	--	--	--	--
41	--	--	--	--	--	--

	Principal VI			Principal VII		
Step	Base	Base + 1%	Base + 2%	Base	Base + 1%	Base + 2%
4	--	--	--	--	--	--

1	5	--	--	--	--	--	--
2	6	--	--	--	--	--	--
3	7	--	--	--	--	--	--
4	8	--	--	--	--	--	--
5	9	--	--	--	--	--	--
6	10	--	--	--	--	--	--
7	11	--	--	--	--	--	--
8	12	--	--	--	--	--	--
9	13	--	--	--	--	--	--
10	14	--	--	--	--	--	--
11	15	--	--	--	--	--	--
12	16	$3,907	$3,946	$3,985	--	--	--
13	17	3,973	4,013	4,052	$4,113	$4,154	$4,195
14	18	4,042	4,082	4,123	4,184	4,226	4,268
15	19	4,113	4,154	4,195	4,258	4,301	4,343
16	20	4,184	4,226	4,268	4,333	4,376	4,420
17	21	4,258	4,301	4,343	4,410	4,454	4,498
18	22	4,333	4,376	4,420	4,487	4,532	4,577
19	23	4,410	4,454	4,498	4,577	4,623	4,669
20	24	4,487	4,532	4,577	4,669	4,716	4,762
21	25	4,577	4,623	4,669	4,762	4,810	4,857
22	26	4,669	4,716	4,762	4,857	4,906	4,954
23	27	4,762	4,810	4,857	4,954	5,004	5,053
24	28	4,857	4,906	4,954	5,053	5,104	5,154
25	29	4,954	5,004	5,053	5,154	5,206	5,257
26	30	5,053	5,104	5,154	5,257	5,310	5,362
27	31	5,154	5,206	5,257	5,362	5,416	5,469
28	32	5,257	5,310	5,362	5,469	5,524	5,578
29	33	5,362	5,416	5,469	5,578	5,634	5,690
30	34	5,469	5,524	5,578	5,689	5,746	5,803
31	35	5,578	5,634	5,690	5,803	5,861	5,919
32	36	5,689	5,746	5,803	5,920	5,979	6,038
33	37	5,803	5,861	5,919	6,038	6,098	6,159
34	38	5,920	5,979	6,038	6,159	6,221	6,282
35	39	6,038	6,098	6,159	6,282	6,345	6,408
36	40	6,159	6,221	6,282	6,407	6,471	6,535
37	41	--	--	--	6,536	6,601	6,667

			Principal VIII	
	Step	Base	Base + 1%	Base + 2%
43	4	--	--	--
44	5	--	--	--
45	6	--	--	--
46	7	--	--	--
47	8	--	--	--
48	9	--	--	--
49	10	--	--	--
50	11	--	--	--
51	12	--	--	--
52	13	--	--	--
53	14	--	--	--

15	--	--	--
16	--	--	--
17	--	--	--
18	$4,258	$4,301	$4,343
19	4,333	4,376	4,420
20	4,410	4,454	4,498
21	4,487	4,532	4,577
22	4,577	4,623	4,669
23	4,669	4,716	4,762
24	4,762	4,810	4,857
25	4,857	4,906	4,954
26	4,954	5,004	5,053
27	5,053	5,104	5,154
28	5,154	5,206	5,257
29	5,257	5,310	5,362
30	5,362	5,416	5,469
31	5,469	5,524	5,578
32	5,578	5,634	5,690
33	5,689	5,746	5,803
34	5,803	5,861	5,919
35	5,920	5,979	6,038
36	6,038	6,098	6,159
37	6,159	6,221	6,282
38	6,282	6,345	6,408
39	6,407	6,471	6,535
40	6,536	6,601	6,667
41	6,667	6,734	6,800

(c) The appropriate classification for placement of principals and assistant principals on the salary schedule, except for principals in alternative schools, shall be determined in accordance with the following schedule:

Classification	**Number of Teachers Supervised**
Assistant Principal	
Principal I	Fewer than 11 Teachers
Principal II	11-21 Teachers
Principal III	22-32 Teachers
Principal IV	33-43 Teachers
Principal V	44-54 Teachers
Principal VI	55-65 Teachers
Principal VII	66-100 Teachers
Principal VIII	More than 100 Teachers

The number of teachers supervised includes teachers and assistant principals paid from State funds only; it does not include teachers or assistant principals paid from non-State funds or the principal or teacher assistants.

The beginning classification for principals in alternative schools shall be the Principal III level. Principals in alternative schools who supervise 33 or more teachers shall be classified according to the number of teachers supervised.

(d) A principal shall be placed on the step on the salary schedule that reflects total number of years of experience as a certificated employee of the public schools and an additional step for every three years of experience as a principal.

(e) For the 1998-99 fiscal year, a principal or assistant principal shall be placed on the appropriate step plus one percent (1%) if:

(1) The employee's school met or exceeded the projected levels of improvement in student performance for the 1997-98 fiscal year, in accordance with the ABCs of Public Education Program; or

(2) The local board of education found in 1997-98 that the employee's school met objectively measurable goals set by the local board of education for maintaining a safe and orderly school.

The principal or assistant principal shall be placed on the appropriate step plus two percent (2%) if the conditions set out in both subdivisions (1) and (2) are satisfied.

(f) For the 1998-99 fiscal year, a principal or assistant principal shall receive a lump-sum payment of:

(1) One percent (1%) of his or her State-paid salary if the employee's school meets or exceeds the projected levels of improvement in student performance for the 1998-99 fiscal year, in accordance with the ABCs of Public Education Program; or

(2) One percent (1%) of his or her State-paid salary if the local board of education finds that the employee's school has met the goals of the local plan for maintaining a safe and orderly school.

The principal or assistant principal shall receive a lump-sum payment of two percent (2%) if the conditions set out in both subdivisions (1) and (2) are satisfied.

The lump sum shall be paid as determined by guidelines adopted by the State Board. Placement on the salary schedule in the following year shall be based upon these increases.

(g) Principals and assistant principals with certification based on academic preparation at the six-year degree level shall be paid a salary supplement of one hundred twenty-six dollars ($126.00) per month and at the doctoral degree level shall be paid a salary supplement of two hundred fifty-three dollars ($253.00) per month.

(h) There shall be no State requirement that superintendents in each local school unit shall receive in State-paid salary at least one percent (1%) more than the highest paid principal receives in State salary in that school unit: Provided, however, the additional State-paid salary a superintendent who was employed by a local school administrative unit for the 1992-93 fiscal year received because of that requirement shall not be reduced because of this subsection for subsequent fiscal years that the superintendent is employed by that local school administrative unit so long as the superintendent is entitled to at least that amount of additional State-paid salary under the rules in effect for the 1992-93 fiscal year.

(i) Longevity pay for principals and assistant principals shall be as provided for State employees.

(j)(1) If a principal is reassigned to a higher job classification because the principal is transferred to a school within a local school administrative unit with a larger number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the higher job classification.

(2) If a principal is reassigned to a lower job classification because the principal is transferred to a school within a local school administrative unit with a smaller number of State-allotted teachers, the principal shall be placed on the salary schedule as if the principal had served the principal's entire career as a principal at the lower job classification.

This subdivision applies to all transfers on or after the effective date of this section, except transfers in school systems that have been created, or will be created, by merging two or more school systems. Transfers in these merged systems are exempt from the provisions of this subdivision for one calendar year following the date of the merger.

(k) Participants in an approved full-time masters in school administration program shall receive up to a 10-month stipend at the beginning salary of an assistant principal during the internship period of the masters program. Certification of eligible full-time interns shall be supplied to the Department of Public Instruction by the Principal's Fellow Program or a school of education where the intern participates in a full-time masters in school administration.

PART II. SALARIES AND BENEFITS

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

Section 3. (a) G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred seven thousand one hundred thirty-two dollars ($107,132)~~ one hundred ten thousand three hundred forty-six dollars ($110,346) annually, payable monthly."

(b) Section 33(b) of Chapter 443 of the 1997 Session Laws reads as rewritten:

"(b) The annual salaries for the members of the Council of State, payable monthly, for the ~~1997-98 and~~ 1998-99 fiscal ~~years,~~ year, beginning ~~July 1, 1997,~~ July 1, 1998, are:

Council of State		Annual Salary
Lieutenant Governor	~~$94,552~~	$97,388
Attorney General	~~94,552~~	97,388
Secretary of State	~~94,552~~	97,388
State Treasurer	~~94,552~~	97,388
State Auditor	~~94,552~~	97,388
Superintendent of Public Instruction	~~94,552~~	97,388

Agriculture Commissioner	~~94,552~~	97,388
Insurance Commissioner	~~94,552~~	97,388
Labor Commissioner	~~94,552.~~	97,388."

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

Section 4. Section 33.1 of Chapter 443 of the 1997 Session Laws reads as rewritten:

"Section 33.1. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the ~~1997-98 and~~ 1998-99 fiscal ~~years,~~ year, beginning ~~July 1, 1997,~~ July 1, 1998, are:

Nonelected Department Heads		Annual Salary
Secretary of Administration	~~$92,378~~	$95,149
Secretary of Correction	~~92,378~~	95,149
Secretary of Cultural Resources	~~92,378~~	95,149
Secretary of Commerce	~~92,378~~	95,149
Secretary of ~~Environment, Health,~~ Environment and Natural Resources	~~92,378~~	95,149
Secretary of Health and Human ~~Resources~~ Services	~~92,378~~	95,149
Secretary of Revenue	~~92,378~~	95,149
Secretary of Transportation	~~92,378~~	95,149
Secretary of Crime Control and Public Safety	~~92,378.~~	95,149."

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

Section 5. Section 33.2 of Chapter 443 of the 1997 Session Laws reads as rewritten:

"Section 33.2. The annual salaries, payable monthly, for the ~~1997-98 and~~ 1998-99 fiscal ~~years,~~ year, beginning ~~July 1, 1997,~~ July 1, 1998, for the following executive branch officials are:

Executive Branch Officials		Annual Salary
Chairman, Alcoholic Beverage Control Commission	~~$ 84,080~~	$86,602
State Controller	~~117,669~~	121,199
Commissioner of Motor Vehicles	~~84,080~~	86,602
Commissioner of Banks	~~94,552~~	97,389
Chairman, Employment Security Commission	~~117,520~~	121,046
State Personnel Director	~~92,378~~	95,149
Chairman, Parole Commission	~~76,775~~	79,078
Members of the Parole Commission	~~70,881~~	73,008
Chairman of the Utilities Commission	~~95,592~~	98,388
Commissioners of the Utilities Commission	~~94,552~~	97,388
Executive Director, Agency for Public Telecommunications	~~70,881~~	73,008
General Manager, Ports Railway Commission	~~64,005~~	65,925
Director, Museum of Art	~~86,155~~	88,739
Executive Director, Wildlife Resources		

Commission	~~72,569~~	74,746
Executive Director, North Carolina Housing Finance Agency	~~104,057~~	107,179
Executive Director, North Carolina Agricultural Finance Authority	~~81,839~~	84,294
~~Director, Office of Administrative Hearings~~	~~83,141~~".	

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

Section 6. (a) Section 33.7 of Chapter 443 of the 1997 Session Laws reads as rewritten:

"Section 33.7. (a) The annual salaries, payable monthly, for specified judicial branch officials for the ~~1997-98 and~~ 1998-99 fiscal ~~years,~~ year, beginning ~~July 1, 1997,~~ July 1, 1998, are:

Judicial Branch Officials		Annual Salary
Chief Justice, Supreme Court	~~$107,132~~	$110,346
Associate Justice, Supreme Court	~~104,333~~	107,463
Chief Judge, Court of Appeals	~~101,724~~	104,776
Judge, Court of Appeals	~~99,986~~	102,985
Judge, Senior Regular Resident Superior Court	~~97,269~~	100,187
Judge, Superior Court	~~94,552~~	97,388
Chief Judge, District Court	~~85,857~~	88,433
Judge, District Court	~~83,141~~	85,635
District Attorney	~~87,596~~	90,224
Administrative Officer of the Courts	~~97,269~~	100,187
Assistant Administrative Officer of the Courts	~~81,684~~	84,134
Public Defender	~~87,596.~~	90,224.

~~(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed fifty-three thousand eight hundred eighty-three dollars ($53,883) and the minimum salary of any assistant district attorney or assistant public defender is at least twenty-seven thousand five hundred nine dollars ($27,509), effective July 1, 1997.~~

~~(c) The salaries in effect for the 1996-97 fiscal year on June 30, 1997, for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by four percent (4%), commencing July 1, 1997.~~

~~(d) The salaries in effect on June 30, 1997, June 30, 1998, for all permanent, part-time employees of the Judicial Department shall be increased on and after July 1, 1997, by pro rata amounts of four percent (4%).~~"

(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts, shall set the salaries of assistant district attorneys or assistant public defenders, respectively, in that district such that

the average salaries of assistant district attorneys or assistant public defenders in that district do not exceed fifty-five thousand five hundred dollars ($55,500) and the minimum salary of any assistant district attorney or assistant public defender is at least twenty-eight thousand three hundred thirty-four dollars ($28,334), effective July 1, 1998.

(c) The salaries in effect for the 1997-98 fiscal year on June 30, 1998, for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by three percent (3%), commencing July 1, 1998.

(d) The salaries in effect on June 30, 1998, for all permanent, part-time employees of the Judicial Department shall be increased on and after July 1, 1998, by pro rata amounts of three percent (3%).

CLERKS OF SUPERIOR COURT/SALARY INCREASES

Section 7. G.S. 7A-101(a) reads as rewritten:

"(a) The clerk of superior court is a full-time employee of the State and shall receive an annual salary, payable in equal monthly installments, based on the population of the county as determined in subsection (a1) of this section, according to the following schedule:

Population		Annual Salary
Less than 100,000	~~$62,676~~	$64,556
100,000 to 149,999	~~70,403~~	72,515
150,000 to 249,999	~~78,130~~	80,474
250,000 and above	~~85,857.~~	88,433.

The salary schedule in this subsection is intended to represent the following percentage of the salary of a chief district court judge:

Population	Annual Salary
Less than 100,000	73%
100,000 to 149,999	82%
150,000 to 249,999	91%
250,000 and above	100%.

When a county changes from one population group to another, the salary of the clerk shall be changed, on July 1 of the fiscal year for which the change is reported, to the salary appropriate for the new population group, except that the salary of an incumbent clerk shall not be decreased by any change in population group during his continuance in office."

ASSISTANT AND DEPUTY CLERKS OF SUPERIOR COURT/SALARY INCREASES

Section 8. (a) Effective July 1, 1998, those State employees whose salaries are determined by G.S. 7A-102 shall receive across-the-board salary increases in the amount of three percent (3%) in addition to step increases associated with their respective pay plans.

(b) G.S. 7A-102(c1) reads as rewritten:

"(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper		Annual Salary
Minimum	~~$23,420~~	$24,122
Maximum	~~41,466~~	42,710
Deputy Clerks		Annual Salary
Minimum	~~$18,724~~	$19,286
Maximum	~~31,940.~~	32,899."

MAGISTRATES/SALARY INCREASES

Section 9. Effective July 1, 1998, magistrates shall receive salary increases in the amount of three percent (3%), except that any person entitled to a step increase pursuant to G.S. 7A-171.1 for the 1998-99 fiscal year shall not receive the three percent (3%) increase provided by this section.

GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

Section 10. (a) G.S. 120-37(c) is repealed.

(b) G.S. 120-37 is amended by adding a new subsection to read:

"(c1) The principal clerks shall be full-time officers. Each principal clerk shall be entitled to other benefits available to permanent legislative employees and shall be paid an annual salary set by the Legislative Services Commission payable monthly."

SERGEANT-AT-ARMS AND READING CLERKS/SALARY INCREASES

Section 11. G.S. 120-37(b) reads as rewritten:

"(b) The sergeant-at-arms and the reading clerk in each house shall be paid a salary of ~~two hundred fifty-eight dollars ($258.00)~~ two hundred sixty-six dollars ($266.00) per week plus subsistence at the same daily rate provided for members of the General Assembly, plus mileage at the rate provided for members of the General Assembly for one round trip only from their homes to Raleigh and return. The sergeants-at-arms shall serve during sessions of the General Assembly and at such time prior to the convening of, and subsequent to adjournment or recess of, sessions as may be authorized by the Legislative Services Commission. The reading clerks shall serve during sessions only."

LEGISLATIVE EMPLOYEES/SALARY INCREASES

Section 12. The Legislative Administrative Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 1997-98 by three percent (3%). Nothing in this act limits any of the provisions of G.S. 120-32.

COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

Section 13. The Director of the Budget shall transfer from the Reserve for Salary Increases created in this act for fiscal year 1998-99 funds to the Department of Community Colleges necessary to provide an average annual salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 1998, for all permanent full-time community college institutional personnel supported by State funds. The State Board of Community Colleges shall establish guidelines for providing their salary increases to community college institutional personnel to include consideration of increases based on performance. Salary funds shall be used to provide an average annual salary increase of three percent (3%) to all full-time employees and part-time employees on a pro rata basis.

UNIVERSITY OF NORTH CAROLINA SYSTEM - EPA SALARY INCREASES

Section 14. (a) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Compensation Increase created in this act for fiscal year 1998-99 to provide an annual average salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 1998, for all employees of The University of North Carolina, as well as employees other than teachers of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Governors, or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate, and shall not be used for any purpose other than for salary increases and necessary employer contributions provided by this section. The Board of Governors shall include consideration of increases based on performance in its adoption of rules for the allocation of funds for salary increases.

(b) The Director of the Budget shall transfer to the Board of Governors of The University of North Carolina sufficient funds from the Reserve for Salary Increases created in this act for fiscal year 1998-99 to provide an annual average salary increase comparable to that provided in this act for public school teachers, including funds for the employer's retirement and social security contributions, commencing July 1, 1998, for all teaching employees of the North Carolina School of Science and Mathematics, supported by State funds and whose salaries are exempt from the State Personnel Act (EPA). These funds shall be allocated to individuals according to the rules adopted by the Board of Trustees of the North Carolina School of Science and Mathematics and shall not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

SCHOOL CENTRAL OFFICE SALARIES

Section 15. (a) The following monthly salary ranges apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 1998-99 fiscal year, beginning July 1, 1998:

(1) School Administrator I: $2,846 - $4,857

(2)	School Administrator II:	$3,021 - $5,155
(3)	School Administrator III:	$3,206 - $5,471
(4)	School Administrator IV:	$3,335 - $5,692
(5)	School Administrator V:	$3,469 - $5,923
(6)	School Administrator VI:	$3,681 - $6,286
(7)	School Administrator VII:	$3,830 - $6,540

The local board of education shall determine the appropriate category and placement for each assistant superintendent, associate superintendent, director/coordinator, supervisor, or finance officer within the salary ranges and within funds appropriated by the General Assembly for central office administrators and superintendents. The category in which an employee is placed shall be included in the contract of any employee hired on or after July 1, 1998.

(b) The following monthly salary ranges apply to public school superintendents for the 1998-99 fiscal year, beginning July 1, 1998:

(1)	Superintendent I (Up to 2,500 ADM):	$4,065 - $6,941
(2)	Superintendent II (2,501 - 5,000 ADM):	$4,315 - $7,364
(3)	Superintendent III (5,001 - 10,000 ADM):	$4,578 - $7,815
(4)	Superintendent IV (10,001 - 25,000 ADM):	$4,859 - $8,293
(5)	Superintendent V (Over 25,000 ADM):	$5,157 - $8,801

The local board of education shall determine the appropriate category and placement for the superintendent based on the average daily membership of the local school administrative unit and within funds appropriated by the General Assembly for central office administrators and superintendents.

Notwithstanding the provisions of this subsection, a local board of education may pay an amount in excess of the applicable range to a superintendent who is entitled to receive the higher amount under Section 2 of this act.

(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees.

(d) Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the six-year degree level shall receive a salary supplement of one hundred twenty-six dollars ($126.00) per month in addition to the compensation provided for pursuant to this section. Superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers with certification based on academic preparation at the doctoral degree level shall receive a salary supplement of two hundred fifty-three dollars ($253.00) per month in addition to the compensation provided for under this section.

(e) The State Board shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

(f) The Director of the Budget shall transfer from the Reserve for Salary Increases created in this act for fiscal year 1998-99, beginning July 1, 1998, funds necessary to provide an average annual salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 1998, for all permanent full-time personnel paid from the Central Office Allotment. The State Board of Education shall allocate these funds to local

school administrative units. The local boards of education shall establish guidelines for providing their salary increases to these personnel.

NONCERTIFIED PERSONNEL SALARY FUNDS/TEACHER ASSISTANT SALARY FUNDS

Section 16. (a) The Director of the Budget may transfer from the Reserve for Compensation Increase created in this act for fiscal year 1998-99, commencing July 1, 1998, funds necessary to provide a salary increase of three percent (3%), including funds for the employer's retirement and social security contributions, commencing July 1, 1998, for all noncertified public school employees whose salaries are supported from the State's General Fund. Local boards of education shall increase the rates of pay for all such employees who were employed during fiscal year 1997-98 and who continue their employment for fiscal year 1998-99 by at least three percent (3%), commencing July 1, 1998. These funds shall not be used for any purpose other than for the salary increases and necessary employer contributions provided by this section.

The Director of the Budget may transfer from the Reserve for Compensation Increase created in this act for fiscal year 1998-99, beginning July 1, 1998, funds necessary to provide the salary increases for noncertified public school employees whose salaries are supported from the State's General Fund in accordance with the provisions of this section.

The State Board of Education may enact or create salary ranges for noncertified personnel to support increases of three percent (3%) for the 1998-99 fiscal year.

(b) G.S. 115C-12(16)b. reads as rewritten:

"b. Salary schedules for the following public school support personnel shall be adopted by the State Board of Education: school finance officer, office support personnel, teacher assistants, maintenance supervisors, custodial personnel, and transportation personnel. The Board shall classify these support positions in terms of uniform pay grades included in the salary schedule of the State Personnel Commission.

By the end of the third payroll period of the 1995-96 fiscal year, local boards of education shall place State-allotted office support personnel, teacher assistants, and custodial personnel on the salary schedule adopted by the State Board of Education so that the average salary paid is the State-allotted amount for the category. In placing employees on the salary schedule, the local board ~~shall~~ may consider the education, training, and experience of each ~~employee.~~ employee, including experience in other local school administrative units. It is the intent of the General Assembly that a local school administrative unit not fail to employ an employee who was employed for the prior school year in

order to implement the provisions of this sub-subdivision. A local board of education is in compliance with this sub-subdivision if the average salary paid is at least ninety-five percent (95%) of the State-allotted amount for the category at the end of the third payroll period of the 1995-96 fiscal year, and at least ninety-eight percent (98%) of the State-allotted amount for the category at the end of the third payroll period of each subsequent fiscal year. The Department of Public Instruction shall provide technical assistance to local school administrative units regarding the implementation of this sub-subdivision."

(c) Subsection (b) of this section applies beginning with the 1999-2000 school year.

COMPENSATION BONUS/STATE EMPLOYEES/SCHOOL PERSONNEL

Section 17. (a) Any person:

(1) Whose salary is set by or under this Part, other than Sections 3, 4, 5, 6(a), 7, 18(a); and 18(c), 18(d), 18(e), except that the exclusion of those under 18(c), 18(d), and 18(e) only applies to those whose salaries are set by the State Personnel Act; and

(2) Who was, on July 1, 1998, a permanent officer or permanent employee whose salary is set by or under this Part shall receive not later than October of 1998 a compensation bonus of one percent (1%), except that:

a. The compensation bonus for persons subject to Section 13 of this act shall be an average of one percent (1%) per year and shall be allocated in accordance with guidelines adopted by the State Board of Community Colleges;

b. The compensation bonus for persons subject to Section 14 of this act shall be an average of one percent (1%) per year and shall be allocated to individuals according to the rules adopted by the Board of Governors, or the Board of Trustees of the North Carolina School of Science and Mathematics, as appropriate; and

c. The guidelines and rules adopted under sub-subdivisions a. and b. of this subdivision may cover employees of those institutions whose first day of employment for the 1998-99 academic year came after July 1, 1998.

(a1) Any person:

(1) Who did not receive a compensation bonus under subsection (a) of this section; and

(2) Who was employed on the first day of the 1998-99 school year as a permanent public school employee whose salary is set by or under this Part

shall receive no later than during the fourth payroll period of the 1998-99 school year a compensation bonus of one percent (1%) of the annual salary for that position.

(b) The annual salary on which the percentage compensation bonus is based is the annual salary in effect during the pay period in which the bonus is paid.

(c) The Director of the Budget shall transfer from the Reserve for Compensation Increase provided by this act sufficient funds to implement this section.

MOST STATE EMPLOYEES/SALARY INCREASES

Section 18. (a) The salaries in effect June 30, 1998, of all permanent full-time State employees whose salaries are set in accordance with the State Personnel Act, and who are paid from the General Fund or the Highway Fund shall be increased, on or after July 1, 1998, unless otherwise provided by this act, pursuant to the Comprehensive Compensation System set forth in G.S. 126-7 and rules adopted by the State Personnel Commission, as follows:

(1) Career growth recognition awards in the amount of two percent (2%);

(2) A cost-of-living adjustment in the amount of one percent (1%); and

(3) A performance bonus in the amount of one percent (1%).

Notwithstanding G.S. 126-7(4a), any permanent full-time State employee whose salary is set in accordance with the State Personnel Act and whose salary is at the top of the salary range or within two percent (2%) of the top of the salary range shall receive a one-time bonus of two percent (2%) less the career growth recognition award the employee receives. The employee shall receive the career growth bonus at the time the employee is eligible for the career growth recognition award, but not earlier than July 1, 1998.

(a1) It is the intent of the General Assembly that the annual career growth recognition award in the amount of two percent (2%) provided by G.S. 126-7(c)(4a) shall be part of the continuation budget for each fiscal year of the 1999-2001 biennium.

(b) Except as otherwise provided in this act, salaries in effect June 30, 1998, for permanent full-time State officials and persons in exempt positions that are recommended by the Governor or the Governor and the Advisory Budget Commission and set by the General Assembly shall be increased by three percent (3%), commencing July 1, 1998.

(c) The salaries in effect June 30, 1998, for all permanent part-time State employees shall be increased on and after July 1, 1998, by pro rata amounts of the salary increases provided for permanent full-time employees covered under subsection (a) of this section.

(d) The Director of the Budget may allocate out of special operating funds or from other sources of the employing agency, except tax revenues, sufficient funds to allow a salary increase on and after July 1, 1998, in accordance with subsection (a), (b), or (c) of this section, including funds for the employer's

retirement and social security contributions, of the permanent full-time and part-time employees of the agency.

(e) Within regular Executive Budget Act procedures as limited by this act, all State agencies and departments may increase on an equitable basis the rate of pay of temporary and permanent hourly State employees, subject to availability of funds in the particular agency or department, by pro rata amounts the salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 1998.

(f) No State employee or officer shall receive a merit increment during the 1998-99 fiscal year except as otherwise provided by this act.

ALL STATE-SUPPORTED PERSONNEL

Section 19. (a) Salaries and related benefits for positions that are funded partially from the General Fund or Highway Fund and partially from sources other than the General Fund or Highway Fund shall be increased from the General Fund or Highway Fund appropriation only to the extent of the proportionate part of the salaries paid from the General Fund or Highway Fund.

(b) The granting of the salary increases under this act does not affect the status of eligibility for salary increments for which employees may be eligible unless otherwise required by this act.

(c) The salary increases provided in this Part are to be effective July 1, 1998, do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement, whose last workday is prior to July 1, 1998.

Payroll checks issued to employees after July 1, 1998, which represent payment of services provided prior to July 1, 1998, shall not be eligible for salary increases provided for in this act. This subsection shall apply to all employees, subject to or exempt from the State Personnel Act, paid from State funds, including public schools, community colleges, and The University of North Carolina.

(d) The Director of the Budget shall transfer from the Reserve for Compensation Increase in this act for fiscal year 1998-99 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

(d1) The Director of the Budget shall transfer from the Reserve for Compensation Increase in this act for fiscal year 1998-99 one million four hundred thousand dollars ($1,400,000) to The University of North Carolina Board of Governors for allocation to the Agricultural Research and Cooperative Extension budget codes of North Carolina State University in order to provide sufficient operating support for those programs.

(d2) The Director of the Budget shall transfer from the Reserve for Compensation Increase in this act for fiscal year 1998-99 funds necessary to provide statewide teacher supplements for State agency teachers who are paid on the teacher salary schedule as set out in Section 1 of this act based on five percent (5%) of their salaries.

(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

Section 20. (a) G.S. 126-7(c)(4b) reads as rewritten:

"(4b) An employee whose performance is rated at or above level two of the rating scale and who ~~is~~ has not ~~involved in the final written stage of the disciplinary procedure~~ received a suspension without pay or demotion that has not been resolved shall receive a cost-of-living increase. Other than the Commission, no agency, department, or institution shall set limits or initiate written disciplinary procedures for the purpose of precluding an eligible employee from receiving a cost-of-living adjustment."

(b) This section becomes effective July 1, 1998, and applies to any employee involved in the final written stage of a disciplinary procedure on or after January 1, 1997.

SALARY ADJUSTMENT FUND

Section 21. Any remaining appropriations for legislative salary increases not required for that purpose may be used to supplement the Salary Adjustment Fund. These funds shall first be used to provide reclassifications of those positions already approved by the Office of State Personnel. The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations prior to the allocation of these funds.

RETIREE COLAS AND FORMULA INCREASE

Section 22. (a) G.S. 135-5 is amended by adding a new subsection to read:

"(eee) From and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1997, shall be increased by two and one-half percent (2.5%) of the allowance payable on June 1, 1998, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1997, but before June 30, 1998, shall be increased by a prorated amount of two and one-half percent (2.5%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1997, and June 30, 1998."

(b) G.S. 135-65 is amended by adding a new subsection to read:

"(s) From and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1997, shall be increased by two and one-half percent (2.5%) of the allowance payable on June 1, 1998. Furthermore, from and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1997, but before June 30, 1998, shall be increased by a prorated amount of two and one-half percent (2.5%) of the allowance payable as determined by the Board of Trustees based upon

the number of months that a retirement allowance was paid between July 1, 1997, and June 30, 1998."

(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(m) In accordance with subsection (a) of this section, from and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1998, shall be increased by two and one-half percent (2.5%) of the allowance payable on June 1, 1998. Furthermore, from and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 1998, but before June 30, 1998, shall be increased by a prorated amount of two and one-half percent (2.5%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between January 1, 1998, and June 30, 1998."

(d) G.S. 128-27 is amended by adding a new subsection to read:

"(uu) From and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1997, shall be increased by two and one-half percent (2.5%) of the allowance payable on June 1, 1998, in accordance with subsection (k) of this section. Furthermore, from and after July 1, 1998, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1997, but before June 30, 1998, shall be increased by a prorated amount of two and one-half percent (2.5%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1997, and June 30, 1998."

(e) G.S. 128-27(b16) reads as rewritten:

"(b16) Service Retirement Allowance of Member Retiring on or after July 1, ~~1997.~~ 1997, but before July 1, 1998. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1997, but before July 1, 1998, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy-six hundredths percent (1.76%) of his average final compensation, multiplied by the number of years of his creditable service.

b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 128-27(b16)(1)a. reduced by one-third of one percent

(1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b16)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and seventy-six hundredths percent (1.76%) of average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b16)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:

1. The service retirement allowance as computed under G.S. 128-27(b16)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b16)(2)a. reduced by five percent (5%)

times the difference between 30 years and his creditable service at retirement; or

3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b16)(2)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

(f) G.S. 128-27 is amended by adding a new subsection to read:

"(b17) Service Retirement Allowance of Member Retiring on or After July 1, 1998. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1998, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy-seven hundredths percent (1.77%) of his average final compensation, multiplied by the number of years of his creditable service.

b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 128-27(b17)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b17)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and seventy-seven hundredths percent (1.77%) of average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b17)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:

1. The service retirement allowance as computed under G.S. 128-27(b17)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or
2. The service retirement allowance as computed under G.S. 128-27(b17)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b17)(2)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

(g) G.S. 128-27(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. -- Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that all three of the following conditions apply:

(1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or

b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with ~~G.S. 128-27(b16)(1)b.~~ G.S. 128-27(b17)(1)b. or ~~G.S. 128-27(b16)(2)c.,~~ G.S. 128-27(b17)(2)c., notwithstanding the requirement of obtaining age 50.

(2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who is living at the time of his death.

(3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase."

(h) G.S. 128-27 is amended by adding a new subsection to read:

"(vv) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1998. -- From and after July 1, 1998, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1998, shall be increased by six-tenths of one percent (0.6%) of the allowance payable on June 1, 1998. This allowance shall be calculated on the allowance payable and in effect on June 30, 1998, so as not to be compounded on any other increase payable under subsection (k) of this section or otherwise granted by act of the 1997 General Assembly."

(i) This section becomes effective July 1, 1998.

EMPLOYER CONTRIBUTION RATES

Section 23. (a) Section 33.23(c) of S.L. 1997-443 reads as rewritten:

"(c) Effective July 1, 1998, the State's employer contribution rates budgeted for retirement and related benefits as a percentage of covered salaries for the 1998-99 fiscal year are (i) ~~ten and eighty-three hundredths percent (10.83%)~~ ten and one-tenth percent (10.10%) - Teachers and State Employees; (ii) ~~fifteen and eighty-three~~

~~hundredths percent (15.83%)~~ fifteen and one-tenth percent (15.10%) - State Law Enforcement Officers; (iii) nine and thirty-six hundredths percent (9.36%) - University Employees' Optional Retirement Program; (iv) ~~twenty-two and sixty-five hundredths percent (22.65%)~~ eighteen and ninety-seven hundredths percent (18.97%) - Consolidated Judicial Retirement System; and (v) twenty-four and fifty-eight hundredths percent (24.58%) - Legislative Retirement System. Each of the foregoing contribution rates includes two percent (2%) for hospital and medical benefits. The rate for State Law Enforcement Officers includes five percent (5%) for the Supplemental Retirement Income Plan. The rates for Teachers and State Employees, State Law Enforcement Officers, and for the University Employees' Optional Retirement Program include fifty-two hundredths percent (0.52%) for the Disability Income Plan."

(b) The change provided by subsection (a) of this section is for the 1998-99 fiscal year only. It is the intent of the General Assembly that the rates provided by Section 33.23(c) of S.L. 1997-443 shall apply for the 1999-2001 biennium.

(c) Required employer salary-related contributions for employees whose salaries are paid from department, office, institution, or agency receipts shall be paid from the same source as the source of the employees' salary. If an employee's salary is paid in part from the General Fund or Highway Fund and in part from department, office, institution, or agency receipts, required employer salary-related contributions may be paid from the General Fund or Highway Fund only to the extent of the proportionate part paid from the General Fund or Highway Fund in support of the salary of the employee, and the remainder of the employer's requirements shall be paid from the source that supplies the remainder of the employee's salary. The requirements of this section as to source of payment are also applicable to payments on behalf of the employee for hospital-medical benefits, longevity pay, unemployment compensation, accumulated leave, workers' compensation, severance pay, separation allowances, and applicable disability income and disability salary continuation benefits.

PART III. CUT OFF PER DIEM FOR SENATE

Section 24. Notwithstanding G.S. 120-3.1(c), the period in 1998 after September 10, 1998, for the purposes of G.S. 120-3.1 is deemed, solely for purposes of subsistence and travel allowances paid to members of the Senate, to be a period when the General Assembly is not in session, and no Senate member shall be entitled to subsistence and travel allowance during that period, except under circumstances which would entitle that member to subsistence and travel allowance when the General Assembly is not in session. No subsistence or travel allowance may be authorized on account of attendance at any session of the Senate or any committee of the Senate, prior to sine die adjournment of the 1997 Regular Session of the General Assembly. This section does not apply to the Senate sergeant-at-arms and the Senate reading clerk.

PART IV. APPROPRIATIONS

Section 25. Appropriations from the General Fund and the Highway Fund of the State for the salaries and benefits enumerated in Parts I and II of this act are made for the fiscal year ending June 30, 1999, according to the schedule that follows. Amounts set out in brackets are reductions from General Fund or Highway Fund appropriations for the 1998-99 fiscal year:

Current Operations -- General Fund	1998-99
Reserve for Compensation Increase	$386,442,966
Retirement Rate Adjustment	(44,381,870)
Current Operations -- Highway Fund	
Reserve for Compensation Increase	16,000,000
Retirement Rate Adjustment	(3,612,248)

PART V. EFFECTIVE DATE

Section 26. Parts I, II, and IV of this act and this Part become effective July 1, 1998. Part III of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 3

SENATE BILL 1176
Rules and Operations of the Senate Committee Substitute Adopted 9/2/98
Third Edition Engrossed 9/3/98

Short Title: No Per Diem. (Public)

Sponsors:

Referred to:

May 20, 1998

A BILL TO BE ENTITLED

AN ACT TO CUT OFF PER DIEM FOR MEMBERS OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding G.S. 120-3.1(c), the period in 1998 after September 10, 1998, for the purposes of G.S. 120-3.1 is deemed to be a period when the General Assembly is not in session, and no member shall be entitled to subsistence and travel allowance during that period, except under circumstances which would entitle that member to subsistence and travel allowance when the General Assembly is not in session. No subsistence or travel allowance may be authorized on account of attendance at any session of the House of Representatives or Senate, any committee of either body, or any conference committee, prior to sine die adjournment of the 1997 Regular Session of the General Assembly. This section does not apply to the sergeant-at-arms and the reading clerk.

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

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, SEPT. 9, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Capt. A L Gray Jr	DMV Enforcement
Lt. Dave A Woody	DMV Enforcement
Eddie Caldwell	H, McCC&C, D.A.
John Phelps	NCLM
Steve Woodson	NC Farm Bureau
[illegible]	a&c GA
Roz Savitt	NCCADV
Martha Glass	DOA
Brenda Summers	NC Equity
Bernard Allen	SOS
Jim Brown	State Ports
Bill Scoggin	NC Bar Assoc.
Hugh Wilson	NCHA
Steve Allen	NC Municipals

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
September 23, 1998

The Committee on Rules, Calendar, and Operations of the House met September 23, 1998, at 10:30 a.m. in the House Conference Room. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Crawford, Culp, Dockham, Esposito, Gulley, Hill, McMahan, Mitchell, and Thompson

The following bills were brought before the Committee:

SB 1285 - A BILL TO BE ENTITLED AN ACT TO EXEMPT THE TRANSPORTATION OF CERTAIN AGRICULTURAL PRODUCTS FROM VARIOUS REQUIREMENTS IN CONFORMITY WITH FEDERAL REGULATIONS AND TO AUTHORIZE THE SOIL AND WATER CONSERVATION COMMISSION TO ADOPT TEMPORARY RULES TO IMPLEMENT THE CONSERVATION RESERVE ENHANCEMENT PROGRAM, introduced by Senator Albertson. Representative Mitchell moved for adoption of a House committee substitute for the purpose of discussion and debate, and the vote was unanimous. He then explained that the bill was passed in the House Budget bill. The Department of Transportation changed the bill after it was sent to the Senate. DOT wanted it under a different statute. He stated that the bill basically says that federal DOT has rules that farmers will have to put placards on their vehicles that haul fertilizer on the roads. Federal DOT has passed the rules but they are giving states until October 1st to opt out. Representative Mitchell moved for a favorable report to the House committee substitute, unfavorable to the Senate committee substitute and the motion carried.

SB 656 - A BILL TO BE ENTITLED AN ACT TO ALLOW HILLSBOROUGH TO CONTRACT FOR INSPECTION SERVICES, introduced by Senator Kinnaird. Representative McMahan moved for adoption of a committee substitute for the purpose of discussion and debate, and the motion carried. He then explained that public owners may provide in the contract document, language that would give them the right to use alternative processes such as mediation and arbitration. Under the high voltage safety act, it includes language that makes it clear that if a person performing the work is under contract with a government, that the governmental entity is responsible for the work to be done. The bill also expands the language of hand held equipment. Representative McMahan moved for a favorable report to the committee substitute and unfavorable to the original bill and the motion carried.

SB 801 - A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE NORTH CAROLINA PLANNED COMMUNITY ACT introduced by Senator Wellons. Representative Culp moved for adoption of a committee substitute for the purpose of

discussion and debate. Senator Wellons was recognized to explain the bill and he stated that the bill will help different subdivisions throughout the state that have homeowner associations. Mr. Mike Carpenter with the Home Builders Association was recognized to speak and said he thought it was a good bill. Representative Thompson moved for a favorable report to the House committee substitute and unfavorable to the original bill. The motion carried.

SB 2 - A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR A LATER PRIMARY DATE; TO ABOLISH THE RUNOFF PRIMARY; AND TO CHANGE THE DATE OF THE PRESIDENTIAL PRIMARY, introduced by Senator Gulley. Representative Dockham moved for adoption of a proposed committee substitute for the purpose of discussion and the motion carried. Committee Counsel Linwood Jones was recognized to explain the substitute. He explained that the substitute contained a number of changes to the election laws. There is a new system of disclosure by sponsors of political ads featuring a requirement that on broadcast ads, the sponsor must make a pesonal appearance claiming responsibility for the ad. There are several revisions to the definitions in the campaign finance act. They are designed to conform the current campaign finance reporting act to a couple of decades of federal court decisions and to address what many see as a loophole in the definition of issue advocacy. There is a restoration of the schedule of campaign reports that existed before 1997. In addition the threshold for contributor identification goes from $100 to $250 and there is a revision in the ballot access laws that give new parties the same primary requirements and deadlines as the established parties in non-presidential contests and it will move the qualifying deadline for non-presidential unaffiliated candidates back to the date of the parties' primary. It is effective February 1, 1999 After a short discussion, Representative Dockham moved for a favorable report to the committee substitute, unfavorable to the original bill. The motion carried.

Chairman Morgan asked the Committee members to standby for short notice of meetings of the Rules Committee. There will be a lot of housekeeping to do over the next little while. He asked the Committee members to review the bills that reside in the Rules Committee that are associated with the confirmations of the utilities commission and give the Chair any input they may have.

There being no further business, the meeting adjourned at 10:40 a.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ Senate Committee Substitute for
S.B. 1285 A BILL TO BE ENTITLED AN ACT TO EXEMPT THE TRANSPORTATION OF CERTAIN AGRICULTURAL PRODUCTS FROM VARIOUS REQUIREMENTS IN CONFORMITY WITH FEDERAL REGULATIONS AND TO AUTHORIZE THE SOIL AND WATER CONSERVATION COMMISSION TO ADOPT TEMPORARY RULES TO IMPLEMENT THE CONSERVATION RESERVE ENHANCEMENT PROGRAM.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 1285*
Agriculture/Environment/Natural Resources Committee Substitute Adopted 8/18/98
Proposed House Committee Substitute S1285-PCS9615-RT002

Short Title: Trans. Ag. Products Exempt/Temp. Rule Auth. (Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO EXEMPT THE TRANSPORTATION OF CERTAIN AGRICULTURAL PRODUCTS FROM VARIOUS REQUIREMENTS IN CONFORMITY WITH FEDERAL REGULATIONS AND TO AUTHORIZE THE SOIL AND WATER CONSERVATION COMMISSION TO ADOPT TEMPORARY RULES TO IMPLEMENT THE CONSERVATION RESERVE ENHANCEMENT PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-381 reads as rewritten:

"**§ 20-381. Specific powers and duties of Division applicable to motor ~~carriers.~~ carriers; agricultural exemption.**

(a) The Division has the following powers and duties concerning motor carriers:

(1) To prescribe qualifications and maximum hours of service of drivers and their helpers.

(1a) To set safety standards for vehicles of motor carriers engaged in foreign, interstate, or intrastate commerce over the highways of this State and for the safe operation of these vehicles. The Division may stop, enter upon, and perform inspections of motor carriers' vehicles in operation to determine compliance with these standards and may conduct any investigations and tests it finds necessary to promote the safety of equipment and the safe operation on the highway of these vehicles.

(1b) To enforce this Article, rules adopted under this Article, and the federal safety regulations.

(2) To enter the premises of a motor carrier to inspect a motor vehicle or any equipment used by the motor carrier in transporting passengers [or property].

(2a) To prohibit the use by a motor carrier of any motor vehicle or motor vehicle equipment the Division finds unsafe for use in the transportation of passengers or property on a highway. If an agent of the Division finds a motor vehicle of a motor carrier in actual use upon the highways in the transportation of passengers or property to be unsafe or any parts thereof or any equipment thereon to be unsafe and is of the opinion that further use of such vehicle, parts or equipment are imminently dangerous, the agent may require the operator thereof to discontinue its use and to substitute therefor a safe vehicle, parts or equipment at the earliest possible time and place, having regard for both the convenience and the safety of the passengers or property. When an inspector or agent stops a motor vehicle on the highway, under authority of this section, and the motor vehicle is in operative condition and its further movement is not dangerous to the passengers or property or to the users of the highways, it shall be the duty of the inspector or agent to guide the vehicle to the nearest point of substitution or correction of the defect. Such agents or inspectors shall also have the right to stop any motor vehicle which is being used upon the public highways for the transportation of passengers or property by a motor carrier subject to the provisions of this Article and to eject therefrom any driver or operator who shall be operating or be in charge of such motor vehicle while under the influence of alcoholic beverages. It shall be the duty of all inspectors and agents of the Division to make a written report, upon a form prescribed by the Division, of inspections of all motor equipment and a copy of each such written report, disclosing defects in such equipment, shall be served promptly upon the motor carrier operating the same, either in person by the inspector or agent or by mail. Such agents and inspectors shall also make and serve a similar written report in cases where a motor vehicle is operated in violation of this Chapter or, if the motor vehicle is subject to regulation by the North Carolina Utilities Commission, of Chapter 62 of the General Statutes.

(3) To relieve the highways of all undue burdens and safeguard traffic thereon by adopting and enforcing rules and orders designed and calculated to minimize the dangers attending transportation on the highways of all hazardous materials and other commodities.

(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. Citations to the Code of Federal Regulations (CFR) in this subsection refer to the 1 October 1997 Edition of the CFR. The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b)."

Section 2. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Soil and Water Conservation Commission may adopt temporary rules to implement the Conservation Reserve Enhancement Program until all rules necessary to implement the Conservation Reserve Enhancement Program become effective as either temporary rules or permanent rules.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 1285*
Agriculture/Environment/Natural Resources Committee Substitute Adopted 8/18/98

Short Title: Trans. Ag. Products Exempt/Temp. Rule Auth. (Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO EXEMPT THE TRANSPORTATION OF CERTAIN AGRICULTURAL PRODUCTS FROM VARIOUS REQUIREMENTS IN CONFORMITY WITH FEDERAL REGULATIONS AND TO AUTHORIZE THE SOIL AND WATER CONSERVATION COMMISSION TO ADOPT TEMPORARY RULES TO IMPLEMENT THE CONSERVATION RESERVE ENHANCEMENT PROGRAM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-377 reads as rewritten:

"**§ 20-377. General powers of ~~Division.~~ Division; agricultural exemption.**

(a) The Division shall have and exercise such general power and authority to supervise and control the motor carriers of the State as may be necessary to carry out the laws providing for their regulation, and all such other powers and duties as may be necessary or incident to the proper discharge of its duties.

(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. Citations to the Code of Federal Regulations (CFR) in this subsection refer to the 1 October 1997 Edition of the CFR. The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from

the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b)."

Section 2. Notwithstanding G.S. 150B-21.1(a)(2) and 26 NCAC 2C.0102(11), the Soil and Water Conservation Commission may adopt temporary rules to implement the Conservation Reserve Enhancement Program until all rules necessary to implement the Conservation Reserve Enhancement Program become effective as either temporary rules or permanent rules.

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPEATIONS OF THE HOUSE.**

☐ Committee Substitute for
S.B. 656 A BILL TO BE ENTITLED AN ACT TO ALLOW HILLSBOROUGH TO CONTRACT FOR INSPECTION SERVICES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to House committee substitute bill (#~~____~~), ☑ which changes the title, unfavorable as to original bill (~~Committee Substitute Bill #_____), (and recommendation that the committee substitute bill #_____ be re-referred to the Committee on_____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 656*
Proposed House Committee Substitute S656-PCS6881-RN003

Short Title: Construction Law Changes. (Public)

Sponsors:

Referred to:

April 2, 1997

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE HIGH-VOLTAGE LINE SAFETY ACT AND TO AMEND THE LAW ON PROJECT EXPEDITERS ON PUBLIC CONTRACTS.

The General Assembly of North Carolina enacts:

PROJECT EXPEDITERS ON PUBLIC CONTRACTS

Section 1. G.S. 143-128(e) reads as rewritten:

"(e) Project expediter; ~~scheduling.~~ scheduling; public body to resolve project disputes. -- The State, county, municipality, or other public body may, if specified in the bid documents, provide for assignment of responsibility for expediting the work on the project to a single responsible and reliable person, firm or corporation, which may be a prime contractor. In executing this responsibility, the designated project expediter may recommend to the State, county, municipality, or other public body whether payment to a contractor should be approved. The project expediter, if required by the contract documents, shall be responsible for the preparation of the project schedule and shall allow all contractors and subcontractors performing any of the branches of work listed in subsection (d) of this section equal input into the preparation of the initial schedule. Whenever separate contracts are awarded and separate contractors engaged for a project pursuant to this section, the public body may provide in the contract documents for resolution of project disputes through alternative dispute resolution processes such as mediation or arbitration."

AMEND VOLTAGE SAFETY ACT

Section 2. G.S. 95-229.6(4) reads as rewritten:

"(4) 'Person responsible for the work to be done' means the person performing or controlling the ~~job~~ work that necessitates the precautionary safety measures required by this ~~Article.~~ Article, unless the person performing or controlling the work is under contract or agreement with a governmental entity, in which case 'person responsible for the work to be done' means that governmental entity."

Section 3. G.S. 95-229.7(a) reads as rewritten:

"(a) Unless danger of contact with high-voltage lines has been guarded against as provided by G.S. 95-229.8, 95-229.9, and 95-229.10, the following actions are prohibited:

(1) No person shall, individually or through an agent or employee, perform, or require any other person to perform, any work upon any land, building, highway, or other premises that will cause:

a. Such individual, agent, employee, or other person to be placed within six feet of any overhead high-voltage line; or any part of any tool or material used by the agent, employee, or other person to be brought within six feet of any overhead high-voltage line, or

b. Any part of any covered equipment or covered item used by the individual, agent, employee, or other person to be brought within 10 feet of any high-voltage line.

(2) No person shall, individually or through an agent or employee or as an agent or employee, erect, construct, operate, maintain, transport, or store any covered equipment or covered item within 10 feet of any high-voltage line, or such greater clearance as may be required under the circumstances by OSHA, except as provided herein. This prohibition shall not apply, however, to covered equipment as defined herein when lawfully driven or transported on public streets and highways in compliance with applicable height restrictions. The required clearance from high-voltage lines shall be not less than four feet when:

a. Covered equipment as defined herein is lawfully driven or transported on public streets and highways in compliance with the height restriction applicable thereto,

b. Refuse collection equipment is operating, or

c. Agricultural equipment is operating.

(3) No person shall, individually or through an agent or employee or as an agent or employee, operate or cause to be operated an airplane or helicopter within 20 feet of a high-voltage line, except that no clearance is specified for licensed aerial applicators that may incidentally pass within the 20-foot limitation during normal operation.

(4) No person shall, individually or through an agent or employee or as an agent or employee, store or cause to be stored any materials that are expected to be moved or handled by covered equipment or any covered item within 10 feet of a high-voltage line.

(5) No person shall, individually or through an agent or employee or as an agent or employee, provide or cause to be provided additional clearance by either (i) raising, moving, or displacing any overhead utility electric ~~lines of any type or nature including high-voltage, low-voltage, telephone, cable television, fire alarm, or other~~ lines or (ii) pulling or pushing any pole, guy, or other structural appurtenance.

(6) No person shall, individually or through an agent or employee or as an agent or employee, excavate or cause to be excavated any portion of any foundations of structures, including guy anchors or other structural appurtenances, which support any overhead utility electric ~~lines of any type or nature, including high-voltage, low-voltage, telephone, cable television, fire alarm, or other~~ lines."

Section 4. G.S. 95-229.8(a) reads as rewritten:

"(a) No person shall, individually or through an agent or employee or as an agent or employee, operate any covered equipment in the proximity of a high-voltage line unless warning signs are posted and maintained as follows:

(1) A sign shall be located within the equipment and readily visible and legible to the operator of such equipment when at the controls of such equipment; and

(2) Signs shall be located on the outside of equipment so as to be readily visible and legible at 12 feet to other persons engaged in the work operations.

This subsection shall not apply to handheld ~~tools and~~ tools, handheld ~~equipment~~ equipment, and other items which by their size or configuration cannot accommodate the warning signs specified in G.S. 95-229.6(5)."

EFFECTIVE DATE

Section 5. This act becomes effective October 1, 1998. Section 2 of this act applies to contracts entered into on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 656*

Short Title: Hillsborough Inspection Contracts. (Local)

Sponsors: Senators Kinnaird and Lee.

Referred to: State Government, Local Government, and Personnel.

April 2, 1997

A BILL TO BE ENTITLED

AN ACT TO ALLOW HILLSBOROUGH TO CONTRACT FOR INSPECTION SERVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-413 reads as rewritten:

"**§ 160A-413. Joint inspection department; other arrangements.**

A city council may enter into and carry out contracts with another city, county, or combination thereof under which the parties agree to create and support a joint inspection department for the enforcement of State and local laws specified in the agreement. The governing boards of the contracting parties are authorized to make any necessary appropriations for this purpose.

In lieu of a joint inspection department, a city council may designate an inspector from any other city or county to serve as a member of its inspection department with the approval of the governing body of the other city or county, or may contract with an individual who is not a city or county employee but who holds one of the applicable certificates as provided in G.S. 160A-411.1 or ~~G.S. 153A-351.1.~~ G.S. 153A-351.1, or may contract with the employer of an individual who holds one of the applicable certificates for the services of that individual. The inspector, if designated from another city or county under this section, shall, while exercising the duties of the position, be considered a municipal employee. The city shall have the same potential liability, if any, for inspections conducted by an individual who is not an employee of the city as it does for an individual who is an employee of the city. The individual with whom the city contracts shall have errors and omissions and other insurance coverage acceptable to the city.

The city council of any city may request the board of county commissioners of the county in which the city is located to direct one or more county building inspectors to exercise their powers within part or all of the city's jurisdiction, and they shall thereupon be empowered to do so until the city council officially withdraws its request in the manner provided in G.S. 160A-360(g)."

Section 2. This act applies to the Town of Hillsborough only.

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

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ House Committee Substitute for
S.B. 801 A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE NORTH CAROLINA PLANNED COMMUNITY ACT,

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to House committee substitute bill (# 2), ~~☐ which changes the title~~, unfavorable as to ~~original bill~~ (House Committee Substitute Bill # 1), ~~(and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 801
House Committee Substitute Favorable 8/17/98
Proposed House Committee Substitute S801-PCS3660-RN

Short Title: N.C. Planned Community Act. (Public)

Sponsors:

Referred to:

April 10, 1997

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA PLANNED COMMUNITY ACT.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 47E.

"North Carolina Planned Community Act.

"ARTICLE 1.

"General Provisions.

"**§ 47E-1-101. Short title.**

This Chapter shall be known and may be cited as the North Carolina Planned Community Act.

"**§ 47E-1-102. Applicability.**

(a) This Chapter applies to all planned communities within this State except as provided in subsection (b) of this section.

(b) This Chapter does not apply to a planned community created within this State:

(1) Which contains no more than 20 lots (including all lots which may be added or created by the exercise of development rights) unless the declaration provides or is amended to provide that this Chapter does apply to that planned community; or

(2) In which all lots are restricted exclusively to nonresidential purposes, unless the declaration provides or is amended to provide that this Chapter does apply to that planned community.

(c) This Chapter does not apply to planned communities or lots located outside this State.

(d) Any planned community created prior to the effective date of this Chapter may elect to make the provisions of this Chapter applicable to it by amending its declaration to provide that this Chapter shall apply to that planned community. The amendment may be made by affirmative vote or written agreement signed by lot owners of lots to which at least sixty-seven percent (67%) percent of the votes in the association are allocated or any smaller majority the declaration specifies. To the extent the procedures and requirements for amendment in the declaration conflict with the provisions of this subsection, this subsection shall control with respect to any amendment to provide that this Chapter applies to that planned community.

"**§ 47E-1-103. Definitions.**

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this Chapter:

(1) Reserved.

(2) 'Allocated interests' means the common expense liability and votes in the association allocated to each lot.

(3) 'Association' or 'owners' association' means the association organized as allowed under North Carolina law, including G.S. 47E-3-101.

(4) 'Common elements' means any real estate within a planned community owned or leased by the association, other than a lot.

(5) 'Common expenses' means expenditures made by or financial liabilities of the association, together with any allocations to reserves.

(6) 'Common expense liability' means the liability for common expenses allocated to each lot as permitted by this Chapter, the declaration or otherwise by law.

(7) 'Condominium' means real estate, as defined and created under Chapter 47C.

(8) 'Cooperative' means real estate owned by a corporation, trust, trustee, partnership, or unincorporated association, where the governing instruments of that organization provide that each of the organization's members, partners, stockholders, or beneficiaries is entitled to exclusive occupancy of a designated portion of that real estate.

(9) 'Declarant' means any person or group of persons acting in concert who (i) as part of a common promotional plan, offers to dispose of the person's or group's interest in a lot not previously disposed of, or (ii) reserves or succeeds to any special declarant right.

(10) 'Declaration' means any instruments, however denominated, that create a planned community and any amendments to those instruments.
(11) Reserved.
(12) Reserved.
(13) 'Executive board' means the body, regardless of name, designated in the declaration to act on behalf of the association.
(14) Reserved.
(15) Reserved.
(16) 'Leasehold planned community' means a planned community in which all or a portion of the real estate is subject to a lease, the expiration or termination of which will terminate the planned community or reduce its size.
(17) 'Lessee' means the party entitled to present possession of a leased lot whether lessee, sublessee, or assignee.
(18) 'Limited common element' means a portion of the common elements allocated by the declaration or by operation of law for the exclusive use of one or more but fewer than all of the lots.
(19) 'Lot' means a physical portion of the planned community designated for separate ownership or occupancy by a lot owner.
(20) 'Lot owner' means a declarant or other person who owns a lot, or a lessee of a lot in a leasehold planned community whose lease expires simultaneously with any lease the expiration or termination of which will remove the lot from the planned community, but does not include a person having an interest in a lot solely as security for an obligation.
(21) 'Master association' means an organization described in G.S. 47E-2-120, whether or not it is also an association described in G.S. 47E-3-101.
(22) 'Person' means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.
(23) 'Planned community' means real estate with respect to which any person, by virtue of that person's ownership of a lot, is expressly obligated by a declaration to pay real property taxes, insurance premiums, or other expenses to maintain, improve, or benefit other lots or other real estate described in the declaration. For purposes of this act, neither a cooperative nor a condominium is a planned community, but real estate comprising a condominium or cooperative may be part of a planned community. 'Ownership of a lot' does not include holding a leasehold interest of less that 20 years in a lot, including renewal options.

(24) 'Purchaser' means any person, other than a declarant or a person in the business of selling real estate for the purchaser's own account, who by means of a voluntary transfer acquires a legal or equitable interest in a lot, other than (i) a leasehold interest (including renewal options) of less than 20 years, or (ii) as security for an obligation.

(25) 'Reasonable attorneys' fees' means attorneys' fees reasonably incurred without regard to any limitations on attorneys' fees which otherwise may be allowed by law.

(26) 'Real estate' means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. 'Real estate' includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

(27) Reserved.

(28) 'Special declarant rights' means rights reserved for the benefit of a declarant including, without limitation, any right (i) to complete improvements indicated on plats and plans filed with the declaration; (ii) to exercise any development right; (iii) to maintain sales offices, management offices, signs advertising the planned community, and models; (iv) to use easements through the common elements for the purpose of making improvements within the planned community or within real estate which may be added to the planned community; (v) to make the planned community part of a larger planned community or group of planned communities; (vi) to make the planned community subject to a master association; or (vii) to appoint or remove any officer or executive board member of the association or any master association during any period of declarant control.

(29) Reserved.

"**§ 47E-1-104. Variation.**

(a) Except as specifically provided in specific sections of this Chapter, the provisions of this Chapter may not be varied by the declaration or bylaws.

(b) The provisions of this Chapter may not be varied by agreement; however, after breach of a provision of this Chapter, rights created hereunder may be knowingly waived in writing.

(c) Notwithstanding any of the provisions of this Chapter, a declarant may not act under a power of attorney or proxy or use any other device to evade the limitations or prohibitions of this Chapter, the declaration, or the bylaws.

"**§ 47E-1-105: Reserved.**

"**§ 47E-1-106. Applicability of local ordinances, regulations, and building codes.**

A zoning, subdivision, or building code or other real estate use law, ordinance, or regulation may not prohibit a planned community or impose any requirement upon a planned community which it would not impose upon a substantially similar development under a different form of ownership or administration. Otherwise, no provision of this Chapter invalidates or modifies any provision of any zoning, subdivision, or building code or any other real estate use law, ordinance, or regulation. No local ordinance or regulation may require the recordation of a declaration prior to the date required by this Chapter.

"§ 47E-1-107. Eminent domain.

(a) If a lot is acquired by eminent domain, or if part of a lot is acquired by eminent domain leaving the lot owner with a remnant which may not practically or lawfully be used for any purpose permitted by the declaration, the award shall compensate the lot owner for his lot and its interest in the common element. Upon acquisition, unless the decree otherwise provides, the lot's allocated interests are automatically reallocated to the remaining lots in proportion to the respective allocated interests of those lots before the taking, exclusive of the lot taken.

(b) Except as provided in subsection (a) of this section, if part of a lot is acquired by eminent domain, the award shall compensate the lot owner for the reduction in value of the lot. Upon acquisition, unless the decree otherwise provides, (i) that lot's allocated interests are reduced in proportion to the reduction in the size of the lot, or on any other basis specified in the declaration, and (ii) the portion of the allocated interests divested from the partially acquired lot are automatically reallocated to that lot and the remaining lots in proportion to the respective allocated interests of those lots before the taking, with the partially acquired lot participating in the reallocation on the basis of its reduced allocated interests.

(c) If there is any reallocation under subsection (a) or (b) of this section, the association shall promptly prepare, execute, and record an amendment to the declaration reflecting the reallocations. Any remnant of a lot remaining after part of a lot is taken under this subsection is thereafter a common element.

(d) If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken shall be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element shall be apportioned among the owners of the lots to which that limited common element was allocated at the time of acquisition based on their allocated interest in the common elements before the taking.

(e) The court decree shall be recorded in every county in which any portion of the planned community is located.

"§ 47E-1-108. Supplemental general principles of law applicable.

The principles of law and equity as well as other North Carolina statutes (including the provisions of the North Carolina Nonprofit Corporation Act) supplement the provisions of this Chapter, except to the extent inconsistent with this Chapter. When these principles or statutes are inconsistent or conflict with this Chapter, the provisions of this Chapter will control.

"**§§ 47E-1-109 through 47E-1-115:** Reserved.

"ARTICLE 2.

"Creation, Alteration, and Termination of Planned Communities.

"**§ 47E-2-101. Creation of the planned community.**

A declaration creating a planned community shall be executed in the same manner as a deed, shall be recorded in every county in which any portion of the planned community is located, and shall be indexed in the Grantee index in the name of the planned community and the association and in the Grantor index in the name of each person executing the declaration.

"**§ 47E-2-102:** Reserved.

"**§ 47E-2-103. Construction and validity of declaration and bylaws.**

(a) All provisions of the declaration and bylaws are severable.

(b) The rule against perpetuities may not be applied to defeat any provision of the declaration, bylaws, rules, or regulations adopted pursuant to G.S. 47E-3-102(a)(1).

(c) In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this Chapter.

(d) Title to a lot and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this Chapter. Whether a substantial failure to comply with this Chapter impairs marketability shall be determined by the law of this State relating to marketability.

"**§§ 47E-2-104** through **47E-2-116:** Reserved.

"**§ 47E-2-117. Amendment of declaration.**

(a) Except in cases of amendments that may be executed by a declarant under the terms of the declaration or by certain lot owners under G.S. 47E-2-118(b), the declaration may be amended only by affirmative vote or written agreement signed by lot owners of lots to which at least sixty-seven percent (67%) of the votes in the association are allocated, or any larger majority the declaration specifies or by the declarant if necessary for the exercise of any development right. The declaration may specify a smaller number only if all of the lots are restricted exclusively to nonresidential use.

(b) No action to challenge the validity of an amendment adopted pursuant to this section may be brought more than one year after the amendment is recorded.

(c) Every amendment to the declaration shall be recorded in every county in which any portion of the planned community is located and is effective only upon recordation. An amendment shall be indexed in the Grantee index in the name of the planned community and the association and in the Grantor index in the name of each person executing the amendment.

(d) Reserved.

(e) Amendments to the declaration required by this Chapter to be recorded by the association shall be prepared, executed, recorded, and certified in accordance with G.S. 47-41.

"**§ 47E-2-118. Termination of planned community.**

(a) Except in the case of taking of all the lots by eminent domain (G.S. 47E-1-107), a planned community may be terminated only by agreement of lot owners of lots to which at least eighty percent (80%) of the votes in the association are allocated, or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the lots in the planned community are restricted exclusively to nonresidential uses.

(b) An agreement to terminate shall be evidenced by the execution of a termination agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of lot owners. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement and all ratifications thereof shall be recorded in every county in which a portion of the planned community is situated and is effective only upon recordation.

(c) A termination agreement may provide for sale of the common elements, but may not require that the lots be sold following termination, unless the declaration as originally recorded provided otherwise or unless all the lot owners consent to the sale. If, pursuant to the agreement, any real estate in the planned community is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

(d) The association, on behalf of the lot owners, may contract for the sale of real estate in the planned community, but the contract is not binding until approved pursuant to subsections (a) and (b) of this section. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to lot owners and lienholders as their interests may appear, as provided in the termination agreement.

(e) If the real estate constituting the planned community is not to be sold following termination, title to the common elements vests in the lot owners upon termination as tenants in common in proportion to their respective interests as provided in the termination agreement.

(f) Following termination of the planned community, the proceeds of any sale of real estate, together with the assets of the association, are held by the association as trustee for lot owners and holders of liens on the lots as their interests may appear. All other creditors of the association are to be treated as if they had perfected liens on the common elements immediately before termination.

(g) If the termination agreement does not provide for the distribution of sales proceeds pursuant to subsection (d) of this section or the vesting of title pursuant to subsection (e) of this section, sales proceeds shall be distributed and title shall vest in accordance with each lot owner's allocated share of common expense liability.

(h) Except as provided in subsection (i) of this section, foreclosure or enforcement of a lien or encumbrance against the common elements does not of itself terminate the planned community, and foreclosure or enforcement of a lien or encumbrance against a portion of the common elements other than withdrawable real estate does not withdraw that portion from the planned community. Foreclosure or enforcement

of a lien or encumbrance against withdrawable real estate does not of itself withdraw that real estate from the planned community, but the person taking title thereto has the right to require from the association, upon request, an amendment excluding the real estate from the planned community.

(i) If a lien or encumbrance against a portion of the real estate comprising the planned community has priority over the declaration and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance may, upon foreclosure, record an instrument excluding the real estate subject to that lien or encumbrance from the planned community.

"**§ 47E-2-119: Reserved.**

"**§ 47E-2-120. Master associations.**

If the declaration for a planned community provides that any of the powers described in G.S. 47E-3-102 are to be exercised by or may be delegated to a profit or nonprofit corporation which exercises those or other powers on behalf of one or more other planned communities or for the benefit of the lot owners of one or more other planned communities, all provisions of this act applicable to lot owners' associations apply to any such corporation.

"**§ 47E-2-121. Merger or consolidation of planned communities.**

(a) Any two or more planned communities, by agreement of the lot owners as provided in subsection (b) of this section, may be merged or consolidated into a single planned community. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant planned community is, for all purposes, the legal successor of all of the preexisting planned communities, and the operations and activities of all associations of the preexisting planned communities shall be merged or consolidated into a single association which shall hold all powers, rights, obligations, assets, and liabilities of all preexisting associations.

(b) An agreement of two or more planned communities to merge or consolidate pursuant to subsection (a) of this section shall be evidenced by an agreement prepared, executed, recorded, and certified by the president of the association of each of the preexisting planned communities following approval by owners of lots to which are allocated the percentage of votes in each planned community required to terminate that planned community. Any such agreement shall be recorded in every county in which a portion of the planned community is located and is not effective until recorded.

(c) Every merger or consolidation agreement shall provide for the reallocation of the allocated interests in the new association among the lots of the resultant planned community either (i) by stating the reallocations or the formulas upon which they are based or (ii) by stating the percentage of overall common expense liabilities and votes in the new association which are allocated to all of the lots comprising each of the preexisting planned communities, and providing that the portion of the percentages allocated to each lot formerly comprising a part of the preexisting planned community shall be equal to the percentages of common expense liabilities and votes in the association allocated to that lot by the declaration of the preexisting planned community.

"§ 47E-2-122: Reserved.

"ARTICLE 3.

"Management of Planned Community.

"§ 47E-3-101. Organization of owners' association.

A lot owners' association shall be incorporated no later than the date the first lot in the planned community is conveyed. The membership of the association at all times shall consist exclusively of all the lot owners or, following termination of the planned community, of all persons entitled to distributions of proceeds under G.S. 47E-2-118. Every association created after the effective date of this Chapter shall be organized as a nonprofit corporation.

"§ 47E-3-102. Powers of owners' association.

Subject to the provisions of the articles of incorporation or the declaration and the declarant's rights therein, the association may:

(1) Adopt and amend bylaws and rules and regulations;

(2) Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from lot owners;

(3) Hire and discharge managing agents and other employees, agents, and independent contractors;

(4) Institute, defend, or intervene in litigation or administrative proceedings on matters affecting the planned community;

(5) Make contracts and incur liabilities;

(6) Regulate the use, maintenance, repair, replacement, and modification of common elements;

(7) Cause additional improvements to be made as a part of the common elements;

(8) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to G.S. 47E-3-112;

(9) Grant easements, leases, licenses, and concessions through or over the common elements;

(10) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements other than the limited common elements and for services provided to lot owners;

(11) Impose reasonable charges for late payment of assessments and, after notice and an opportunity to be heard, suspend privileges or services provided by the association (except rights of access to lots) during any period that assessments or other amounts due and owing to the association remain unpaid for a period of 30 days or longer;

(12) After notice and an opportunity to be heard, impose reasonable fines or suspend privileges or services provided by the association (except rights of access to lots) for reasonable periods for violations

of the declaration, bylaws, and rules and regulations of the association;

(13) Impose reasonable charges in connection with the preparation and recordation of documents, including, without limitation, amendments to the declaration or statements of unpaid assessments;

(14) Provide for the indemnification of and maintain liability insurance for its officers, executive board, directors, employees, and agents;

(15) Assign its right to future income, including the right to receive common expense assessments;

(16) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association; and

(17) Exercise any other powers necessary and proper for the governance and operation of the association.

"§ 47E-3-103. Executive board members and officers.

(a) Except as provided in the declaration, in the bylaws, in subsection (b) of this section, or in other provisions of this Chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, officers and members of the executive board shall discharge their duties in good faith. Officers shall act according to the standards for officers of a nonprofit corporation set forth in G.S. 55A-8-42, and members shall act according to the standards for directors of a nonprofit corporation set forth in G.S. 55A-8-30.

(b) The executive board may not act unilaterally on behalf of the association to amend the declaration (G.S. 47E-2-117), to terminate the planned community (G.S. 47E-2-118), or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members (G.S. 47E-3-103(f)), but the executive board may unilaterally fill vacancies in its membership for the unexpired portion of any term. Notwithstanding any provision of the declaration or bylaws to the contrary, the lot owners, by a majority vote of all persons present and entitled to vote at any meeting of the lot owners at which a quorum is present, may remove any member of the executive board with or without cause, other than a member appointed by the declarant.

(c) Within 30 days after adoption of any proposed budget for the planned community, the executive board shall provide to all the lot owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The executive board shall set a date for a meeting of the lot owners to consider ratification of the budget, such meeting to be held not less than 10 nor more than 60 days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting a majority of all the lot owners in the association or any larger vote specified in the declaration rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the lot owners shall be continued until such time as the lot owners ratify a subsequent budget proposed by the executive board.

(d) The declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by the declarant, may appoint and remove the officers and members of the executive board.

(e) Not later than the termination of any period of declarant control, the lot owners shall elect an executive board of at least three members, at least a majority of whom shall be lot owners. The executive board shall elect the officers. The executive board members and officers shall take office upon election.

"§ 47E-3-104. Transfer of special declarant rights.

Except for transfer of declarant rights pursuant to foreclosure, no special declarant right (G.S. 47E-1-103(28)) may be transferred except by an instrument evidencing the transfer recorded in every county in which any portion of the planned community is located. The instrument is not effective unless executed by the transferee.

"§ 47E-3-105. Termination of contracts and leases of declarant.

If entered into before the executive board elected by the lot owners pursuant to G.S. 47E-3-103(e) takes office, any contract or lease affecting or related to the planned community that is not bona fide or was unconscionable to the lot owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association at any time after the executive board elected by the lot owners pursuant to G.S. 47E-3-103(e) takes office upon not less than 90 days' notice to the other party.

"§ 47E-3-106. Bylaws.

(a) The bylaws of the association shall provide for:

(1) The number of members of the executive board and the titles of the officers of the association;

(2) Election by the executive board of officers of the association;

(3) The qualifications, powers and duties, terms of office, and manner of electing and removing executive board members and officers and filling vacancies;

(4) Which, if any, of its powers the executive board or officers may delegate to other persons or to a managing agent;

(5) Which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association; and

(6) The method of amending the bylaws.

(b) The bylaws may provide for any other matters the association deems necessary and appropriate.

"§ 47E-3-107. Upkeep of planned community; responsibility and assessments for damages.

(a) Except as otherwise provided in the declaration, G.S. 47E-3-113(h) or subsection (b) of this section, the association is responsible for causing the common elements to be maintained, repaired, and replaced when necessary and to assess the lot owners as necessary to recover the costs of such maintenance, repair, or replacement except that the costs of maintenance, repair, or replacement of a limited common element shall be assessed as provided in G.S. 47E-3-115(c)(1). Except as otherwise provided in the declaration, each lot owner is responsible for the

maintenance and repair of his lot and any improvements thereon. Each lot owner shall afford to the association and when necessary to another lot owner access through the lot owner's lot reasonably necessary for any such maintenance, repair, or replacement activity.

(b) If a lot owner is legally responsible for damage inflicted on any common element, the association may direct such lot owner to repair such damage, or the association may itself cause the repairs to be made and recover damages from the responsible lot owner.

(c) If damage is inflicted on any lot by an agent of the association in the scope of the agent's activities as such agent, the association is liable to repair such damage or to reimburse the lot owner for the cost of repairing such damages. The association shall also be liable for any losses to the lot owner.

(d) When the claim under subsection (b) or (c) of this section is less than or equal to the jurisdictional amount established for small claims by G.S. 7A-210, any aggrieved party may request that a hearing be held before an adjudicatory panel appointed by the executive board to determine if a lot owner is responsible for damages to any common element or the association is responsible for damages to any lot. If the executive board fails to appoint an adjudicatory panel to hear such matters, hearings under this section shall be held before the executive board. Such panel shall accord to the party charged with causing damages notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. This panel may assess liability for each damage incident against each lot owner charged or against the association not in excess of the jurisdictional amount established for small claims by G.S. 7A-210. When the claim under subsection (b) or (c) of this section exceeds the jurisdictional amount established for small claims by G.S. 7A-210, liability of any lot owner charged or the association shall be determined as otherwise provided by law. Liabilities of lot owners determined by adjudicatory hearing or as otherwise provided by law shall be assessments secured by lien under G.S. 47E-3-116. Liabilities of the association determined by adjudicatory hearing or as otherwise provided by law may be offset by the lot owner against sums owing to the association and if so offset, shall reduce the amount of any lien of the association against the lot at issue.

(e) The association shall not be liable for maintenance, repair, and all other expenses in connection with any real estate which has not been incorporated into the planned community.

"**§ 47E-3-107A. Procedures for fines and suspension of planned community privileges or services.**

Unless a specific procedure for the imposition of fines or suspension of planned community privileges or services is provided for in the declaration, a hearing shall be held before an adjudicatory panel appointed by the executive board to determine if any lot owner should be fined or if planned community privileges or services should be suspended pursuant to the powers granted to the association in G.S. 47E-3-102(11) and (12). If the executive board fails to appoint an adjudicatory panel to hear such matters, hearings under this section shall be held before the executive board. The lot

owner charged shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed one hundred fifty dollars ($150.00) may be imposed for the violation and without further hearing, for each day after the decision that the violation occurs. Such fines shall be assessments secured by liens under G.S. 47E-3-116. If it is decided that a suspension of planned community privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured.

"§ 47E-3-108. Meetings.

A meeting of the association shall be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board, or by lot owners having ten percent (10%), or any lower percentage specified in the bylaws, of the votes in the association. Not less than 10 nor more than 60 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each lot or to any other mailing address designated in writing by the lot owner. The notice of any meeting shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer.

"§ 47E-3-109. Quorums.

(a) Unless the bylaws provide otherwise, a quorum is present throughout any meeting of the association if persons entitled to cast ten percent (10%) of the votes which may be cast for election of the executive board are present in person or by proxy at the beginning of the meeting.

(b) Unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast fifty percent (50%) of the votes on that board are present at the beginning of the meeting.

(c) In the event business cannot be conducted at any meeting because a quorum is not present, that meeting may be adjourned to a later date by the affirmative vote of a majority of those present in person or by proxy. Notwithstanding any provision to the contrary in the declaration or the bylaws, the quorum requirement at the next meeting shall be one-half of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

"§ 47E-3-110. Voting; proxies.

(a) If only one of the multiple owners of a lot is present at a meeting of the association, the owner who is present is entitled to cast all the votes allocated to that lot. If more than one of the multiple owners are present, the votes allocated to that lot may be cast only in accordance with the agreement of a majority in interest of the multiple owners, unless the declaration or bylaws expressly provide otherwise. Majority agreement is conclusively presumed if any one of the multiple owners casts

the votes allocated to that lot without protest being made promptly to the person presiding over the meeting by any of the other owners of the lot.

(b) Votes allocated to a lot may be cast pursuant to a proxy duly executed by a lot owner. If a lot is owned by more than one person, each owner of the lot may vote or register protest to the casting of votes by the other owners of the lot through a duly executed proxy. A lot owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated. A proxy terminates 11 months after its date, unless it specifies a shorter term.

(c) If the declaration requires that votes on specified matters affecting the planned community be cast by lessees rather than lot owners of leased lots, (i) the provisions of subsections (a) and (b) of this section apply to lessees as if they were lot owners; (ii) lot owners who have leased their lots to other persons may not cast votes on those specified matters; and (iii) lessees are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were lot owners. Lot owners shall also be given notice, in the manner provided in G.S. 47E-3-108, of all meetings at which lessees may be entitled to vote.

(d) No votes allocated to a lot owned by the association may be cast.

(e) The declaration may provide that on specified issues only a defined subgroup of lot owners may vote provided:

(1) The issue being voted is of special interest solely to the members of the subgroup; and

(2) All except de minimis cost that will be incurred based on the vote taken will be assessed solely against those lot owners entitled to vote.

(f) For purposes of subdivision(e)(1) above, an issue to be voted on is not a special interest solely to a subgroup if it substantially affects the overall appearance of the planned community or substantially affects living conditions of lot owners not included in the voting subgroup.

"§ 47E-3-111. Tort and contract liability.

(a) Neither the association nor any lot owner except the declarant is liable for that declarant's torts in connection with any part of the planned community which that declarant has the responsibility to maintain.

(b) An action alleging a wrong done by the association shall be brought against the association and not against a lot owner.

(c) Any statute of limitation affecting the association's right of action under this section is tolled until the period of declarant control terminates. A lot owner is not precluded from bringing an action contemplated by this section because the person is a lot owner or a member of the association.

"§ 47E-3-112. Conveyance or encumbrance of common elements.

(a) Portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least eighty percent (80%) of the votes in the association, or any larger percentage the declaration specifies, agree in writing to that action; provided that all the owners of lots to which any limited

common element is allocated shall agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all the lots are restricted exclusively to nonresidential uses. Distribution of proceeds of the sale of a limited common element shall be as provided by agreement between the lot owners to which it is allocated and the association. Proceeds of the sale or financing of a common element (other than a limited common element) shall be an asset of the association.

(b) The association, on behalf of the lot owners, may contract to convey common elements or subject them to a security interest, but the contract is not enforceable against the association until approved pursuant to subsection (a) of this section. Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, free and clear of any interest of any lot owner or the association in or to the common element conveyed or encumbered, including the power to execute deeds or other instruments.

(c) Any purported conveyance, encumbrance, or other voluntary transfer of common elements, unless made pursuant to this section is void.

(d) No conveyance or encumbrance of common elements pursuant to this section may deprive any lot of its rights of access and support.

"§ 47E-3-113. Insurance.

(a) Commencing not later than the time of the first conveyance of a lot to a person other than a declarant, the association shall maintain, to the extent reasonably available:

(1) Property insurance on the common elements insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; and

(2) Liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

(b) If the insurance described in subsection (a) of this section is not reasonably available, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all lot owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it deems appropriate to protect the association or the lot owners.

(c) Insurance policies carried pursuant to subsection (a) of this section shall provide that:

(1) Each lot owner is an insured person under the policy to the extent of the lot owner's insurable interest;

(2) The insurer waives its right to subrogation under the policy against any lot owner or member of the lot owner's household;

(3) No act or omission by any lot owner, unless acting within the scope of the owner's authority on behalf of the association, will preclude recovery under the policy; and

(4) If, at the time of a loss under the policy, there is other insurance in the name of a lot owner covering the same risk covered by the policy, the association's policy provides primary insurance.

(d) Any loss covered by the property policy under subdivision (a)(1) of this section shall be adjusted with the association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the association shall hold any insurance proceeds in trust for lot owners and lienholders as their interests may appear. Subject to the provisions of subsection (h) of this section, the proceeds shall be disbursed first for the repair or restoration of the damaged property, and lot owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the planned community is terminated.

(e) An insurance policy issued to the association does not prevent a lot owner from obtaining insurance for the lot owner's own benefit.

(f) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any lot owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the association, each lot owner, and each mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last known addresses.

(g) Any portion of the planned community for which insurance is required under subdivision (a)(1) of this section which is damaged or destroyed shall be repaired or replaced promptly by the association unless (i) the planned community is terminated, (ii) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (iii) the lot owners decide not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) approval of owners assigned to the limited common elements not to be rebuilt. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If any portion of the planned community is not repaired or replaced, (i) the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the planned community, (ii) the insurance proceeds attributable to limited common elements which are not rebuilt shall be distributed to the owners of the lots to which those limited common elements were allocated, or to lienholders, as their interests may appear, and (iii) the remainder of the proceeds shall be distributed to all the lot owners or lienholders, as their interests may appear, in proportion to the common expense liabilities of all the

lots. Notwithstanding the provisions of this subsection, G.S. 47E-2-118 (termination of the planned community) governs the distribution of insurance proceeds if the planned community is terminated.

(h) The provisions of this section may be varied or waived in the case of a planned community all of whose lots are restricted to nonresidential use.

"**§ 47E-3-114. Surplus funds.**

Unless otherwise provided in the declaration, any surplus funds of the association remaining after payment of or provision for common expenses, the funding of a reasonable operating expense surplus, and any prepayment of reserves shall be paid to the lot owners in proportion to their common expense liabilities or credited to them to reduce their future common expense assessments.

"**§ 47E-3-115. Assessments for common expenses.**

(a) Except as otherwise provided in the declaration, until the association makes a common expense assessment, the declarant shall pay all common expenses. After any assessment has been made by the association, assessments thereafter shall be made at least annually.

(b) Except for assessments under subsections (c), (d), and (e) of this section, all common expenses shall be assessed against all the lots in accordance with the allocations set forth in the declaration. Any past-due common expense assessment or installment thereof bears interest at the rate established by the association not exceeding eighteen percent (18%) per year. For planned communities created prior to January 1, 1999, interest may be charged on any past-due common expense assessment or installment only if the declaration provides for interest charges, and where the declaration does not otherwise specify the interest rate, the rate may not exceed eighteen percent(18%) per year.

(c) To the extent required by the declaration:

(1) Any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the lots to which that limited common element is assigned, equally, or in any other proportion that the declaration provides;

(2) Any common expense or portion thereof benefiting fewer than all of the lots shall be assessed exclusively against the lots benefitted; and

(3) The costs of insurance shall be assessed in proportion to risk and the costs of utilities shall be assessed in proportion to usage.

(d) Assessments to pay a judgment against the association may be made only against the lots in the planned community at the time the judgment was entered, in proportion to their common expense liabilities.

(e) If any common expense is caused by the negligence or misconduct of any lot owner or occupant, the association may assess that expense exclusively against that lot owner or occupant's lot.

(f) If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

"**§ 47E-3-116. Lien for assessments.**

(a) Any assessment levied against a lot remaining unpaid for a period of 30 days or longer shall constitute a lien on that lot when a claim of lien is filed of record in the office of the clerk of superior court of the county in which the lot is located in the manner provided herein. The association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. Unless the declaration otherwise provides, fees, charges, late charges, fines, interest, and other charges imposed pursuant to G.S. 47E-3-102, 47E-3-107, 47E-3-107A, and 47E-3-115 are enforceable as assessments under this section.

(b) The lien under this section is prior to all liens and encumbrances on a lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the lot) recorded before the docketing of the claim of lien in the office of the clerk of superior court, and (ii) liens for real estate taxes and other governmental assessments and charges against the lot. This subsection does not affect the priority of mechanics' or materialmen's liens.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing of the claim of lien in the office of the clerk of superior court.

(d) This section does not prohibit other actions to recover the sums for which subsection (a) of this section creates a lien or prohibit an association taking a deed in lieu of foreclosure.

(e) A judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party.

(f) Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a lot obtains title to the lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns, shall not be liable for the assessments against such lot which became due prior to the acquisition of title to such lot by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all the lot owners including such purchaser, its heirs, successors, and assigns.

(g) A claim of lien shall set forth the name and address of the association, the name of the record owner of the lot at the time the claim of lien is filed, a description of the lot, and the amount of the lien claimed.

"**§ 47E-3-117. Reserved.**

"**§ 47E-3-118. Association records.**

(a) The association shall keep financial records sufficiently detailed to enable the association to comply with this Chapter. All financial and other records shall be made reasonably available for examination by any lot owner and the lot owner's authorized agents.

(b) The association, upon written request, shall furnish to a lot owner or the lot owner's authorized agents a statement setting forth the amount of unpaid assessments and other charges against a lot. The statement shall be furnished within 10 business

days after receipt of the request and is binding on the association, the executive board, and every lot owner.

"**§ 47E-3-119. Association as trustee.**

With respect to a third person dealing with the association in the association's capacity as a trustee under G.S. 47E-2-118 following termination or G.S. 47E-3-113 for insurance proceeds, the existence of trust powers and their proper exercise by the association may be assumed without inquiry. A third person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers, and a third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee.

"**§ 47E-3-120. Declaration limits on attorneys' fees.**

Except as provided in G.S. 47E-3-116, in an action to enforce provisions of the articles of incorporation, the declaration, bylaws, or duly adopted rules or regulations, the court may award reasonable attorneys' fees to the prevailing party if recovery of attorneys' fees is allowed in the declaration.

Section 2. The Revisor of Statutes shall cause to be printed with this act all relevant portions of the official comments to the North Carolina Planned Community Act and all explanatory comments of the drafters of this act, as the Revisor deems appropriate.

Section 3. This act becomes effective January 1, 1999, and applies to planned communities created on or after that date. G.S. 47E-3-102(1) through (6) and (11) through (17), G.S. 47E-3-107(a),(b), and (c), G.S. 47E-3-115, and G.S. 47E-3-116 as enacted by Section 1 of this act apply to planned communities created prior to the effective date, except that the provisions of G.S. 47E-3-116(e) as enacted by Section 1 of this act, apply to actions arising on or after the effective date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 801
House Committee Substitute Favorable 8/17/98

Short Title: N.C. Planned Community Act. (Public)

Sponsors:

Referred to:

April 10, 1997

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE NORTH CAROLINA PLANNED COMMUNITY ACT.

The General Assembly of North Carolina enacts:

Section 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 47E.

"North Carolina Planned Community Act.

"ARTICLE 1.

"General Provisions.

"**§ 47E-1-101. Short title.**

This Chapter shall be known and may be cited as the North Carolina Planned Community Act.

"**§ 47E-1-102. Applicability.**

(a) This Chapter applies to all planned communities within this State except as provided in subsection (b) of this section.

(b) This Chapter does not apply to a planned community created within this State:

(1) Which contains no more than 20 lots (including all lots which may be added or created by the exercise of development rights) unless the declaration provides or is amended to provide that this Chapter does apply to that planned community; or

(2) In which all lots are restricted exclusively to nonresidential purposes, unless the declaration provides or is amended to provide that this Chapter does apply to that planned community.

(c) This Chapter does not apply to planned communities or lots located outside this State.

(d) Any planned community created prior to the effective date of this Chapter may elect to make the provisions of this Chapter applicable to it by amending its declaration to provide that this Chapter shall apply to that planned community.

"§ 47E-1-103. Definitions.

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this Chapter:

(1) Reserved.

(2) 'Allocated interests' means the common expense liability and votes in the association allocated to each lot.

(3) 'Association' or 'owners' association' means the association organized as allowed under North Carolina law, including G.S. 47E-3-101.

(4) 'Common elements' means any real estate within a planned community owned or leased by the association, other than a lot.

(5) 'Common expenses' means expenditures made by or financial liabilities of the association, together with any allocations to reserves.

(6) 'Common expense liability' means the liability for common expenses allocated to each lot as permitted by this Chapter, the declaration or otherwise by law.

(7) 'Condominium' means real estate, as defined and created under Chapter 47C.

(8) 'Cooperative' means real estate owned by a corporation, trust, trustee, partnership, or unincorporated association, where the governing instruments of that organization provide that each of the organization's members, partners, stockholders, or beneficiaries is entitled to exclusive occupancy of a designated portion of that real estate.

(9) 'Declarant' means any person or group of persons acting in concert who (i) as part of a common promotional plan, offers to dispose of the person's or group's interest in a lot not previously disposed of, or (ii) reserves or succeeds to any special declarant right.

(10) 'Declaration' means any instruments, however denominated, that create a planned community and any amendments to those instruments.

(11) Reserved.

(12) Reserved.

(13) 'Executive board' means the body, regardless of name, designated in the declaration to act on behalf of the association.

(14) Reserved.
(15) Reserved.
(16) 'Leasehold planned community' means a planned community in which all or a portion of the real estate is subject to a lease, the expiration or termination of which will terminate the planned community or reduce its size.
(17) 'Lessee' means the party entitled to present possession of a leased lot whether lessee, sublessee, or assignee.
(18) 'Limited common element' means a portion of the common elements allocated by the declaration or by operation of law for the exclusive use of one or more but fewer than all of the lots.
(19) 'Lot' means a physical portion of the planned community designated for separate ownership or occupancy by a lot owner.
(20) 'Lot owner' means a declarant or other person who owns a lot, or a lessee of a lot in a leasehold planned community whose lease expires simultaneously with any lease the expiration or termination of which will remove the lot from the planned community, but does not include a person having an interest in a lot solely as security for an obligation.
(21) 'Master association' means an organization described in G.S. 47E-2-120, whether or not it is also an association described in G.S. 47E-3-101.
(22) 'Person' means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.
(23) 'Planned community' means real estate with respect to which any person, by virtue of that person's ownership of a lot, is expressly obligated by a declaration to pay real property taxes, insurance premiums, or other expenses to maintain, improve, or benefit other lots or other real estate described in the declaration. For purposes of this act, neither a cooperative nor a condominium is a planned community, but real estate comprising a condominium or cooperative may be part of a planned community. 'Ownership of a lot' does not include holding a leasehold interest of less that 20 years in a lot, including renewal options.
(24) 'Purchaser' means any person, other than a declarant or a person in the business of selling real estate for the purchaser's own account, who by means of a voluntary transfer acquires a legal or equitable interest in a lot, other than (i) a leasehold interest (including renewal options) of less than 20 years, or (ii) as security for an obligation.

(25) 'Reasonable attorneys' fees' means attorneys' fees reasonably incurred without regard to any limitations on attorneys' fees which otherwise may be allowed by law.

(26) 'Real estate' means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. 'Real estate' includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

(27) Reserved.

(28) 'Special declarant rights' means rights reserved for the benefit of a declarant including, without limitation, any right (i) to complete improvements indicated on plats and plans filed with the declaration; (ii) to exercise any development right; (iii) to maintain sales offices, management offices, signs advertising the planned community, and models; (iv) to use easements through the common elements for the purpose of making improvements within the planned community or within real estate which may be added to the planned community; (v) to make the planned community part of a larger planned community or group of planned communities; (vi) to make the planned community subject to a master association; or (vii) to appoint or remove any officer or executive board member of the association or any master association during any period of declarant control.

(29) Reserved.

"§ 47E-1-104. Variation.

(a) Except as specifically provided in specific sections of this Chapter, the provisions of this Chapter may not be varied by the declaration or bylaws.

(b) The provisions of this Chapter may not be varied by agreement; however, after breach of a provision of this Chapter, rights created hereunder may be knowingly waived in writing.

(c) Notwithstanding any of the provisions of this Chapter, a declarant may not act under a power of attorney or proxy or use any other device to evade the limitations or prohibitions of this Chapter, the declaration, or the bylaws.

"§ 47E-1-105: Reserved.

"§ 47E-1-106. Applicability of local ordinances, regulations, and building codes.

A zoning, subdivision, or building code or other real estate use law, ordinance, or regulation may not prohibit a planned community or impose any requirement upon a planned community which it would not impose upon a substantially similar development under a different form of ownership or administration. Otherwise, no provision of this Chapter invalidates or modifies any provision of any zoning, subdivision, or building code or any other real estate use law, ordinance, or

regulation. No local ordinance or regulation may require the recordation of a declaration prior to the date required by this Chapter.

"**§ 47E-1-107. Eminent domain.**

(a) If a lot is acquired by eminent domain, or if part of a lot is acquired by eminent domain leaving the lot owner with a remnant which may not practically or lawfully be used for any purpose permitted by the declaration, the award shall compensate the lot owner for his lot and its interest in the common element. Upon acquisition, unless the decree otherwise provides, the lot's allocated interests are automatically reallocated to the remaining lots in proportion to the respective allocated interests of those lots before the taking, exclusive of the lot taken.

(b) Except as provided in subsection (a) of this section, if part of a lot is acquired by eminent domain, the award shall compensate the lot owner for the reduction in value of the lot. Upon acquisition, unless the decree otherwise provides, (i) that lot's allocated interests are reduced in proportion to the reduction in the size of the lot, or on any other basis specified in the declaration, and (ii) the portion of the allocated interests divested from the partially acquired lot are automatically reallocated to that lot and the remaining lots in proportion to the respective allocated interests of those lots before the taking, with the partially acquired lot participating in the reallocation on the basis of its reduced allocated interests.

(c) If there is any reallocation under subsection (a) or (b) of this section, the association shall promptly prepare, execute, and record an amendment to the declaration reflecting the reallocations. Any remnant of a lot remaining after part of a lot is taken under this subsection is thereafter a common element.

(d) If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken shall be paid to the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element shall be apportioned among the owners of the lots to which that limited common element was allocated at the time of acquisition based on their allocated interest in the common elements before the taking.

(e) The court decree shall be recorded in every county in which any portion of the planned community is located.

"**§ 47E-1-108. Supplemental general principles of law applicable.**

The principles of law and equity as well as other North Carolina statutes (including the provisions of the North Carolina Nonprofit Corporation Act) supplement the provisions of this Chapter, except to the extent inconsistent with this Chapter. When these principles or statutes are inconsistent or conflict with this Chapter, the provisions of this Chapter will control.

"**§§ 47E-1-109 through 47E-1-115:** Reserved.

"ARTICLE 2.

"Creation, Alteration, and Termination of Planned Communities.

"**§ 47E-2-101. Creation of the planned community.**

A declaration creating a planned community shall be executed in the same manner as a deed, shall be recorded in every county in which any portion of the planned

community is located, and shall be indexed in the Grantee index in the name of the planned community and the association and in the Grantor index in the name of each person executing the declaration.

"**§ 47E-2-102:** Reserved.

"**§ 47E-2-103. Construction and validity of declaration and bylaws.**

(a) All provisions of the declaration and bylaws are severable.

(b) The rule against perpetuities may not be applied to defeat any provision of the declaration, bylaws, rules, or regulations adopted pursuant to G.S. 47E-3-102(a)(1).

(c) In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent the declaration is inconsistent with this Chapter.

(d) Title to a lot and common elements is not rendered unmarketable or otherwise affected by reason of an insubstantial failure of the declaration to comply with this Chapter. Whether a substantial failure to comply with this Chapter impairs marketability shall be determined by the law of this State relating to marketability.

"**§§ 47E-2-104** through **47E-2-116:** Reserved.

"**§ 47E-2-117. Amendment of declaration.**

(a) Except in cases of amendments that may be executed by a declarant under the terms of the declaration or by certain lot owners under G.S. 47E-2-118(b), the declaration may be amended only by affirmative vote or written agreement signed by lot owners of lots to which at least sixty-seven percent (67%) of the votes in the association are allocated, or any larger majority the declaration specifies or by the declarant if necessary for the exercise of any development right. The declaration may specify a smaller number only if all of the lots are restricted exclusively to nonresidential use.

(b) No action to challenge the validity of an amendment adopted pursuant to this section may be brought more than one year after the amendment is recorded.

(c) Every amendment to the declaration shall be recorded in every county in which any portion of the planned community is located and is effective only upon recordation. An amendment shall be indexed in the Grantee index in the name of the planned community and the association and in the Grantor index in the name of each person executing the amendment.

(d) Reserved.

(e) Amendments to the declaration required by this Chapter to be recorded by the association shall be prepared, executed, recorded, and certified in accordance with G.S. 47-41.

"**§ 47E-2-118. Termination of planned community.**

(a) Except in the case of taking of all the lots by eminent domain (G.S. 47E-1-107), a planned community may be terminated only by agreement of lot owners of lots to which at least eighty percent (80%) of the votes in the association are allocated, or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the lots in the planned community are restricted exclusively to nonresidential uses.

(b) An agreement to terminate shall be evidenced by the execution of a termination agreement, or ratifications thereof, in the same manner as a deed, by the requisite number of lot owners. The termination agreement shall specify a date after which the agreement will be void unless it is recorded before that date. A termination agreement and all ratifications thereof shall be recorded in every county in which a portion of the planned community is situated and is effective only upon recordation.

(c) A termination agreement may provide for sale of the common elements, but may not require that the lots be sold following termination, unless the declaration as originally recorded provided otherwise or unless all the lot owners consent to the sale. If, pursuant to the agreement, any real estate in the planned community is to be sold following termination, the termination agreement shall set forth the minimum terms of the sale.

(d) The association, on behalf of the lot owners, may contract for the sale of real estate in the planned community, but the contract is not binding until approved pursuant to subsections (a) and (b) of this section. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence with all powers it had before termination. Proceeds of the sale shall be distributed to lot owners and lienholders as their interests may appear, as provided in the termination agreement.

(e) If the real estate constituting the planned community is not to be sold following termination, title to the common elements vests in the lot owners upon termination as tenants in common in proportion to their respective interests as provided in the termination agreement.

(f) Following termination of the planned community, the proceeds of any sale of real estate, together with the assets of the association, are held by the association as trustee for lot owners and holders of liens on the lots as their interests may appear. All other creditors of the association are to be treated as if they had perfected liens on the common elements immediately before termination.

(g) If the termination agreement does not provide for the distribution of sales proceeds pursuant to subsection (d) of this section or the vesting of title pursuant to subsection (e) of this section, sales proceeds shall be distributed and title shall vest in accordance with each lot owner's allocated share of common expense liability.

(h) Except as provided in subsection (i) of this section, foreclosure or enforcement of a lien or encumbrance against the common elements does not of itself terminate the planned community, and foreclosure or enforcement of a lien or encumbrance against a portion of the common elements other than withdrawable real estate does not withdraw that portion from the planned community. Foreclosure or enforcement of a lien or encumbrance against withdrawable real estate does not of itself withdraw that real estate from the planned community, but the person taking title thereto has the right to require from the association, upon request, an amendment excluding the real estate from the planned community.

(i) If a lien or encumbrance against a portion of the real estate comprising the planned community has priority over the declaration and the lien or encumbrance

has not been partially released, the parties foreclosing the lien or encumbrance may, upon foreclosure, record an instrument excluding the real estate subject to that lien or encumbrance from the planned community.

"**§ 47E-2-119: Reserved.**

"**§ 47E-2-120. Master associations.**

If the declaration for a planned community provides that any of the powers described in G.S. 47E-3-102 are to be exercised by or may be delegated to a profit or nonprofit corporation which exercises those or other powers on behalf of one or more other planned communities or for the benefit of the lot owners of one or more other planned communities, all provisions of this act applicable to lot owners' associations apply to any such corporation.

"**§ 47E-2-121. Merger of consolidation of planned communities.**

(a) Any two or more planned communities, by agreement of the lot owners as provided in subsection (b) of this section, may be merged or consolidated into a single planned community. In the event of a merger or consolidation, unless the agreement otherwise provides, the resultant planned community is, for all purposes, the legal successor of all of the preexisting planned communities, and the operations and activities of all associations of the preexisting planned communities shall be merged or consolidated into a single association which shall hold all powers, rights, obligations, assets, and liabilities of all preexisting associations.

(b) An agreement of two or more planned communities to merge or consolidate pursuant to subsection (a) of this section shall be evidenced by an agreement prepared, executed, recorded, and certified by the president of the association of each of the preexisting planned communities following approval by owners of lots to which are allocated the percentage of votes in each planned community required to terminate that planned community. Any such agreement shall be recorded in every county in which a portion of the planned community is located and is not effective until recorded.

(c) Every merger or consolidation agreement shall provide for the reallocation of the allocated interests in the new association among the lots of the resultant planned community either (i) by stating the reallocations or the formulas upon which they are based or (ii) by stating the percentage of overall common expense liabilities and votes in the new association which are allocated to all of the lots comprising each of the preexisting planned communities, and providing that the portion of the percentages allocated to each lot formerly comprising a part of the preexisting planned community shall be equal to the percentages of common expense liabilities and votes in the association allocated to that lot by the declaration of the preexisting planned community.

"**§ 47E-2-122: Reserved.**

"ARTICLE 3.

"Management of Planned Community.

"**§ 47E-3-101. Organization of owners' association.**

A lot owners' association shall be incorporated no later than the date the first lot in the planned community is conveyed. The membership of the association at all

times shall consist exclusively of all the lot owners or, following termination of the planned community, of all persons entitled to distributions of proceeds under G.S. 47E-2-118. Every association created after the effective date of this Chapter shall be organized as a nonprofit corporation.

"**§ 47E-3-102. Powers of owners' association.**

Subject to the provisions of the articles of incorporation or the declaration and the declarant's rights therein, the association may:

(1) Adopt and amend bylaws and rules and regulations;

(2) Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from lot owners;

(3) Hire and discharge managing agents and other employees, agents, and independent contractors;

(4) Institute, defend, or intervene in litigation or administrative proceedings on matters affecting the planned community;

(5) Make contracts and incur liabilities;

(6) Regulate the use, maintenance, repair, replacement, and modification of common elements;

(7) Cause additional improvements to be made as a part of the common elements;

(8) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to G.S. 47E-3-112;

(9) Grant easements, leases, licenses, and concessions through or over the common elements;

(10) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements other than the limited common elements and for services provided to lot owners;

(11) Impose reasonable charges for late payment of assessments and, after notice and an opportunity to be heard, suspend privileges or services provided by the association (except rights of access to lots) during any period that assessments or other amounts due and owing to the association remain unpaid for a period of 30 days or longer;

(12) After notice and an opportunity to be heard, impose reasonable fines or suspend privileges or services provided by the association (except rights of access to lots) for reasonable periods for violations of the declaration, bylaws, and rules and regulations of the association;

(13) Impose reasonable charges in connection with the preparation and recordation of documents, including, without limitation, amendments to the declaration or statements of unpaid assessments;

(14) Provide for the indemnification of and maintain liability insurance for its officers, executive board, directors, employees, and agents;
(15) Assign its right to future income, including the right to receive common expense assessments;
(16) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association; and
(17) Exercise any other powers necessary and proper for the governance and operation of the association.

"§ 47E-3-103. Executive board members and officers.

(a) Except as provided in the declaration, in the bylaws, in subsection (b) of this section, or in other provisions of this Chapter, the executive board may act in all instances on behalf of the association. In the performance of their duties, officers and members of the executive board shall discharge their duties in good faith. Officers shall act according to the standards for officers of a nonprofit corporation set forth in G.S. 55A-8-42, and members shall act according to the standards for directors of a nonprofit corporation set forth in G.S. 55A-8-30.

(b) The executive board may not act unilaterally on behalf of the association to amend the declaration (G.S. 47E-2-117), to terminate the planned community (G.S. 47E-2-118), or to elect members of the executive board or determine the qualifications, powers and duties, or terms of office of executive board members (G.S. 47E-3-103(f)), but the executive board may unilaterally fill vacancies in its membership for the unexpired portion of any term. Notwithstanding any provision of the declaration or bylaws to the contrary, the lot owners, by a majority vote of all persons present and entitled to vote at any meeting of the lot owners at which a quorum is present, may remove any member of the executive board with or without cause, other than a member appointed by the declarant.

(c) Within 30 days after adoption of any proposed budget for the planned community, the executive board shall provide to all the lot owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The executive board shall set a date for a meeting of the lot owners to consider ratification of the budget, such meeting to be held not less than 10 nor more than 60 days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting a majority of all the lot owners in the association or any larger vote specified in the declaration rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the lot owners shall be continued until such time as the lot owners ratify a subsequent budget proposed by the executive board.

(d) The declaration may provide for a period of declarant control of the association, during which period a declarant, or persons designated by the declarant, may appoint and remove the officers and members of the executive board.

(e) Not later than the termination of any period of declarant control, the lot owners shall elect an executive board of at least three members, at least a majority of

whom shall be lot owners. The executive board shall elect the officers. The executive board members and officers shall take office upon election.

"§ 47E-3-104. Transfer of special declarant rights.

Except for transfer of declarant rights pursuant to foreclosure, no special declarant right (G.S. 47E-1-103(28)) may be transferred except by an instrument evidencing the transfer recorded in every county in which any portion of the planned community is located. The instrument is not effective unless executed by the transferee.

"§ 47E-3-105. Termination of contracts and leases of declarant.

If entered into before the executive board elected by the lot owners pursuant to G.S. 47E-3-103(e) takes office, any contract or lease affecting or related to the planned community that is not bona fide or was unconscionable to the lot owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association at any time after the executive board elected by the lot owners pursuant to G.S. 47E-3-103(e) takes office upon not less than 90 days' notice to the other party.

"§ 47E-3-106. Bylaws.

(a) The bylaws of the association shall provide for:

(1) The number of members of the executive board and the titles of the officers of the association;

(2) Election by the executive board of officers of the association;

(3) The qualifications, powers and duties, terms of office, and manner of electing and removing executive board members and officers and filling vacancies;

(4) Which, if any, of its powers the executive board or officers may delegate to other persons or to a managing agent;

(5) Which of its officers may prepare, execute, certify, and record amendments to the declaration on behalf of the association; and

(6) The method of amending the bylaws.

(b) The bylaws may provide for any other matters the association deems necessary and appropriate.

"§ 47E-3-107. Upkeep of planned community; responsibility and assessments for damages.

(a) Except as otherwise provided in the declaration, G.S. 47E-3-113(h) or subsection (b) of this section, the association is responsible for causing the common elements to be maintained, repaired, and replaced when necessary and to assess the lot owners as necessary to recover the costs of such maintenance, repair, or replacement except that the costs of maintenance, repair, or replacement of a limited common element shall be assessed as provided in G.S. 47E-3-115(c)(1). Except as otherwise provided in the declaration, each lot owner is responsible for the maintenance and repair of his lot and any improvements thereon. Each lot owner shall afford to the association and when necessary to another lot owner access through the lot owner's lot reasonably necessary for any such maintenance, repair, or replacement activity.

(b) If a lot owner is legally responsible for damage inflicted on any common element, the association may direct such lot owner to repair such damage, or the association may itself cause the repairs to be made and recover damages from the responsible lot owner.

(c) If damage is inflicted on any lot by an agent of the association in the scope of the agent's activities as such agent, the association is liable to repair such damage or to reimburse the lot owner for the cost of repairing such damages. The association shall also be liable for any losses to the lot owner.

(d) When the claim under subsection (b) or (c) of this section is less than or equal to the jurisdictional amount established for small claims by G.S. 7A-210, any aggrieved party may request that a hearing be held before an adjudicatory panel appointed by the executive board to determine if a lot owner is responsible for damages to any common element or the association is responsible for damages to any lot. If the executive board fails to appoint an adjudicatory panel to hear such matters, hearings under this section shall be held before the executive board. Such panel shall accord to the party charged with causing damages notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. This panel may assess liability for each damage incident against each lot owner charged or against the association not in excess of the jurisdictional amount established for small claims by G.S. 7A-210. When the claim under subsection (b) or (c) of this section exceeds the jurisdictional amount established for small claims by G.S. 7A-210, liability of any lot owner charged or the association shall be determined as otherwise provided by law. Liabilities of lot owners determined by adjudicatory hearing or as otherwise provided by law shall be assessments secured by lien under G.S. 47E-3-116. Liabilities of the association determined by adjudicatory hearing or as otherwise provided by law may be offset by the lot owner against sums owing to the association and if so offset, shall reduce the amount of any lien of the association against the lot at issue.

(e) The declarant alone is liable for maintenance, repair, and all other expenses in connection with any real estate which has not been incorporated into the planned community.

"§ 47E-3-107A. Procedures for fines and suspension of planned community privileges or services.

Unless a specific procedure for the imposition of fines or suspension of planned community privileges or services is provided for in the declaration, a hearing shall be held before an adjudicatory panel appointed by the executive board to determine if any lot owner should be fined or if planned community privileges or services should be suspended pursuant to the powers granted to the association in G.S. 47E-3-102(11) and (12). If the executive board fails to appoint an adjudicatory panel to hear such matters, hearings under this section shall be held before the executive board. The lot owner charged shall be given notice of the charge, opportunity to be heard and to present evidence, and notice of the decision. If it is decided that a fine should be imposed, a fine not to exceed one hundred fifty dollars ($150.00) may be imposed for the violation and without further hearing, for each day after the decision that the

violation occurs. Such fines shall be assessments secured by liens under G.S. 47E-3-116. If it is decided that a suspension of planned community privileges or services should be imposed, the suspension may be continued without further hearing until the violation or delinquency is cured.

"**§ 47E-3-108. Meetings.**

A meeting of the association shall be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board, or by lot owners having ten percent (10%), or any lower percentage specified in the bylaws, of the votes in the association. Not less than 10 nor more than 60 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each lot or to any other mailing address designated in writing by the lot owner. The notice of any meeting shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer.

"**§ 47E-3-109. Quorums.**

(a) Unless the bylaws provide otherwise, a quorum is present throughout any meeting of the association if persons entitled to cast ten percent (10%) of the votes which may be cast for election of the executive board are present in person or by proxy at the beginning of the meeting.

(b) Unless the bylaws specify a larger percentage, a quorum is deemed present throughout any meeting of the executive board if persons entitled to cast fifty percent (50%) of the votes on that board are present at the beginning of the meeting.

(c) In the event business cannot be conducted at any meeting because a quorum is not present, that meeting may be adjourned to a later date by the affirmative vote of a majority of those present in person or by proxy. Notwithstanding any provision to the contrary in the declaration or the bylaws, the quorum requirement at the next meeting shall be one-half of the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

"**§ 47E-3-110. Voting; proxies.**

(a) If only one of the multiple owners of a lot is present at a meeting of the association, the owner who is present is entitled to cast all the votes allocated to that lot. If more than one of the multiple owners are present, the votes allocated to that lot may be cast only in accordance with the agreement of a majority in interest of the multiple owners, unless the declaration or bylaws expressly provide otherwise. Majority agreement is conclusively presumed if any one of the multiple owners casts the votes allocated to that lot without protest being made promptly to the person presiding over the meeting by any of the other owners of the lot.

(b) Votes allocated to a lot may be cast pursuant to a proxy duly executed by a lot owner. If a lot is owned by more than one person, each owner of the lot may vote or register protest to the casting of votes by the other owners of the lot through a duly

executed proxy. A lot owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated. A proxy terminates 11 months after its date, unless it specifies a shorter term.

(c) If the declaration requires that votes on specified matters affecting the planned community be cast by lessees rather than lot owners of leased lots, (i) the provisions of subsections (a) and (b) of this section apply to lessees as if they were lot owners; (ii) lot owners who have leased their lots to other persons may not cast votes on those specified matters; and (iii) lessees are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were lot owners. Lot owners shall also be given notice, in the manner provided in G.S. 47E-3-108, of all meetings at which lessees may be entitled to vote.

(d) No votes allocated to a lot owned by the association may be cast.

(e) The declaration may provide that on specified issues only a defined subgroup of lot owners may vote provided:

(1) The issue being voted is of special interest solely to the members of the subgroup; and

(2) All except de minimis cost that will be incurred based on the vote taken will be assessed solely against those lot owners entitled to vote.

(f) For purposes of subdivision(e)(1) above, an issue to be voted on is not a special interest solely to a subgroup if it substantially affects the overall appearance of the planned community or substantially affects living conditions of lot owners not included in the voting subgroup.

"§ 47E-3-111. Tort and contract liability.

(a) Neither the association nor any lot owner except the declarant is liable for that declarant's torts in connection with any part of the planned community which that declarant has the responsibility to maintain.

(b) An action alleging a wrong done by the association shall be brought against the association and not against a lot owner.

(c) Any statute of limitation affecting the association's right of action under this section is tolled until the period of declarant control terminates. A lot owner is not precluded from bringing an action contemplated by this section because the person is a lot owner or a member or officer of the association.

"§ 47E-3-112. Conveyance or encumbrance of common elements.

(a) Portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least eighty percent (80%) of the votes in the association, or any larger percentage the declaration specifies, agree in writing to that action; provided that all the owners of lots to which any limited common element is allocated shall agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all the lots are restricted exclusively to nonresidential uses. Distribution of proceeds of the sale of a limited common element shall be as provided by agreement between the lot owners to which it is allocated and the

association. Proceeds of the sale or financing of a common element (other than a limited common element) shall be an asset of the association.

(b) The association, on behalf of the lot owners, may contract to convey common elements or subject them to a security interest, but the contract is not enforceable against the association until approved pursuant to subsection (a) of this section. Thereafter, the association has all powers necessary and appropriate to effect the conveyance or encumbrance, free and clear of any interest of any lot owner or the association in or to the common element conveyed or encumbered, including the power to execute deeds or other instruments.

(c) Any purported conveyance, encumbrance, or other voluntary transfer of common elements, unless made pursuant to this section is void.

(d) No conveyance or encumbrance of common elements pursuant to this section may deprive any lot of its rights of access and support.

"**§ 47E-3-113. Insurance.**

(a) Commencing not later than the time of the first conveyance of a lot to a person other than a declarant, the association shall maintain, to the extent reasonably available:

(1) Property insurance on the common elements insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; and

(2) Liability insurance in reasonable amounts, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

(b) If the insurance described in subsection (a) of this section is not reasonably available, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all lot owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it deems appropriate to protect the association or the lot owners.

(c) Insurance policies carried pursuant to subsection (a) of this section shall provide that:

(1) Each lot owner is an insured person under the policy to the extent of the lot owner's insurable interest;

(2) The insurer waives its right to subrogation under the policy against any lot owner or member of the lot owner's household;

(3) No act or omission by any lot owner, unless acting within the scope of the owner's authority on behalf of the association, will preclude recovery under the policy; and

(4) If, at the time of a loss under the policy, there is other insurance in the name of a lot owner covering the same risk covered by the policy, the association's policy provides primary insurance.

(d) Any loss covered by the property policy under subdivision (a)(1) of this section shall be adjusted with the association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the association shall hold any insurance proceeds in trust for lot owners and lienholders as their interests may appear. Subject to the provisions of subsection (h) of this section, the proceeds shall be disbursed first for the repair or restoration of the damaged property, and lot owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the planned community is terminated.

(e) An insurance policy issued to the association does not prevent a lot owner from obtaining insurance for the lot owner's own benefit.

(f) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the association and, upon written request, to any lot owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until 30 days after notice of the proposed cancellation or nonrenewal has been mailed to the association, each lot owner, and each mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last known addresses.

(g) Any portion of the planned community for which insurance is required under subdivision (a)(1) of this section which is damaged or destroyed shall be repaired or replaced promptly by the association unless (i) the planned community is terminated, (ii) repair or replacement would be illegal under any State or local health or safety statute or ordinance, or (iii) the lot owners decide not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) approval of owners assigned to the limited common elements not to be rebuilt. The cost of repair or replacement in excess of insurance proceeds and reserves is a common expense. If any portion of the planned community is not repaired or replaced, (i) the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the planned community, (ii) the insurance proceeds attributable to limited common elements which are not rebuilt shall be distributed to the owners of the lots to which those limited common elements were allocated, or to lienholders, as their interests may appear, and (iii) the remainder of the proceeds shall be distributed to all the lot owners or lienholders, as their interests may appear, in proportion to the common expense liabilities of all the lots. Notwithstanding the provisions of this subsection, G.S. 47E-2-118 (termination of the planned community) governs the distribution of insurance proceeds if the planned community is terminated.

(h) The provisions of this section may be varied or waived in the case of a planned community all of whose lots are restricted to nonresidential use.

"**§ 47E-3-114. Surplus funds.**

Unless otherwise provided in the declaration, any surplus funds of the association remaining after payment of or provision for common expenses, the funding of a reasonable operating expense surplus, and any prepayment of reserves shall be paid to the lot owners in proportion to their common expense liabilities or credited to them to reduce their future common expense assessments.

"**§ 47E-3-115. Assessments for common expenses.**

(a) Except as otherwise provided in the declaration, until the association makes a common expense assessment, the declarant shall pay all common expenses. After any assessment has been made by the association, assessments thereafter shall be made at least annually.

(b) Except for assessments under subsections (c), (d), and (e) of this section, all common expenses shall be assessed against all the lots in accordance with the allocations set forth in the declaration. Any past-due common expense assessment or installment thereof bears interest at the rate established by the association not exceeding eighteen percent (18%) per year. For planned communities created prior to January 1, 1999, interest may be charged on any past-due common expense assessment or installment only if the declaration provides for interest charges, and where the declaration does not otherwise specify the interest rate, the rate may not exceed eighteen percent(18%) per year.

(c) To the extent required by the declaration:

(1) Any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the lots to which that limited common element is assigned, equally, or in any other proportion that the declaration provides;

(2) Any common expense or portion thereof benefiting fewer than all of the lots shall be assessed exclusively against the lots benefitted; and

(3) The costs of insurance shall be assessed in proportion to risk and the costs of utilities shall be assessed in proportion to usage.

(d) Assessments to pay a judgment against the association may be made only against the lots in the planned community at the time the judgment was entered, in proportion to their common expense liabilities.

(e) If any common expense is caused by the negligence or misconduct of any lot owner or occupant, the association may assess that expense exclusively against that lot owner or occupant's lot.

(f) If common expense liabilities are reallocated, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

"**§ 47E-3-116. Lien for assessments.**

(a) Any assessment levied against a lot remaining unpaid for a period of 30 days or longer shall constitute a lien on that lot when a claim of lien is filed of record in the office of the clerk of superior court of the county in which the lot is located in the manner provided herein. The association may foreclose the claim of lien in like

manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes. Unless the declaration otherwise provides, fees, charges, late charges, fines, interest, and other charges imposed pursuant to G.S. 47E-3-102, 47E-3-107, 47E-3-107A, and 47E-3-115 are enforceable as assessments under this section.

(b) The lien under this section is prior to all liens and encumbrances on a lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the lot) recorded before the docketing of the claim of lien in the office of the clerk of superior court, and (ii) liens for real estate taxes and other governmental assessments and charges against the lot. This subsection does not affect the priority of mechanics' or materialmen's liens.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing of the claim of lien in the office of the clerk of superior court.

(d) This section does not prohibit other actions to recover the sums for which subsection (a) of this section creates a lien or prohibit an association taking a deed in lieu of foreclosure.

(e) A judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party.

(f) Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a lot obtains title to the lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns, shall not be liable for the assessments against such lot which became due prior to the acquisition of title to such lot by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all the lot owners including such purchaser, its heirs, successors, and assigns.

(g) A claim of lien shall set forth the name and address of the association, the name of the record owner of the lot at the time the claim of lien is filed, a description of the lot, and the amount of the lien claimed.

"**§ 47E-3-117: Reserved.**

"**§ 47E-3-118. Association records.**

(a) The association shall keep financial records sufficiently detailed to enable the association to comply with this Chapter. All financial and other records shall be made reasonably available for examination by any lot owner and the lot owner's authorized agents.

(b) The association, upon written request, shall furnish to a lot owner or the lot owner's authorized agents a statement setting forth the amount of unpaid assessments and other charges against a lot. The statement shall be furnished within 10 business days after receipt of the request and is binding on the association, the executive board, and every lot owner.

"**§ 47E-3-119. Association as trustee.**

With respect to a third person dealing with the association in the association's capacity as a trustee under G.S. 47E-2-118 following termination or G.S. 47E-3-113 for insurance proceeds, the existence of trust powers and their proper exercise by the

association may be assumed without inquiry. A third person is not bound to inquire whether the association has power to act as trustee or is properly exercising trust powers, and a third person, without actual knowledge that the association is exceeding or improperly exercising its powers, is fully protected in dealing with the association as if it possessed and properly exercised the powers it purports to exercise. A third person is not bound to assure the proper application of trust assets paid or delivered to the association in its capacity as trustee.

"**§ 47E-3-120. Declaration limits on attorneys' fees.**

Except as provided in G.S. 47E-3-116, in an action to enforce provisions of the articles of incorporation, the declaration, bylaws, or duly adopted rules or regulations, the court may award reasonable attorneys' fees to the prevailing party if recovery of attorneys' fees is allowed in the declaration.

Section 2. The Revisor of Statutes shall cause to be printed with this act all relevant portions of the official comments to the North Carolina Planned Community Act and all explanatory comments of the drafters of this act, as the Revisor deems appropriate.

Section 3. This act becomes effective January 1, 1999, and applies to planned communities created on or after that date. G.S. 47E-3-107(a),(b), and (c), G.S. 47E-3-115, and G.S. 47E-3-116 as enacted by Section 1 of this act apply to planned communities created prior to the effective date, except that the provisions of G.S. 47E-3-116(e) as enacted by Section 1 of this act, apply to actions arising on or after the effective date.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ Senate Committee Substitute for
S.B. 2 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR A LATER PRIMARY DATE; TO ABOLISH THE RUNOFF PRIMARY; AND TO CHANGE THE DATE OF THE PRESIDENTIAL PRIMARY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill ~~(#)~~, ☑ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 2
Judiciary Committee Substitute Adopted 3/3/97
House Proposed Committee Substitute -- S2-PCSRR-005A

Short Title: Election Act of 1998. (Public)

Sponsors:

Referred to:

February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO REQUIRE CERTAIN DISCLOSURES ON POLITICAL ADVERTISEMENTS TO BE MADE BY THEIR SPONSORS; TO REVISE THE DEFINITIONS OF "POLITICAL COMMITTEE," "CONTRIBUTION," "EXPENDITURE," AND "POLITICAL PURPOSE" TO CONFORM TO FEDERAL COURT DECISIONS AND TO ADD DEFINITIONS OF "INDEPENDENT EXPENDITURE" AND "EXPRESS ADVOCACY"; TO CONFORM STATE LAW TO FEDERAL COURT DECISIONS CONCERNING INDEPENDENT EXPENDITURES BY CERTAIN TYPES OF CORPORATIONS; TO RESTORE 1996 CAMPAIGN REPORTING SCHEDULE WITH A $250 THRESHOLD FOR CONTRIBUTOR IDENTIFICATION; AND TO CHANGE THE DEADLINES AND PROCEDURES BY WHICH NEW PARTIES MAY GAIN BALLOT ACCESS AND CHOOSE CANDIDATES, TO ALLOW VOTERS TO RETAIN OFFICIAL AFFILIATION WITH AN EXPIRED PARTY, TO MAKE CERTAIN CHANGES TO EQUALIZE CANDIDACY REQUIREMENTS, AND TO REMOVE CERTAIN COURT-INVALIDATED REQUIREMENTS FROM THE PETITION PROCEDURES FOR NEW PARTIES, UNAFFILIATED CANDIDATES, AND WRITE-IN CANDIDATES.

The General Assembly of North Carolina enacts:

Section 1. This act shall be known as "The Election Act of 1998." By the act, the General Assembly intends to provide for reasonable regulation of election campaigns to the end that the First Amendment is respected, candidates are given reasonable

standards of disclosure without being overburdened, and the voters are given adequate information on which to base their decisions. The General Assembly recognizes that the pressure upon candidates to raise increasing amounts of money has a harmful influence on the process of democracy. The principal reason for the pressure is the rising costs of media advertising. Accordingly, the General Assembly calls upon the corporations that control the news media to provide significant amounts of print space and prime air time to candidates to communicate with the voters, free of charge.
--STAND BY YOUR AD.

Section 2. (a) Article 22A of Chapter 163 of the General Statutes is amended by adding a new Part to read:

"Part 1A. Disclosure Requirements for Media Advertisements.

"§ 163-278.39. Basic disclosure requirements for all political campaign advertisements.

(a) Basic Requirements. -- It shall be unlawful for any sponsor to sponsor an advertisement in the print media or on radio or television that constitutes an expenditure or contribution required to be disclosed under this Article unless all the following conditions are met:

(1) It bears the legend or includes the statement: 'Paid for by ..... [Name of candidate, candidate campaign committee, political party organization, political action committee, referendum committee, individual, or other sponsor].' In television advertisements, this disclosure shall be made by visual legend.

(2) The name used in the labeling required in subdivision (1) of this subsection is the name that appears on the statement of organization as required in G.S. 163-278.7(b)(1).

(3) The sponsor states in the advertisement its position for or against the candidate, provided that this subdivision applies only if the advertisement supports or opposes a specific candidate or candidates.

(4) The sponsor states in the advertisement its position for or against a ballot measure, provided that this subdivision applies only if the advertisement is made for or against a ballot measure.

(5) In a print media advertisement supporting or opposing a specific candidate or candidates, the

sponsor states whether it is authorized by a candidate. The visual legend in the advertisement shall state either 'Authorized by [name of candidate], candidate for [name of office]' or 'Not authorized by a candidate.' This subdivision does not apply if the sponsor of the advertisement is the candidate the advertisement supports or that candidate's campaign committee.

(6) In a print media advertisement that identifies a candidate the sponsor is opposing, the sponsor discloses in the advertisement the name of the candidate that is intended to benefit from the advertisement.

If an advertisement described in this section is jointly sponsored, the disclosure statement shall name all the sponsors.

(b) Size Requirements. -- In a print media advertisement covered by subsection (a) of this section, the height of all disclosure statements required by that subsection shall constitute at least five percent (5%) of the height of the printed space of the advertisement, provided that the type shall in no event be less than 12 points in size. If a single advertisement consists of multiple pages, folds, or faces, the disclosure requirement of this section applies only to one page, fold, or face. In a television advertisement covered by subsection (a) of this section, the visual disclosure legend shall constitute 32 scan lines in size. In a radio advertisement covered by subsection (a) of this section, the disclosure statement shall last at least three seconds.

(c) Misrepresentation of Authorization. -- Notwithstanding G.S. 163-278.27(a), any candidate, candidate campaign committee, political party organization, political action committee, referendum committee, individual, or other sponsor making an advertisement in the print media or on radio or television bearing any legend required by subsection (a) of this section that misrepresents the sponsorship or authorization of the advertisement is guilty of a Class 1 misdemeanor.

"**§ 163-278.39A. Disclosure requirements for television and radio advertisements supporting or opposing candidates.**

(a) Expanded Disclosure Requirements. -- In addition to the basic disclosure requirements in G.S. 163-278.39, any political campaign advertisement on radio or television shall comply with the expanded disclosure requirements set forth in this section.

(b) Disclosure Requirements for Television. --

(1) Candidate Advertisements on Television. -- Television advertisements purchased by a candidate or by a candidate campaign committee supporting or opposing a specific candidate or candidates shall include a disclosure statement spoken by the candidate and containing at least the following words: 'I am (or "This is...") [name of candidate], candidate for [name of office], and I (or "my campaign...") sponsored this ad.'

(2) Political Party Advertisements on Television. -- Television advertisements purchased by a political party organization supporting or opposing a specific candidate or candidates shall include a disclosure statement spoken by the chair, executive director, or treasurer of the political party organization and containing at least the following words: 'The [name of political party organization] sponsored this ad opposing/supporting [name of candidate] for [name of office].' The disclosed name of the political party organization shall include the name of the political party as it appears on the ballot.

(3) Political Action Committee Advertisements on Television. -- Television advertisements purchased by a political action committee supporting or opposing a specific candidate or candidates shall include a disclosure statement spoken by the chief executive officer or treasurer of the political action committee and containing at least the following words: 'The [name of political action committee] political action committee sponsored this ad opposing/supporting [name of candidate] for [name of office].' The name of the political action committee used in the advertisement shall be the name that appears on the statement of organization as required in G.S. 163-278.7(b)(1).

(4) Advertisements on Television by an Individual. -- Television advertisements purchased by an individual supporting or opposing a specific candidate or candidates shall include a disclosure statement spoken by the individual and containing at least the following words: 'I am [individual's name], and I sponsored this advertisement

opposing/sponsoring [name of candidate] for [name of office].'

(5) Advertisements on Television by Another Sponsor. -- Television advertisements purchased by a sponsor other than a candidate, a candidate campaign committee, a political party organization, a political action committee, or an individual which mention the name of a specific candidate or candidates and whose cost or value constitutes an expenditure required to be disclosed under this Article shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and containing at least the following words: '[Name of sponsor] sponsored this ad.'

(6) All Advertisements on Television. -- In any television advertisement described in subdivisions (1) through (5) of this subsection, an unobscured, full-screen picture containing the disclosing individual, either in photographic form or through the actual appearance of the disclosing individual on camera, shall be featured throughout the duration of the disclosure statement.

(c) Disclosure Requirements for Radio. --

(1) Candidate Advertisements on Radio. -- Radio advertisements purchased by a candidate or by a candidate campaign committee supporting or opposing a specific candidate or candidates shall include a disclosure statement spoken by the candidate and containing at least the following words: 'I am (or "This is..") [name of candidate], candidate for [name of office], and this ad was paid for (or "sponsored" or "furnished") by [name of candidate campaign committee that paid for the advertisement].'

(2) Political Party Advertisements on Radio. -- Radio advertisements purchased by a political party organization supporting or opposing a specific candidate or candidates shall include a disclosure statement spoken by the chair, executive director, or treasurer of the political party organization and containing at least the following words: 'This ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or

"furnished") by [name of political party].' The disclosed name of the political party organization shall include the name of the political party as it appears on the ballot.

(3) Political Action Committee Advertisements on Radio. -- Radio advertisements purchased by a political action committee supporting or opposing a specific candidate or candidates shall include a disclosure statement spoken by the chief executive officer or treasurer of the political action committee and containing at least the following words: 'This ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by [name of political action committee] political action committee.' The name of the political action committee used in the advertisement shall be the name that appears on the statement of organization as required by G.S. 163-278.7(b)(1).

(4) Advertisements on Radio by an Individual. -- Radio advertisements purchased by an individual supporting or opposing a specific candidate or candidates shall include a disclosure statement spoken by the individual and containing at least the following words: 'I am [individual's name], and this ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by me.'

(5) Advertisements on Radio by Another Sponsor. -- Radio advertisements purchased by a sponsor other than a candidate, a candidate campaign committee, a political party organization, a political action committee, or an individual which mentions the name of a specific candidate or candidates and whose cost or value constitutes an expenditure or contribution required to be disclosed under this Article shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and containing at least the following words: '[Name of sponsor] paid for (or "sponsored" or "furnished") this ad.'

(d) Placement of Disclosure Statement in Television and Radio Advertisements. -- In advertisements on television, a sponsor may place the disclosure statement required by this section at any

point during the advertisement, except if the duration of the advertisement is more than five minutes, the disclosure statement shall be made both at the beginning and end of the advertisement. The sponsor may provide the oral disclosure statement required by this section at the same time as the visual disclosure required under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317, is shown. But any visual disclosure legend shall be at least 32 scan lines in size. For advertisements on radio, the placement of the oral disclosure statement shall comply with the requirements of the Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

(e) Choice of Supporting or Opposing a Candidate. -- In its oral disclosure statement, a sponsoring political party organization, political action committee, individual, or other non-candidate sponsor shall choose either to identify an advertisement as supporting a specific candidate or opposing a specific candidate.

(e1) Joint Sponsors. -- If an advertisement described in this section is jointly sponsored, the disclosure statement shall name all the sponsors and the disclosing individual shall be one of those sponsors. If a candidate is one of the sponsors, that candidate shall be the disclosing individual, and if more than one candidate is the sponsor, at least one of the candidates shall be the disclosing individual.

(f) Legal Remedy. -- Pursuant to the conditions established in subdivisions (1), (2), and (3) of this subsection, a candidate for an elective office who complied with the television and radio disclosure requirements throughout that candidate's entire campaign shall have a monetary remedy in a civil action against (i) an opposing candidate or candidate committee whose television or radio advertisement violates these disclosure requirements and (ii) against any political party organization, political action committee, individual, or other sponsor whose advertisement for that elective office violates these disclosure requirements:

(1) Any plaintiff candidate in a statewide race in an action under this section shall complete and file a Notice of Complaint Regarding Failure to Disclose on Television or Radio Campaign Advertising with the State Board of Elections after the airing of the advertisement but no later than the first Friday after the Tuesday on which the election occurred. Candidates in nonstatewide races may file the notice during the same time period with one county board of elections within the electoral area in which they are candidates. The timely filing of

this notice preserves the candidate's right to bring an action in superior court any time within 90 days after the election. A candidate shall bring the civil action in the county where the candidate filed the notice.

(2) Upon receiving a favorable verdict in accordance with existing law, the plaintiff candidate shall receive a monetary award of actual damages. The price of actual damages shall be calculated as the total dollar amount of television and radio advertising time that was aired and that the plaintiff candidate correctly identifies as being in violation of the disclosure requirements of this section.

The plaintiff candidate shall also receive an award that trebles the amount of actual damages if:

a. The plaintiff candidate can establish having notified or attempted to notify the sponsor of the advertisement properly by return-receipt mail about the failure of a particular advertisement or advertisements to comply with the disclosure requirements of this section, and

b. After the notice or attempted notice, the advertisement continued to be aired.

The treble damages shall be calculated from the date on which the return-receipt notice was accepted or rejected by a defendant sponsoring candidate or candidate committee, political party organization, political action committee, or individual. The plaintiff candidate or candidate committee shall send a copy of any return-receipt mailing to the relevant board of elections as provided in subdivision (1) of this subsection within five days after the notice is returned to the possession of the candidate or candidate committee.

The court shall award reasonable attorneys' fees to a plaintiff candidate who prevails in an action under this section. The plaintiff candidate may bring the civil action personally or authorize his or her candidate campaign committee to bring the civil action.

(3) A candidate who violates the disclosure requirements of State law in this section and that candidate's campaign committee shall be jointly and severally liable for the payment of damages and attorneys' fees. If the candidate is held personally liable for any payment of damages or attorneys' fees, the candidate shall not use or be reimbursed by funds from the candidate's campaign committee in paying any amount.

(g) Relation to the Communications Act of 1934. -- Television advertisements by a sponsor supporting or opposing a specific candidate or candidates shall comply with the oral disclosure requirements under State law in this section. Those advertisements shall also comply with disclosure requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317 by use of visual legends. The content of those visual legends is specified by the Communications Act of 1934, 47 U.S.C. §§ 315 and 317, and G.S. 163-278.39(a)(1). The size of those visual legends is determined by G.S. 163-278.39(b), which satisfies requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317. In the case of radio advertisements, the oral disclosure requirements under State law in this section incorporate the content requirements under the Communications Act of 1934, 47 U.S.C. §§ 315 and 317.

(h) No Additional Liability of Television or Radio Outlets. -- Television or radio outlets shall not be liable under this section for carriage of political advertisements that fail to include the disclosure requirements provided for in this section.

(i) No Criminal Liability. -- Nothing in this section regarding the disclosure requirements in subsections (b) and (c) of this section shall be relied upon or otherwise interpreted to create criminal liability for any person.

"§ 163-278.39B. Definitions.

As used in this Part:

(1) 'Advertisement' means any message of advocacy appearing in the print media, on television, or on radio that constitutes a contribution or expenditure under this Article.

(2) 'Candidate' means any individual who, with respect to a public office listed in G.S. 163-278.6(18), has filed a notice of candidacy or a petition requesting to be a candidate, or has been certified as a nominee of a political party for a vacancy, or has otherwise qualified as a candidate in a manner

authorized by law, or has filed a statement of organization under G.S. 163-278.7 and is required to file periodic financial disclosure statements under G.S. 163-278.9.

(3) 'Candidate campaign committee' means any political committee organized by or under the direction of a candidate.

(4) 'Full-screen' means the only picture appearing on the television screen during the oral disclosure statement contains the disclosing person, that the picture occupies all visible space on the television screen, and that the image of the disclosing person occupies at least fifty percent (50%) of the vertical height of the television screen.

(5) 'Print media' means billboards, cards, newspapers, newspaper inserts, magazines, mass mailings, pamphlets, fliers, periodicals, and outdoor advertising facilities. A 'mass mailing' is a mailing with more than five hundred (500) pieces.

(6) 'Political action committee' has the same meaning as 'political committee' in G.S. 163-278.6(14), except that 'political action committee' does not include any political party or political party organization.

(7) 'Political party organization' means any political party executive committee or any political committee that operates under the direction of a political party executive committee or political party chair.

(8) 'Radio' means any radio broadcast station that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

(9) 'Scan line' means a standard term of measurement used in the electronic media industry calculating a certain area in a television advertisement.

(10) 'Sponsor' means a candidate, candidate committee, political party organization, political action committee, referendum committee, individual, or other entity that purchases an advertisement.

(11) 'Supporting or Opposing' means an advertisement that mentions the name of a candidate, elected official, political party, or referendum issue and whose cost or value constitutes an expenditure or

contribution required to be disclosed under this Article.

(12) 'Television' means any television broadcast station, cable television system, wireless-cable multipoint distribution system, satellite company, or telephone company transmitting video programming that is subject to the provisions of 47 U.S.C. §§ 315 and 317.

(13) 'Unobscured' means the only printed material that may appear on the television screen is a visual disclosure statement required by law, and nothing is blocking the view of the disclosing person's face.

"§ 163-278.39C. Scope of disclosure requirements.

The disclosure requirements of this Part apply to any sponsor of an advertisement in the print media or on radio or television the cost or value of which constitutes an expenditure or contribution required to be disclosed under this Article, except that the disclosure requirements of this Part:

(1) Do not apply to an individual who makes uncoordinated independent expenditures aggregating less than one thousand dollars ($1,000) in a political campaign;

(2) Do not apply to an individual who incurs expenses with respect to a referendum."

(b) G.S. 163-278.16 reads as rewritten:

"§ 163-278.16. Regulations regarding ~~contributions, expenditures and media advertising.~~ timing of contributions and expenditures.

(a) Except as provided in G.S. 163-278.12, no contribution may be received or expenditure made by or on behalf of a candidate, political committee, or referendum committee:

(1) Until the candidate, political committee, or referendum committee appoints a treasurer and certifies the name and address of the treasurer to the Board; and

(2) Unless the contribution is received or the expenditure made by or through the treasurer of the candidate, political committee, or referendum committee.

(b) to (e) Repealed by Session Laws 1975, c. 565, s. 2.

~~(f) No media advertisement of any kind may be made by a treasurer, candidate, political committee, referendum committee or individual unless~~

~~(1) It bears the legend or includes the statement: "Paid for by (or Sponsored by)..... (Name of candidate, political committee, referendum committee, individual)";~~

~~(2) The name used in the labeling required in subdivision (1) of this subsection is the name that appears on the statement of organization as required in G.S. 163-278.7(b)(1), provided that this subdivision applies only if the sponsor is a political committee or referendum committee;~~

~~(3) The sponsor states in the media advertisement its position:~~

~~a. For or against the candidate; or~~

~~b. For or against an opposing candidate~~

~~provided that this subdivision applies only if the media advertisement is made for or against a candidate; and~~

~~(4) The sponsor states in the media advertisement its position for or against the ballot measure; provided this subdivision applies only if the media advertisement is made for or against a ballot measure.~~

~~The requirements of subdivisions (3) and (4) of this subsection do not apply to any print advertisement less than two inches by two inches in size, or to any radio or television advertisement of less than 20 seconds in length.~~

~~The media shall not publish or broadcast any political advertisement unless it bears the legend or includes the statement required herein. For purposes of this subsection, "media" means broadcasting stations, carrier current stations, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, and newspaper inserts.~~

~~(g) All printed matter for a political purpose from a political party or political committee which identifies a candidate that party or committee is opposing shall indicate in type no smaller than 12 point the name of the political party or political committee and the name of the candidate that is intended to benefit from the printed matter.~~"

(c) G.S. 163-278.27(a) reads as rewritten:

"(a) Any individual, candidate, political committee, referendum committee, treasurer, person or media who violates the applicable provisions of G.S. 163-278.7, 163-278.8, 163-278.9, 163-278.10, 163-278.11, 163-278.12, 163-278.14, 163-278.16,

163-278.17, 163-278.18, 163-278.39, 163-278.40A, 163-278.40B, 163-278.40C, 163-278.40D or 163-278.40E is guilty of a Class 2 misdemeanor."

--REVISED AND NEW DEFINITIONS IN THE CAMPAIGN FINANCE LAW; COMPLIANCE WITH COURT DECISIONS.

Section 3. (a) G.S. 163-278.6(14) reads as rewritten:

"(14) The term 'political committee' means a combination of two or more individuals, or any person, committee, association, or ~~organization, the primary or incidental purpose of which is to support or oppose any candidate or political party or to influence or attempt to influence the result of an election or which accepts contributions or makes~~ organization that has one or more of the following characteristics:

a. Is controlled by a candidate;

b. Makes contributions to a candidate or political committee; or

c. Has as a nonincidental purpose making expenditures ~~for the purpose of influencing or attempting to influence~~ to expressly advocate the nomination or election or defeat of ~~any~~ a clearly identified candidate at any ~~election,~~ election.

~~or which~~ If the group qualifies as a 'political committee' under sub-subdivision a., b., or c. of this subdivision, it continues to be a political committee if it receives contributions to repay loans or cover a deficit, or ~~which~~ makes expenditures to satisfy obligations of an election already held. The term includes, without limitation, any political party's State, county or district executive committee."

(b) G.S. 163-278.6(6) reads as rewritten:

"(6) The terms 'contribute' or 'contribution' mean any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, to a candidate, political committee, political party, or referendum committee from any person or individual, whether or not made in an election year, and any contract, agreement, promise or other obligation, whether or not legally

enforceable, to make a contribution, in support of or in opposition to any candidate, political committee, referendum committee, or political party. These terms include, without limitation, such contributions as labor or personal services, postage, publication of campaign literature or materials, in-kind transfers, loans or use of any supplies, office machinery, vehicles, aircraft, office space, or similar or related services, goods, or personal or real property. These terms also include, without limitation, the proceeds of sale of services, campaign literature and materials, wearing apparel, tickets or admission prices to campaign events such as rallies or dinners, and the proceeds of sale of any campaign-related services or ~~goods notwithstanding~~ goods. Notwithstanding the foregoing meanings of 'contribution,' the word shall not be construed to include services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, political committee, or referendum committee. The term 'contribution' does not include an 'independent expenditure.'"

(c) G.S. 163-278.6(9) reads as rewritten:

"(9) The terms 'expend' or 'expenditure' mean any contribution, purchase, advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever, from any person or individual, whether or not made in an election year, and any contract, agreement, promise or other obligation, whether or not legally enforceable, to make an expenditure, ~~in support of or in opposition to~~ to expressly advocate the nomination or election or defeat of any ~~candidate, political committee, referendum committee, or political party.~~ clearly identified candidate. The term 'expenditure' also includes any payment made by a candidate, political committee, or referendum committee."

(d) G.S. 163-278.6 is amended by adding a new subdivision to read:

"(9A) The term 'express advocacy' means a communication that advocates the election or defeat of a candidate by:

a. Containing a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for (name of office)', '(name of candidate) in (year)', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to advocate the election or defeat of one or more clearly identified candidates;

b. Referring to one or more clearly identified candidates in a paid advertisement that is broadcast by a radio broadcast station or a television broadcast station within sixty (60) calendar days preceding the date of a primary or election of the candidate; or

c. Expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole and with limited reference to external events, such as proximity to an election.

The term 'express advocacy' does not include a printed communication that (i) presents information in an educational manner solely about the voting record or position on a campaign issue of two or more candidates; (ii) is not made in coordination with a candidate, political party, or agent of the candidate or party; or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent; and (iii) does not contain a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', '(name of candidate) for Governor', '(name of candidate) in 1998', 'vote against', 'defeat', 'reject', or a campaign slogan or words that in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates."

(e) G.S. 163-278.6 is amended by adding a new subdivision to read:

"(9B) The term 'independently expend' or 'independent expenditure' mean an expenditure made without consultation or coordination with any candidate, political committee, or political party that benefits or would benefit electorally from the expenditure."

(f) G.S. 163-278.6(16) reads as rewritten:

"16) The term 'political purpose' means ~~any purpose in aid of seeking to influence an election or a~~ to expressly advocate the nomination or election or defeat of a clearly identified political party or candidate."

(g) G.S. 163-269 and G.S. 163-270 are repealed.

(h) G.S. 163-278.19 is amended by adding a new subsection to read:

"(f) This section does not prohibit an independent expenditure by an entity that:

(1) Was formed for the express purpose of promoting political ideas and does not engage in business activities;

(2) Does not have shareholders or other individuals or persons which have an economic interest in its assets and earnings; and

(3) Was not established by a business corporation, including, but not limited to, those chartered under Chapter 55 or Chapter 55A, by an insurance company, by a business entity, by a professional association, or by a labor union and does not receive a significant portion of its revenues from such entities."

(i) G.S. 163-278.12 reads as rewritten:

"**§ 163-278.12. ~~Contributions and expenditures by an individual other than a candidate.~~ Independent expenditures.**

Subject to G.S. ~~163-278.16(f) and~~ Part 1A of this Article and to 163-278.14, it shall be permissible for an individual other than a candidate to make ~~contributions or expenditures in support of, or in opposition to, any candidate, political committee, or referendum committee other than by contribution to a candidate, political committee, or referendum committee.~~ independent expenditures. In the event an individual or entity other than a political committee permitted by law to do so makes ~~contributions or expenditures, other than by contribution to a candidate, political committee, or referendum committee,~~ independent expenditures in excess of one hundred dollars ($100.00), then,

within 10 days after making such ~~a contribution or~~ an independent expenditure, ~~he~~ that individual or entity shall file a statement of such ~~contribution or~~ independent expenditure with the Board in accordance with the terms and conditions of G.S. 163-278.11."

(j) G.S. 163-278.12A is repealed.

--RESTORATION OF REPORTING SCHEDULE; $250 IDENTIFICATION THRESHOLD.

Section 4. (a) G.S. 163-278.8(d) reads as rewritten:

"(d) A treasurer shall not be required to report the name of any individual who is a resident of this State who makes a total contribution of ~~one hundred~~ two hundred fifty dollars ~~($100.00)~~ ($250.00) or less but he shall instead report the fact that he has received a total contribution of ~~one hundred~~ two hundred fifty dollars ~~($100.00)~~ ($250.00) or less, the amount of the contribution, and the date of receipt. If a treasurer receives contributions of ~~one hundred~~ two hundred fifty dollars ~~($100.00)~~ ($250.00) or less, each at a single event, he may account for and report the total amount received at that event, the date and place of the event, the nature of the event, and the approximate number of people at the event. With respect to the proceeds of sale of services, campaign literature and materials, wearing apparel, tickets or admission prices to campaign events such as rallies or dinners, and the proceeds of sale of any campaign-related services or goods, if the price or value received for any single service or goods exceeds ~~one hundred~~ two hundred fifty dollars ~~($100.00),~~ ($250.00), the treasurer shall account for and report the name of the individual paying for such services or goods, the amount received, and the date of receipt, but if the price or value received for any single service or item of goods does not exceed ~~one hundred~~ two hundred fifty dollars ~~($100.00),~~ ($250.00) the treasurer may report only those services or goods rendered or sold at a value that does not exceed ~~one hundred~~ two hundred fifty dollars ~~($100.00),~~ ($250.00), the nature of the services or goods, the amount received in the aggregate for the services or goods, and the date of the receipt."

(b) G.S. 163-278.9(a) reads as rewritten:

"**§ 163-278.9. Statements filed with Board.**

(a) Except as provided in G.S. 163-278.10A, the treasurer of each candidate and of each political committee shall file under verification with the Board the following reports:

(1) Organizational Report. -- The appointment of the treasurer as required by G.S. 163-278.7(a), the statement of organization required by G.S. 163-278.7(b), and a report of all contributions and

expenditures not previously reported shall be filed with the Board no later than the tenth day following the day the candidate files notice of candidacy or the tenth day following the organization of the political committee, whichever occurs first. Any candidate whose campaign is being conducted by a political committee which is handling all contributions and expenditures for his campaign shall file a statement with the Board stating such fact at the time required herein for the organizational report. Thereafter, the candidate's political committee shall be responsible for filing all reports required by law.

(2) Preprimary Report. -- The treasurer shall file a report with the Board no later than the tenth day preceding the primary election. ~~A candidate who is not on the ballot in the primary and who has filed a first quarter report pursuant to subdivision (5a) of this subsection shall not be required to file a separate preprimary report under this subdivision.~~

(3) Postprimary Report(s). -- The treasurer shall file a report with the Board no later than the 30th day after the primary election if the candidate was eliminated in the primary. If there is a second primary, the treasurer shall file a report with the Board no later than the 30th day after the second primary election if the candidate was eliminated in the second primary.

(4) Preelection Report. -- The treasurer shall file a report with the Board not later than the tenth day preceding the general election.

~~(4a) 48-Hour Report. -- A political committee or political party that receives a contribution or transfer of funds from any political committee shall disclose within 48 hours of receipt a contribution or transfer of one thousand dollars ($1,000) or more received after the last preelection report but before an election. The disclosure shall be by report to the State Board of Elections identifying the source and amount of the funds. The State Board of Elections shall specify the form and manner of making the report.~~

(5) Repealed by Session Laws 1985, c. 164, s. 1.

~~(5a) Quarterly Reports. -- During even-numbered years during which there is an election for that candidate or in which the campaign committee is supporting a candidate, the treasurer shall file a report by mailing or otherwise delivering it to the Board no later than seven working days after the end of each calendar quarter covering the prior calendar quarter, except that the report for the third quarter shall also cover the period in October through the seventeenth day before the election, the third quarter report shall be due seven days after that date, and the fourth quarter report shall not include that period if a third quarter report was required to be filed.~~

(6) ~~Semiannual~~ Annual Reports. -- If contributions are received or expenditures made during a calendar year for which no reports are otherwise required by this Article, any and all such contributions and expenditures shall be reported by the last Friday in ~~July, covering the period through the last day of June, and shall be reported by the last Friday in January, covering the period through the last day of December.~~ January of the following year.

(b) Except as otherwise provided in this Article, each report shall be current within seven days prior to the date the report is due and shall list all contributions received and expenditures made which have not been previously reported.

(c) Repealed by Session Laws 1985, c. 164, s. 6.1.

(d) Candidates and committees for municipal offices are not subject to subsections (a), (b) and (c) of this section. Reports for those candidates and committees are covered by Part 2 of this Article.

(e) Notwithstanding subsections (a) through (c) of this section, any political party (including a State, district, county, or precinct committee thereof) which is required to file reports under those subsections and under the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 434), shall instead of filing the reports required by those subsections, file with the State Board of Elections:

(1) The organizational report required by subsection (a)(1) of this section, and

(2) A copy of each report required to be filed under 2 U.S.C. 434, such copy to be filed on the same day as the federal report is required to be filed.

(f) Any report filed under subsection (e) of this section may include matter required by the federal law but not required by this Article.

(g) Any report filed under subsection (e) of this section must contain all the information required by G.S. 163-278.8 or G.S. 163-278.11, notwithstanding that the federal law may set a higher reporting threshold.

(h) Any report filed under subsection (e) of this section may reflect the cumulative totals required by G.S. 163-278.11 in an attachment, if the federal law does not permit such information in the body of the report.

(i) Any report or attachment filed under subsection (e) of this section must be made under oath.

(j) Treasurers for the following entities shall electronically file each report required by this section that shows in excess of five thousand dollars ($5,000) in contributions, in expenditures, or in loans, according to rules adopted by the State Board of Elections:

(1) A candidate for statewide office;

(2) A State, district, county, or precinct executive committee of a political party, if the committee makes contributions or independent expenditures in excess of five thousand dollars ($5,000) that affect contests for statewide office;

(3) A political committee that makes contributions in excess of five thousand dollars ($5,000) to candidates for statewide office or makes independent expenditures in excess of five thousand dollars ($5,000) that affect contests for statewide office.

The State Board of Elections shall provide the software necessary to file an electronic report to a treasurer required to file an electronic report at no cost to the treasurer."

(c) G.S. 163-278.9A(a)(2a) is repealed.

--BALLOT ACCESS CHANGES.

Section 5. (a) G.S. 163-96 reads as rewritten:

"**§ 163-96. 'Political party' defined; creation of new party.**

(a) Definition. -- A political party within the meaning of the election laws of this State shall be either:

(1) Any group of voters which, at the last preceding general State election, polled for its candidate for Governor, or for presidential electors, at least ten percent (10%) of the entire vote cast in

the State for Governor or for presidential electors; or

(2) Any group of voters which shall have filed with the State Board of Elections petitions for the formulation of a new political party which are signed by registered and qualified voters in this State equal in number to two percent (2%) of the total number of voters who voted in the most recent general election for Governor. Also the petition must be signed by at least 200 registered voters from each of four congressional districts in North Carolina. To be effective, the petitioners must file their petitions with the State Board of Elections before 12:00 noon on the ~~first day of June~~ thirty-first day of December preceding the day on which is to be held the first general State election in which the new political party desires to participate. The State Board of Elections shall forthwith determine the sufficiency of petitions filed with it and shall immediately communicate its determination to the State chairman of the proposed new political party.

(b) Petitions for New Political Party. -- Petitions for the creation of a new political party shall contain on the heading of each page of the petition in bold print or all in capital letters the words: 'THE UNDERSIGNED REGISTERED VOTERS IN ..... COUNTY HEREBY PETITION FOR THE FORMATION OF A NEW POLITICAL PARTY TO BE NAMED ..... AND WHOSE STATE CHAIRMAN IS ....., RESIDING AT..... AND WHO CAN BE REACHED BY TELEPHONE AT..... THE SIGNERS OF THIS PETITION ~~INTEND TO ORGANIZE A NEW POLITICAL PARTY~~ DESIRE THAT A NEW POLITICAL PARTY BE ORGANIZED TO PARTICIPATE IN THE NEXT SUCCEEDING GENERAL ELECTION.'

All printing required to appear on the heading of the petition shall be in type no smaller than 10 point or in all capital letters, double spaced typewriter size. In addition to the form of the petition, the organizers and petition circulators shall inform the signers of the general purpose and intent of the new party.

The petitions must specify the name selected for the proposed political party. The State Board of Elections shall reject petitions for the formation of a new party if the name chosen contains any word that appears in the name of any existing political party recognized in this State or if, in the Board's

opinion, the name is so similar to that of an existing political party recognized in this State as to confuse or mislead the voters at an election.

The petitions must state the name and address of the State chairman of the proposed new political party.

~~The validity of the signatures on the petitions shall be proved in accordance with one of the following alternative procedures:~~

~~(1) The signers may acknowledge their signatures before an officer authorized to take acknowledgments, after which that officer shall certify the validity of the signatures by appropriate notation attached to the petition, or~~

~~(2) A person in whose presence a petition was signed may go before an officer authorized to take acknowledgments and, after being sworn, testify to the genuineness of the signatures on the petition, after which the officer before whom he has testified shall certify his testimony by appropriate notation attached to the petition.~~

Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained, and it shall be the chairman's duty:

(1) To examine the signatures on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in his county.

(2) To attach to the petition his signed certificate

a. Stating that the signatures on the petition have been checked against the registration records and

b. Indicating the number found qualified and registered to vote in his county.

(3) To return each petition, together with the certificate required by the preceding subdivision, to the person who presented it to him for checking.

The group of petitioners shall submit the petitions to the chairman of the county board of elections in the county in which the signatures were obtained no later than 5:00 P.M. on the fifteenth business day preceding the date the petitions are due to be filed with the State Board of Elections as provided in subsection (a)(2) of this section. ~~Provided the petitions are timely submitted, the chairman of the county board of elections shall require a fee of five cents (5¢) for each signature appearing and shall proceed to examine and verify the signatures~~

~~under the provisions of this subsection.~~ Verification shall be completed within ~~two weeks~~ 15 business days from the date such petitions are ~~presented and the required fee received.~~ presented. Notwithstanding the previous sentence, the county board may extend its deadline for verifying the signatures for a reasonable length of time, if meeting the deadline is unduly burdensome and extending it will not disadvantage the petitioners."

(b) G.S. 163-97.1 reads as rewritten:

"**§ 163-97.1. Voters affiliated with expired political party.**

~~The State Board of Elections shall be authorized to promulgate appropriate procedures to order the county boards of elections to change the registration affiliation of all voters who are recorded on the voter registration books as being affiliated with a political party which has lost its legal status as provided in G.S. 163-97. The State Board of Elections shall not implement the authority contained in this section earlier than 90 days following the certification of the election in which the political party failed to continue its legal status as provided in G.S. 163-97. All voters affiliated with such expired political party shall be changed to "unaffiliated" designation by the State Board's order and all such registrants shall be entitled to declare a political party affiliation as provided in G.S. 163-74(b).~~ Any voter registered with a political party shall be allowed to retain that affiliation even if that party loses its status as a political party under the provisions of G.S. 163-97. Unless the voter indicates an intention otherwise, the county board of elections shall carry that voter on its registration lists as a member of the expired party."

(c) G.S. 163-97 reads as rewritten:

"**§ 163-98. General election participation by new political party.**

In the first general election following the date on which a new political party qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its candidates for municipal, county, district, State, congressional, and national offices printed on the official ~~ballots, but it shall not be entitled to have the names of candidates for other offices printed on State, district, or county ballots at that election.~~ ballots in accordance with the procedures in this section.

For the first general election following the date on which it qualifies under G.S. 163-96, a new political party shall select its candidates ~~by party convention. Following adjournment of the nominating convention, but not later than the first day of July prior to the general election, the president of the convention shall certify to the State Board of Elections the names of~~

~~persons chosen in the convention as the new party's candidates for State, congressional, and national offices in the ensuing general election. The State Board of Elections shall print names thus certified on the appropriate ballots as the nominees of the new party.~~ in accordance with Article 1 and Article 10 of this Chapter."

(d) Article 9 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**163-100. Political party for presidential election only.**

A party shall be recognized only for the purposes of nominating candidates for presidential elector in a general election if the party meets the other requirements of this Article except that the petitioners for that party file their petitions as provided in G.S. 163-96(a)(2) with the State Board of Elections before 12:00 noon on the second Thursday in July before that general election. If that party so qualifies, it may nominate its electors in convention no later than ninety (90) days before the general election. Unless the party has met the petition deadline of G.S. 163-96, it shall cease to be a political party within the provisions of this Chapter."

(e) G.S. 163-106(b) reads as rewritten:

"(b) Eligibility to File. -- No person shall be permitted to file as a candidate in a primary if, at the time he offers to file notice of candidacy, he is registered on the appropriate registration book or record as an affiliate of a political party other than that in whose primary he is attempting to file. No person who has changed his political party affiliation or who has changed from unaffiliated status to party affiliation as permitted in G.S. 163-82.17, shall be permitted to file as a candidate in the primary of the party to which he changed unless he has been affiliated with the political party in which he seeks to be a candidate for at least 90 days prior to the filing date for the office for which he desires to file his notice of ~~candidacy.~~ candidacy, provided that the requirement of this sentence shall not apply to a person filing a notice of candidacy in the primary of a party holding its first primary since gaining ballot access under the provisions of G.S. 163-96(a)(2).

A person registered as "unaffiliated" shall be ineligible to file as a candidate in a party primary election."

(f) G.S. 163-107.1 reads as rewritten:

"**§ 163-107.1. Petition in lieu of payment of filing fee.**

(a) Any qualified voter who seeks nomination in the party primary of the political party with which he affiliates may, in lieu of payment of any filing fee required for the office he

seeks, file a written petition requesting him to be a candidate for a specified office with the appropriate board of elections, State, county or municipal.

(b) If the candidate is seeking the office of United States Senator, Governor, Lieutenant Governor, any State executive officer, Justice of the Supreme Court or Judge of the Court of Appeals, the petition must be signed by ~~10,000 registered voters who are members of the political party in whose primary the candidate desires to run, except that in the case of a political party as defined by G.S. 163-96(a)(2) which will be making nominations by primary election, the petition must be signed by ten percent (10%) of the registered voters of the State who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 10,000 registered voters regardless of the voter's political party affiliation, whichever requirement is greater.~~ registered voters of the State equal in number to two percent (2%) of the total number of registered voters in the State as reflected by the most recent statistical report issued by the State Board of Elections. The petition must be filed with the State Board of Elections not later than 12:00 noon on Monday preceding the filing deadline before the primary in which he seeks to run. The names on the petition shall be verified by the board of elections of the county where the signer is registered, and the petition must be presented to the county board of elections at least 15 days before the petition is due to be filed with the State Board of Elections. When a proper petition has been filed, the candidate's name shall be printed on the primary ballot.

(c) County, Municipal and District Primaries. -- If the candidate is seeking one of the offices set forth in G.S. 163-106(c) but which is not listed in subsection (b) of this section, or a municipal or any other office requiring a partisan primary which is not set forth in G.S. 163-106(c) or (d), he shall file a written petition with the appropriate board of elections no later than 12:00 noon on Monday preceding the filing deadline before the primary. The petition shall be signed by ~~ten percent (10%) of the registered voters of the election area in which the office will be voted for, who are affiliated with the same political party in whose primary the candidate desires to run, or in the alternative, the petition shall be signed by no less than 200 registered voters regardless of said voter's political party affiliation, whichever requirement is greater.~~ registered voters in the election area in which the office will be voted for equal

to four percent (4%) of the registered voters of that area, as reflected by the latest statistical report issued by the appropriate board of elections. The board of elections shall verify the names on the petition, and if the petition is found to be sufficient, the candidate's name shall be printed on the appropriate primary ballot. Petitions for candidates for member of the U.S. House of Representatives, District Attorney, and judge of the District Court or members of the State House of Representatives from multi-county districts or members of the State Senate from multi-county districts must be presented to the county board of elections for verification at least 15 days before the petition is due to be filed with the State Board of Elections, and such petition must be filed with the State Board of Elections no later than 12:00 noon on Monday preceding the filing deadline. The State Board of Elections may adopt rules to implement this section and to provide standard petition forms.

(d) Nonpartisan Primaries and Elections. -- Any qualified voter who seeks to be a candidate in any nonpartisan primary or election may, in lieu of payment of the filing fee required, file a written petition signed by ~~ten percent (10%) of the registered voters in the election area in which the office will be voted for with the appropriate board of elections.~~ registered voters in the election area in which the office will be voted for equal to four percent (4%) of the registered voters of that area, as reflected by the latest statistical report issued by the appropriate board of elections. Any qualified voter may sign the petition. The petition shall state the candidate's name, address and the office which he is seeking. The petition must be filed with the appropriate board of elections no later than 60 days prior to the filing deadline for the primary or election, and if found to be sufficient, the candidate's name shall be printed on the ballot. "

(g) G.S. 163-122 reads as rewritten:

"**§ 163-122. Unaffiliated candidates nominated by petition.**

(a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. -- Any qualified voter who seeks to have his name printed on the general election ballot as an unaffiliated candidate shall:

(1) If the office is a statewide office, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the ~~last Friday in June~~ day of the first primary for the

office preceding the general election and must be signed by qualified voters of the State equal in number to two percent (2%) of the total number of registered voters in the State as reflected by the most recent statistical report issued by the State Board of Elections. Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. The chairman shall examine the names on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in his county and shall attach to the petition his signed certificate. Said certificates shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers to be qualified and registered to vote in his county. The chairman shall return each petition, together with the certificate required in this section, to the person who presented it to him for checking. Verification by the chairman of the county board of elections shall be completed within two weeks from the date such petitions are ~~presented and a fee of five cents (5¢) for each name appearing on the petition has been received.~~ presented.

(2) If the office is a district office comprised of two or more counties, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the ~~last Friday in June~~ day of the first primary for the office preceding the general election and must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of registered voters in the district as reflected by the latest statistical report issued by the State Board of Elections. Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. The chairman shall examine the names on the petition and the procedure for certification shall be the same as specified in (1) above.

(3) If the office is a county office or a single county legislative district, file written petitions with the chairman or director of the county board of elections supporting his candidacy for a specified county office. These petitions must be filed with the county board of elections on or before 12:00 noon on the ~~last Friday in June~~ day of the first primary for the office preceding the general election and must be signed by qualified voters of the county equal in number to four percent (4%) of the total number of registered voters in the county as reflected by the most recent statistical report issued by the State Board of Elections, except if the office is for a district consisting of less than the entire county and only the voters in that district vote for that office, the petitions must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of voters in the district according to the most recent figures certified by the State Board of Elections. Each petition shall be presented to the chairman or director of the county board of elections. The chairman shall examine, or cause to be examined, the names on the petition and the procedure for certification shall be the same as specified in (1) above.

(4) If the office is a partisan municipal office, file written petitions with the chairman or director of the county board of elections in the county wherein the municipality is located supporting his candidacy for a specified municipal office. These petitions must be filed with the county board of elections on or before the time and date specified in G.S. 163-296 and must be signed by the number of qualified voters specified in G.S. 163-296. The procedure for certification shall be the same as specified in (1) above.

Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the board of elections with which the petitions and affidavit have been timely filed shall cause the unaffiliated candidate's name to be printed on the general election ballots in accordance with G.S. 163-140.

An individual whose name appeared on the ballot in a primary election preliminary to the general election shall not be

eligible to have his name placed on the general election ballot as an unaffiliated candidate for the same office in that year.

(b) Form of Petition. -- Petitions requesting an unaffiliated candidate to be placed on the general election ballot shall contain on the heading of each page of the petition in bold print or in all capital letters the words: "THE UNDERSIGNED REGISTERED VOTERS IN ..... COUNTY HEREBY PETITION ON BEHALF OF ..... AS AN UNAFFILIATED CANDIDATE IN THE NEXT GENERAL ELECTION. THE UNDERSIGNED HEREBY PETITION THAT SUBJECT CANDIDATE BE PLACED ON THE APPROPRIATE BALLOT UPON COMPLIANCE WITH THE PROVISIONS CONTAINED IN G.S. 163-122.

(c) This section does not apply to elections under Article 25 of this Chapter.

(d) Presidential Electors. -- Unaffiliated candidates for presidential electors who comply with the other provisions of this section shall qualify for the ballot if the petitions for their candidacy is filed with the State Board of Elections at least seventy-five (75) days before the general election."

(h) G.S. 163-123(c)(1) reads as rewritten:

"(1) If the office is a statewide office, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions shall be filed on or before noon on the 90th day before the general election. They shall be signed by 500 qualified voters of the State. Before being filed with the State Board of Elections, each petition shall be presented to the board of elections of the county in which the signatures were obtained. A petition presented to a county board of elections shall contain only names of voters registered in that county. The chairman of the county board of elections shall examine the names on the petition and place a check mark by the name of each signer who is qualified and registered to vote in his county. The chairman of the county board shall attach to the petition his signed certificate. On his certificate the chairman shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers who are qualified and registered to vote in his county and eligible to vote for that office. The chairman shall return each petition, together with the certificate required in this section, to the person who

presented it to him for checking. The chairman of the county board shall complete the verification within two weeks from the date the petition is presented. ~~At the time of submitting the petition, a fee of five cents (5¢) shall be paid for each name appearing on the petition.~~ "

Section 6. Prosecutions for, or sentences based on, offenses occurring before the effective date of this act are not abated or affected by this act, and the statutes that would be applicable to those prosecutions or sentences but for the provisions of this act remain applicable to those prosecutions or sentences.

Section 7. The provisions of this act are severable. If any provision is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions of the act that can be given effect without the invalid provision.

Section 8. This act becomes effective February 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 2
Judiciary Committee Substitute Adopted 3/3/97

Short Title: Shorter Election Year. (Public)

Sponsors:

Referred to:

February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A LATER PRIMARY DATE; TO ABOLISH THE RUNOFF PRIMARY; AND TO CHANGE THE DATE OF THE PRESIDENTIAL PRIMARY.

The General Assembly of North Carolina enacts:

PART 1. LATER PRIMARY DATE.

Section 1. G.S. 163-1(b) reads as rewritten:

"(b) On ~~Tuesday next after the first Monday in May~~ the second Tuesday after the first Monday in September preceding each general election to be held in November for the officers referred to in subsection (a) of this section, there shall be held in all election precincts within the territory for which the officers are to be elected a primary election for the purpose of nominating candidates for each political party in the State for those offices."

Section 2. (a) G.S. 163-106(c) reads as rewritten:

"(c) Time for Filing Notice of Candidacy. -- Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the ~~first Monday in January~~ last Monday in June and no later than 12:00 noon on the ~~first Monday in February~~ second Monday thereafter preceding the primary:

Governor
Lieutenant Governor
All State executive officers
Justices of the Supreme Court, Judges of the Court of Appeals

Judges of the district courts
United States Senators
Members of the House of Representatives of the United States
District attorneys

Candidates seeking party primary nominations for the following offices shall file their notice of candidacy with the county board of elections no earlier than 12:00 noon on the ~~first Monday in January~~ last Monday in June and no later than 12:00 noon on the ~~first Monday in February~~ second Monday thereafter preceding the primary:

State Senators
Members of the State House of Representatives
All county offices."

(b) G.S. 163-323(b) reads as rewritten:

"(b) Time for Filing Notice of Candidacy. -- Candidates seeking election to the following offices shall file their notice of candidacy with the State Board of Elections no earlier than 12:00 noon on the ~~first Monday in January~~ last Monday in June and no later than 12:00 noon on the ~~first Monday in February~~ second Monday thereafter preceding the election:

Judges of the superior courts."

Section 3. G.S. 163-98 reads as rewritten:

"**§ 163-98. General election participation by new political party.**

In the first general election following the date on which a new political party qualifies under the provisions of G.S. 163-96, it shall be entitled to have the names of its candidates for State, congressional, and national offices printed on the official ballots, but it shall not be entitled to have the names of candidates for other offices printed on State, district, or county ballots at that election.

For the first general election following the date on which it qualifies under G.S. 163-96, a new political party shall select its candidates by party convention. Following adjournment of the nominating convention, but not later than the ~~first day of July prior to the general election,~~ day of the primary election under G.S. 163-1(b), the president of the convention shall certify to the State Board of Elections the names of persons chosen in the convention as the new party's candidates for ~~State, congressional, and national~~ offices in the ensuing general election. The State Board of Elections shall print names thus certified on the appropriate ballots as the nominees of the new party."

Section 4. G.S. 163-122(a) reads as rewritten:

"(a) Procedure for Having Name Printed on Ballot as Unaffiliated Candidate. -- Any qualified voter who seeks to have his name printed on the general election ballot as an unaffiliated candidate shall:

(1) If the office is a statewide office, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the last Friday in ~~June~~ August preceding the general election and must be signed by

qualified voters of the State equal in number to two percent (2%) of the total number of registered voters in the State as reflected by the most recent statistical report issued by the State Board of Elections. Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. The chairman shall examine the names on the petition and place a check mark on the petition by the name of each signer who is qualified and registered to vote in his county and shall attach to the petition his signed certificate. Said certificates shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers to be qualified and registered to vote in his county. The chairman shall return each petition, together with the certificate required in this section, to the person who presented it to him for checking. Verification by the chairman of the county board of elections shall be completed within two weeks from the date such petitions are presented and a fee of five cents (5¢) for each name appearing on the petition has been received.

(2) If the office is a district office comprised of two or more counties, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before 12:00 noon on the last Friday in ~~June~~ August preceding the general election and must be signed by qualified voters of the district equal in number to four percent (4%) of the total number of registered voters in the district as reflected by the latest statistical report issued by the State Board of Elections. Each petition shall be presented to the chairman of the board of elections of the county in which the signatures were obtained. The chairman shall examine the names on the petition and the procedure for certification shall be the same as specified in (1) above.

(3) If the office is a county office or a single county legislative district, file written petitions with the chairman or director of the county board of elections supporting his candidacy for a specified county office. These petitions must be filed with the county board of elections on or before 12:00 noon on the last Friday in ~~June~~ August preceding the general election and must be signed by qualified voters of the county equal in number to four percent (4%) of the total number of registered voters in the county as reflected by the most recent statistical report issued by the State Board of Elections, except if the office is for a district consisting of less than the entire county and only the voters in that district vote for that office, the petitions must be signed by qualified voters of the district equal in number to four percent (4%) of the total

number of voters in the district according to the most recent figures certified by the State Board of Elections. Each petition shall be presented to the chairman or director of the county board of elections. The chairman shall examine, or cause to be examined, the names on the petition and the procedure for certification shall be the same as specified in (1) above.

(4) If the office is a partisan municipal office, file written petitions with the chairman or director of the county board of elections in the county wherein the municipality is located supporting his candidacy for a specified municipal office. These petitions must be filed with the county board of elections on or before the time and date specified in G.S. 163-296 and must be signed by the number of qualified voters specified in G.S. 163-296. The procedure for certification shall be the same as specified in (1) above.

Upon compliance with the provisions of (1), (2), (3), or (4) of this subsection, the board of elections with which the petitions and affidavit have been timely filed shall cause the unaffiliated candidate's name to be printed on the general election ballots in accordance with G.S. 163-140.

An individual whose name appeared on the ballot in a primary election preliminary to the general election shall not be eligible to have his name placed on the general election ballot as an unaffiliated candidate for the same office in that year."

Section 5. G.S. 163-123(c) reads as rewritten:

"(c) Petitions for Write-in Candidacy. -- An applicant for write-in candidacy shall:

(1) If the office is a statewide office, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions shall be filed on or before noon ~~on the 90th day before the general election.~~ the day of the primary under G.S. 163-1(b). They shall be signed by 500 qualified voters of the State. Before being filed with the State Board of Elections, each petition shall be presented to the board of elections of the county in which the signatures were obtained. A petition presented to a county board of elections shall contain only names of voters registered in that county. The chairman of the county board of elections shall examine the names on the petition and place a check mark by the name of each signer who is qualified and registered to vote in his county. The chairman of the county board shall attach to the petition his signed certificate. On his certificate the chairman shall state that the signatures on the petition have been checked against the registration records and shall indicate the number of signers who are qualified and registered to vote in his county and eligible to vote for that office. The chairman shall return each petition, together with the certificate required in this section, to the person who presented it to him for checking. The chairman of the county

board shall complete the verification within two weeks from the date the petition is presented. At the time of submitting the petition, a fee of five cents (5¢) shall be paid for each name appearing on the petition.

(2) If the office is a district office comprising all or part of two or more counties, file written petitions with the State Board of Elections supporting his candidacy for a specified office. These petitions must be filed with the State Board of Elections on or before noon on the ~~90th day before the general election~~ day of the primary under G.S. 163-1(b) and must be signed by 250 qualified voters. Before being filed with the State Board of Elections, each petition shall be presented to the board of elections of the county in which the signatures were obtained. A petition presented to a county board of elections shall contain only names of voters registered in that county who are eligible to vote for that office. The chairman of the county board shall examine the names on the petition and the procedure for certification shall be the same as specified in subdivision (1).

(3) If the office is a county office, or is a school administrative unit office elected on a partisan basis, or is a legislative district consisting of a single county or a portion of a county, file written petitions with the county board of elections supporting his candidacy for a specified office. A petition presented to a county board of elections shall contain only names of voters registered in that county. These petitions must be filed on or before noon on the ~~90th day before the general election~~ day of the primary under G.S. 163-1(b) and must be signed by 100 qualified voters who are eligible to vote for the office, unless fewer than 5,000 persons are eligible to vote for the office as shown by the most recent records of the appropriate board of elections. If fewer than 5,000 persons are eligible to vote for the office, an applicant's petition must be signed by not less than one percent (1%) of those registered voters. Before being filed with the county board of elections, each petition shall be presented to the county board of elections for examination. The chairman of the county board of elections shall examine the names on the petition and the procedure for certification shall be the same as specified in subdivision (1)."

Section 6. G.S. 163-114 reads as rewritten:

"**§ 163-114. Filling vacancies among party nominees occurring after nomination and before election.**

If any person nominated as a candidate of a political party for one of the offices listed below (either in a primary or convention or by virtue of having no opposition in a primary) dies, resigns, or for any reason becomes ineligible or disqualified before

the date of the ensuing general election, the vacancy shall be filled by appointment according to the following instructions:

Position	Vacancy is to be filled by
Any elective State office United States Senator	appointment of State executive committee of political party in which vacancy occurs
A district office, including: Member of the United States House of Representatives Judge of district court District Attorney State Senator in a multi-county senatorial district Member of State House of Representatives in a multi-county representative district	Appropriate district executive committee of political party in which vacancy occurs
State Senator in a single-county senatorial district Member of State House of Representatives in a single-county representative district Any elective county office	County executive committee of political party in which vacancy occurs, provided, in the case of the State Senator or State Representative in a single-county district where not all the county is located in that district, then in voting, only those members of the county executive committee who reside within the district shall vote

The party executive making a nomination in accordance with the provisions of this section shall certify the name of its nominee to the chairman of the board of elections, State or county, charged with the duty of printing the ballots on which the name is to appear. If at the time a nomination is made under this section the general election ballots have already been printed, the provisions of G.S. 163-139 shall apply. ~~If any person nominated as a candidate of a political party vacates such nomination and such vacancy arises from a cause other than death and the vacancy in nomination occurs more than 120 days before the general election, the vacancy in nomination~~

~~may be filled under this section only if the appropriate executive committee certifies the name of the nominee in accordance with this paragraph at least 75 days before the general election.~~

In a county which is partly in a multi-county superior court district, in choosing that county's member or members of the superior court district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote.

In a county not all of which is located in one congressional district, in choosing the congressional district executive committee member or members from that area of the county, only the county convention delegates or county executive committee members who reside within the area of the county which is within the congressional district may vote.

In a county which is partly in a multi-county senatorial district or which is partly in a multi-county House of Representatives district, in choosing that county's member or members of the senatorial district executive committee or House of Representatives district executive committee for the multi-county district, only the county convention delegates or county executive committee members who reside within the area of the county which is within that multi-county district may vote."

Section 7. Article 20 of Chapter 163 of the General Statutes is amended by adding a new section to read:

"**§ 163-226.4. Special deadlines for general election.**

Notwithstanding any other provision of this Article or Article 21 of this Chapter, the State Board of Elections shall provide that absentee ballots shall be available for the primary or general election at the earliest time practicable and may provide an alternative schedule for meetings of the county board of elections under G.S. 163-230 to accommodate the revised schedule."

PART 2. ABOLISH SECOND PRIMARY.

Section 8. G.S. 163-111 reads as rewritten:

"**§ 163-111. Determination of primary results; ~~second primaries.~~**

~~(a) Nomination Determined by Substantial Plurality; Definition of Substantial Plurality. — Except as otherwise provided in this section, nominations in primary elections shall be determined by a substantial plurality of the votes cast. A substantial plurality within the meaning of this section shall be determined as follows:~~

~~(1) If a nominee for a single office is to be selected, and there is more than one person seeking nomination, the substantial plurality shall be ascertained by multiplying the total vote cast for all aspirants by forty percent (40%). Any excess of the sum so ascertained shall be a substantial plurality, and the aspirant who obtains a substantial plurality shall be declared the nominee. If two candidates receive a substantial plurality, the candidate receiving the highest vote shall be declared the nominee.~~

~~(2) If nominees for two or more offices (constituting a group) are to be selected, and there are more persons seeking nomination than~~

~~there are offices, the substantial plurality shall be ascertained by dividing the total vote cast for all aspirants by the number of positions to be filled, and by multiplying the result by forty percent (40%). Any excess of the sum so ascertained shall be a substantial plurality, and the aspirants who obtain a substantial plurality shall be declared the nominees. If more candidates obtain a substantial plurality than there are positions to be filled, those having the highest vote (equal to the number of positions to be filled) shall be declared the nominees.~~

~~(b) Right to Demand Second Primary. — If an insufficient number of aspirants receive a substantial plurality of the votes cast for a given office or group of offices in a primary, a second primary, subject to the conditions specified in this section, shall be held:~~

~~(1) If a nominee for a single office is to be selected and no aspirant receives a substantial plurality of the votes cast, the aspirant receiving the highest number of votes shall be declared nominated by the appropriate board of elections unless the aspirant receiving the second highest number of votes shall request a second primary in accordance with the provisions of subsection (c) of this section. In the second primary only the two aspirants who received the highest and next highest number of votes shall be voted for.~~

~~(2) If nominees for two or more offices (constituting a group) are to be selected and aspirants for some or all of the positions within the group do not receive a substantial plurality of the votes, those candidates equal in number to the positions remaining to be filled and having the highest number of votes shall be declared the nominees unless some one or all of the aspirants equal in number to the positions remaining to be filled and having the second highest number of votes shall request a second primary in accordance with the provisions of subsection (c) of this section. In the second primary to select nominees for the positions in the group remaining to be filled, the names of all those candidates receiving the highest number of votes and all those receiving the second highest number of votes and demanding a second primary shall be printed on the ballot.~~

~~(c) Procedure for Requesting Second Primary. —~~

~~(1) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below, and desiring to do so, shall file a request for a second primary in writing or by telegram with the Executive Secretary-Director of the State Board of Elections no later than 12:00 noon on the seventh day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by~~

~~the State Board of Elections. If the vote certification by the State Board of Elections determines that a candidate who was not originally thought to be eligible to call for a second primary is in fact eligible to call for a second primary, the Executive Secretary-Director of the State Board of Elections shall immediately notify such candidate and permit him to exercise any options available to him within a 48-hour period following the notification:~~

~~Governor,~~
~~Lieutenant Governor,~~
~~All State executive officers,~~
~~Justices, Judges, or District Attorneys of the General Court of Justice, other than superior court judge,~~
~~United States Senators,~~
~~Members of the United States House of Representatives,~~
~~State Senators in multi-county senatorial districts, and~~
~~Members of the State House of Representatives in multi-county representative districts.~~

~~(2) A candidate who is apparently entitled to demand a second primary, according to the unofficial results, for one of the offices listed below and desiring to do so, shall file a request for a second primary in writing or by telegram with the chairman or director of the county board of elections no later than 12:00 noon on the seventh day (including Saturdays and Sundays) following the date on which the primary was conducted, and such request shall be subject to the certification of the official results by the county board of elections:~~

~~State Senators in single-county senatorial districts,~~
~~Members of the State House of Representatives in single-county representative districts, and~~
~~All county officers.~~

~~(3) Immediately upon receipt of a request for a second primary the appropriate board of elections, State or county, shall notify all candidates entitled to participate in the second primary, by telephone followed by written notice, that a second primary has been requested and of the date of the second primary.~~

~~(d) Tie Votes; How Determined. —~~

~~(1) In the event of a tie for the highest number of votes in a first primary between two candidates for party nomination for a single county, or single-county legislative district office, the board of~~

~~elections of the county in which the two candidates were voted for shall conduct a recount and declare the results. If the recount shows a tie vote, a second primary shall be held on the date prescribed in subsection (c) of this section between the two candidates having an equal vote, unless one of the aspirants, within three days after the result of the recount has been officially declared, files a written notice of withdrawal with the board of elections with which he filed notice of candidacy. Should that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision, no recount shall be held, but all of the tied candidates shall be entered in a second primary.~~

~~(2) In the event of a tie for the highest number of votes in a first primary between two candidates for a State office, for United States Senator, or for any district office (including State Senator in a multi-county senatorial district and member of the State House of Representatives in a multi-county representative district), no recount shall be held solely by reason of the tie, but the two candidates having an equal vote shall be entered in a second primary to be held on the date prescribed in subsection (c) of this section, unless one of the two candidates files a written notice of withdrawal with the State Board of Elections within three days after the result of the first primary has been officially declared and published. Should that be done, the remaining aspirant shall be declared the nominee. In the event of a tie for the highest number of votes in a first primary among more than two candidates for party nomination for one of the offices mentioned in this subdivision, no recount shall be held, but all of the tied candidates shall be entered in a second primary.~~

~~(3) In the event one candidate receives the highest number of votes cast in a first primary, but short of a substantial plurality, and two or more of the other candidates receive the second highest number of votes cast in an equal number, the proper board of elections shall declare the candidate having the highest vote to be the party nominee, unless all but one of the tied candidates give written notice of withdrawal to the proper board of elections within three days after the result of the first primary has been officially declared. If all but one of the tied candidates withdraw within the prescribed three-day period, and the remaining candidate demands a second primary in accordance with the provisions of subsection (c) of this section, a second primary shall be held between the candidate who received the highest vote and the remaining candidate who received the second highest vote.~~

~~(e) Date of Second Primary; Procedures. -- If a second primary is required under the provisions of this section, the appropriate board of elections, State or county, shall order that it be held four weeks after the first primary.~~

~~There shall be no registration of voters between the dates of the first and second primaries. Persons whose qualifications to register and vote mature after the day of the first primary and before the day of the second primary may register on the day of the second primary and, when thus registered, shall be entitled to vote in the second primary. The second primary is a continuation of the first primary and any voter who files a proper and timely affidavit of transfer of precinct, under the provisions of G.S. 163-72(e), before the first primary may vote in the second primary without having to refile the affidavit of transfer if he is otherwise qualified to vote in the second primary. Subject to this provision for registration, the second primary shall be held under the laws, rules, and regulations provided for the first primary.~~

~~(f) No Third Primary Permitted. -- In no case shall there be a third primary. The candidates receiving the highest number of votes in the second primary shall be nominated. If in a second primary there is a tie for the highest number of votes between two candidates, the proper party executive committee shall select the party nominee for the office in accordance with the provisions of G.S. 163-114.~~

(g) Nominations in primary elections shall be determined as follows:

(1) When more than one person is seeking election to a single office, the candidate who receives the highest number of votes shall be declared the nominee.

(2) When more persons are seeking nomination to two or more offices (constituting a group) than there are offices to be filled, those candidates receiving the highest number of votes, equal in number to the number of offices to be filled, shall be declared the nominees.

(h) When more than one person is seeking election to a single office, and two or more candidates receiving the highest number of votes each receive the same number of votes, the proper party executive committee shall, from among those candidates receiving the same number of votes, select the party nominee in accordance with G.S. 163-114.

(i) When more persons are seeking nomination to two or more offices (constituting a group) than there are offices to be filled, and two or more candidates receiving the lowest number of votes necessary for nomination each receive the same number of votes, the proper party executive committee shall, from among those candidates receiving the same number of votes, select the party nominee in accordance with G.S. 163-114."

Section 9. G.S. 163-227.1 is repealed.

Section 10. G.S. 163-227.3 reads as rewritten:

"**§ 163-227.3. Date by which absentee ballots must be available for voting.**

(a) The State Board of Elections shall provide absentee ballots of the kinds to be furnished by the State Board, to the county boards of elections 50 days prior to the date on which the election shall be conducted unless there shall exist an appeal

before the State Board or the courts not concluded, in which case the State Board shall provide the ballots as quickly as possible upon the conclusion of such an appeal. In every instance the State Board shall exert every effort to provide absentee ballots, of the kinds to be furnished by the State Board, to each county by the date on which absentee voting is authorized to commence.

~~(b) Second Primary. -- The State Board of Elections shall provide absentee ballots, of the kinds to be furnished by the State Board, as quickly as possible after the ballot information has been determined.~~"

Section 11. G.S. 163-278.6(8) reads as rewritten:

"(8) The term 'election' means any general or special election, a ~~first or second~~ primary, a runoff election, or an election to fill a vacancy. The term 'election' shall not include any local or statewide referendum."

Section 12. G.S. 163-278.13(d) reads as rewritten:

"(d) For the purposes of this section, the term 'an election' means any primary~~, second primary,~~ or general election in which the candidate or political committee may be involved, without regard to whether the candidate is opposed or unopposed in the election."

Section 13. G.S. 163-278.40B(2) reads as rewritten:

"(2) Pre-election Report. -- The treasurer shall file a report 10 days prior to the election~~, unless a second primary is held and the candidate appeared on the ballot in the second primary, in which case the report shall be filed 10 days before the second primary~~."

Section 14. G.S. 163-279(a) reads as rewritten:

"(a) Primaries and elections for offices filled by election of the people in cities, towns, incorporated villages, and special districts shall be held in ~~1973~~ 1999 and every two or four years thereafter as provided by municipal charter on the following days:

(1) If the election is nonpartisan and decided by simple plurality, the election shall be held on Tuesday after the first Monday in November.

(2) If the election is partisan, the election shall be held on Tuesday after the first Monday in November, ~~the first primary shall be held on the sixth Tuesday before the election, and the second primary, if required, shall be held on the third Tuesday before the election~~ and the primary shall be held on the sixth Tuesday before the election.

(3) If the election is nonpartisan and the nonpartisan primary method of election is used, the election shall be held on Tuesday after the first Monday in November and the nonpartisan primary shall be held on the fourth Tuesday before the election.

(4) If the election is nonpartisan and the election and runoff election method of election is used, the election shall be held on the fourth Tuesday before the Tuesday after the first Monday in November,

and the runoff election, if required, shall be held on Tuesday after the first Monday in November."

Section 15. G.S. 163-291 reads as rewritten:

"**§ 163-291. Partisan primaries and elections.**

The nomination of candidates for office in cities, towns, villages, and special districts whose elections are conducted on a partisan basis shall be governed by the provisions of this Chapter applicable to the nomination of county officers, and the terms "county board of elections," "chairman of the county board of elections," "county officers," and similar terms shall be construed with respect to municipal elections to mean the appropriate municipal officers and candidates, except that:

(1) The dates of primary and election shall be as provided in G.S. 163-279.

(2) A candidate seeking party nomination for municipal or district office shall file his notice of candidacy with the board of elections no earlier than 12:00 noon on the first Friday in July and no later than 12:00 noon on the first Friday in August preceding the election.

No person may file a notice of candidacy for more than one municipal office at the same election. If a person has filed a notice of candidacy for one office with the county board of elections under this section, then a notice of candidacy may not later be filed for any other municipal office for that election unless the notice of candidacy for the first office is withdrawn first.

(3) The filing fee for municipal and district primaries shall be fixed by the governing board not later than the day before candidates are permitted to begin filing notices of candidacy. There shall be a minimum filing fee of five dollars ($5.00). The governing board shall have the authority to set the filing fee at not less than five dollars ($5.00) nor more than one percent (1%) of the annual salary of the office sought unless one percent (1%) of the annual salary of the office sought is less than five dollars ($5.00), in which case the minimum filing fee of five dollars ($5.00) will be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.

(4) The municipal ballot may not be combined with any other ballot.

(5) The canvass of the primary ~~and second primary~~ shall be held on the third day (Sunday excepted) following the primary ~~or second primary~~. In accepting the filing of complaints concerning the conduct of an election, a board of elections shall be subject to the rules concerning Sundays and holidays set forth in G.S. 103-5.

~~(6) Candidates having the right to demand a second primary shall do so not later than 12:00 noon on the Monday following the canvass of the first primary.~~"

Section 16. G.S. 163-179.1(a) reads as rewritten:

"(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

~~(1)~~ ~~Has~~ has received the number of votes necessary to be declared nominated for an office in a primary election with a ~~majority; or~~

~~(2) Has received the number of votes necessary to be declared nominated for an office in a second primary election~~

plurality and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the county board of elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes fell within one percent (1%) of a successful candidate shall, by noon on the second day (Saturdays and Sundays excepted) following the canvass, request in writing such a recount."

Section 17. G.S. 163-192.1(a) reads as rewritten:

"(a) Whenever, according to the canvass made under this Article, the difference between the number of votes received by a candidate who:

~~(1)~~ ~~Has~~ has received the number of votes necessary to be declared nominated for an office in a primary election with a ~~majority; or~~

~~(2) Received the number of votes necessary to be declared nominated for an office in a second primary election~~

plurality and the number of votes received by any candidate in the race is not more than one percent (1%) of the total votes which were cast for that office, except in multi-seat races one percent (1%) of the total votes cast for those two candidates, the State Board of Elections shall, before declaring the person nominated, order a recount of the primary if a candidate whose votes, according to a tally of the canvasses made under Article 15 of this Chapter, fell within one percent (1%) of a successful candidate shall, by noon on the eighth day (Saturdays and Sundays included) following the election, request in writing such a recount. Provided, however, that in a statewide contest, no candidate shall be entitled to an automatic recount under this section unless the difference is at least one-half of one percent (0.5%) of the votes cast, or 10,000 votes, whichever is less. Provided further that if the canvass made under this Article determines that a candidate who was not originally thought to be within the percentage entitling him to a recount based on the tally of canvasses made under Article 15 of this Chapter is in fact within the percentage entitling him to a recount, the Executive Secretary-Director of the State Board of Elections shall immediately notify the candidate and the candidate shall be entitled to a recount if he so requests within 48 hours of notification."

Section 18. G.S. 163-82.6(d) reads as rewritten:

"(d) Instances When Person May Register and Vote on Election Day. -- If a person has become qualified to register and vote between the twenty-fifth day before an election and election day, then that person may apply to register on election day by submitting an application form described in G.S. 163-82.3(a) or (b) to:

(1) A member of the county board of elections;

(2) The county director of elections; or

(3) The chief judge or a judge of the precinct in which the person is eligible to vote,

and, if the application is approved, that person may vote the same day. The official in subdivisions (1) through (3) of this subsection to whom the application is submitted shall decide whether the applicant is eligible to vote. The applicant shall present to the official written or documentary evidence that the applicant is the person he represents himself to be. The official, if in doubt as to the right of the applicant to register, may require other evidence satisfactory to that official as to the applicant's qualifications. If the official determines that the person is eligible, the person shall be permitted to vote in the election and the county board shall add the person's name to the list of registered voters. If the official denies the application, the person shall be permitted to vote a challenged ballot under the provisions of G.S. 163-88.1, and may appeal the denial to the full county board of elections. The State Board of Elections shall promulgate rules for the county boards of elections to follow in hearing appeals for denial of election-day applications to register. ~~No person shall be permitted to register on the day of a second primary unless he shall have become qualified to register and vote between the date of the first primary and the date of the succeeding second primary.~~ For purposes of this subsection, persons who 'become qualified to register and vote' during a time period:

(1) Include those who during that time period are naturalized as citizens of the United States or who are restored to citizenship after a conviction of a felony; but

(2) Do not include persons who reach the age of 18 during that time period, if those persons were eligible to register while 17 years old during an earlier period."

Section 19. G.S. 163-82.17(a) reads as rewritten:

"(a) Registrant's Duty to Report. -- Any registrant who desires to have the record of his party affiliation or unaffiliated status changed on the registration list shall, no later than the last day for making application to register under G.S. 163-82.6 before the election, indicate the change on an application form as described in G.S. 163-82.3 or on a voter registration card described in G.S. 163-82.8. No registrant shall be permitted to change party affiliation or unaffiliated status for a ~~primary, second primary, or special~~ primary, special, or general election after the deadline for registration applications for that election as set out in G.S. 163-82.6."

PART 3. MOVE PRESIDENTIAL PRIMARY.

Section 20. G.S. 163-213.2 reads as rewritten:

"**§ 163-213.2. (For effective date see note) Primary to be held; date; qualifications and registration of voters.**

On the Tuesday after the first Monday in ~~May, 1992,~~ March 2000, and every four years thereafter, the voters of this State shall be given an opportunity to express their preference for the person to be the presidential candidate of their political party.

Any person otherwise qualified who will become qualified by age to vote in the general election held in the same year of the presidential preference primary shall be entitled to register and vote in the presidential preference primary. Such persons may

register not earlier than 60 days nor later than ~~the last day for making application to register under G.S. 163-67~~ the twenty-fifth day prior to the said primary. In addition, persons who will become qualified by age to register and vote in the general election for which the primary is held, who do not register during the special period may register to vote after such period as if they were qualified on the basis of age, but until they are qualified by age to vote, they may vote only in primary elections."

PART 4. CAMPAIGN REPORTING CHANGES.

Section 21. G.S. 163-278.9(a) reads as rewritten:

"(a) ~~The~~ Except as provided in G.S. 163-278.10A, the treasurer of each candidate and of each political committee shall file under verification with the Board the following reports:

(1) Organizational Report. -- The appointment of the treasurer as required by G.S. 163-278.7(a), the statement of organization required by G.S. 163-278.7(b), and a report of all contributions and expenditures not previously reported shall be filed with the Board no later than the tenth day following the day the candidate files ~~his~~ notice of candidacy or the tenth day following the organization of the political committee, whichever occurs first. Any candidate whose campaign is being conducted by a political committee which is handling all contributions and expenditures for his campaign shall file a statement with the Board stating such fact at the time required herein for the organizational report. Thereafter, the candidate's political committee shall be responsible for filing all reports required by law. Any contribution or expenditure to further a candidacy shall be subject to the reporting requirements of subdivisions (5a) and (6) of this subsection, even if the report is due before the individual has filed notice of candidacy.

(2) Preprimary Report. -- The treasurer shall file a report with the Board no later than the tenth day preceding the primary election.

~~(3) Postprimary Report(s). -- The treasurer shall file a report with the Board no later than the 30th day after the primary election if the candidate was eliminated in the primary. If there is a second primary, the treasurer shall file a report with the Board no later than the 30th day after the second primary election if the candidate was eliminated in the second primary.~~

~~(4) Preelection Report. -- The treasurer shall file a report with the Board not later than the tenth day preceding the general election.~~

~~(5) Repealed by Session Laws 1985, c. 164, s. 1.~~

(5a) Quarterly Reports. -- During even-numbered years during which there is an election for that candidate or in which the campaign committee is supporting a candidate, the treasurer shall file a report with the Board not later than seven days after the end of each calendar quarter covering the prior calendar quarter, except that the report for the third quarter shall also cover the period in

October through the seventeenth day before the election, the third quarter report shall be due seven days after that date, and the fourth quarter report shall not include that period if a third quarter report was required to be filed.

(6) ~~Annual~~ Semiannual Reports. -- If contributions are received or expenditures made ~~during a calendar year,~~ for which no reports are otherwise required by this Article, any and all such contributions and expenditures shall be reported by the last Friday in ~~January~~ July, covering the period through the last day of June, and shall be reported by the last Friday in January, covering the period through the last day of December. ~~of the following year.~~"

PART 5. EDGECOMBE COUNTY BOARD OF EDUCATION.

Section 22. Section 3 of Chapter 809 of the 1991 Session Laws reads as rewritten:

"Sec. 3. Elections shall be determined by a ~~substantial~~ plurality as provided in G.S. ~~163-111 for party primaries.~~ 163-292. ~~Any runoff, if needed, shall be held at the same time as the second primary for county offices.~~ "

PART 6. ORANGE COUNTY BOARD OF EDUCATION.

Section 23. (a) Section 1 of Chapter 603, Session Laws of 1977, reads as rewritten:

"Section 1. The Orange County Board of Education shall be elected on a nonpartisan basis at the time of the primary election in 1978 and biennially thereafter. The names of the candidates shall be printed on the ballots without reference to any party affiliation. The ~~election and runoff~~ plurality election method shall be used with the results determined as provided in ~~G.S. 163-293,~~ G.S. 163-292, and absentee ballots shall be permitted. Except as may be otherwise provided herein, the elections shall be conducted according to the provisions of Chapter 163 of the General Statutes governing elections for county officers."

(b) Section 6 of Chapter 603, Session Laws of 1977, as enacted by Section 2 of Chapter 1214, Session Laws of 1981, reads as rewritten:

"Sec. 6. ~~If a runoff election is required, the runoff election shall be held at the time for the second primary as provided in G.S. 163-111(c) and those~~ Those persons elected members of Orange County Board of Education shall qualify and take office on the first Monday of the month following their election."

PART 7. YANCEY COUNTY BOARD OF EDUCATION.

Section 24. Section 1 of Chapter 203, Session Laws of 1973, as rewritten by Section 1 of Chapter 135, Session Laws of 1985, reads as rewritten:

"Section 1. The Yancey County Board of Education shall consist of five members who shall be elected by the voters of Yancey County, for staggered terms of four years, in a nonpartisan election as herein provided.

Beginning with the primary election for county offices to be held in 1974, there shall be a nonpartisan election to elect successors to the present members of the school board whose terms expire in 1974, and every two years thereafter, as the terms of the members expire.

The nonpartisan ~~election and runoff~~ plurality election method shall be used with the results determined as provided in ~~G.S. 163-293, except that the runoff shall be held on the date provided by G.S. 163-111(e).~~ G.S. 163-292."

PART 8. OMNIBUS LOCAL ACT AMENDMENTS.

Section 25. Any local act which provides for nonpartisan election of a county board of education on the date of the partisan primary under G.S. 163-1, with a nonpartisan runoff election on the date of the second primary, is amended to provide that the election is determined by the nonpartisan plurality method as provided by G.S. 163-292.

Section 26. If any members of any county board of education are elected at the primary election and take office under a local act in July after the primary, they shall instead take office on the same day in October after the primary, and the terms of any such member which would otherwise expire in July of 1998 or July of 2000 are extended accordingly.

Section 27. Any local acts in conflict with this act are repealed to the extent of the conflict.

Section 28. This act becomes effective with respect to elections held on or after January 1, 1998.

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, SEPT. 23, 1998

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paula Dupree	NCAE
Suzanne Williams	NCCCS
John Phelps	NCCM
Katherine Davis	Electricities of NC
Lisa Reyes	the insider
Mike Carroll	NCHSA

MINUTES
COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE
September 29, 1998

The Committee on Rules, Calendar and Operations of the House met September 29, 1998 at 1:00 p.m. in Room 421 of the Legislative Office Building. Representative Morgan, committee chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, vice-chair; Representatives Crawford, Culp, Dockham, Esposito, Gulley, Hill, McMahan, Mitchell and Neely.

The following bill was considered:

Senate Bill 940 - TREASURER STUDY LOCAL INVESTMENTS. A proposed House committee substitute for Senate Bill 940 (CSRN002), FEDERAL-MATCH REQUIRED-9/30/98, was distributed. Representative Esposito moved that the proposed House committee substitute be adopted for discussion. Motion carried. The Chair called on Linwood Jones, staff counsel, to explain the bill which will appropriate funds necessary to obtain Federal matching funds in different programs. He stated that the Senate had considered a similar bill today, House Bill 998. Representative Holmes was recognized to speak on the bill. He explained that the items not included in the bill which passed the Senate and was sent to the House are important provisions and need to be included.

Representative Mitchell asked if the $38 million on page 5, the Mental Health Reserve for Medicaid Match, was in the Senate budget and if it had to be matched right away. Representative Holmes responded that it was not in their budget and he was told it is necessary and is time sensitive. He further stated that neither was Section 4 , First Stop Employment Assistance/County Work Initiatives, included in the Senate bill.

Representative Mitchell moved that proposed House committee substitute for SB 940 be given a favorable report; unfavorable to original bill. Motion carried.

There being no further business, the meeting adjourned at 1:15 p.m.

Representative Richard T. Morgan
Committee Chairman

Anne M. Cole
Acting Committee Clerk

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

1:00 pm

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Richard Morgan** for the Committee on **RULES, CALENDAR & OPERATIONS OF THE HOUSE.**

☒ Committee Substitute for
S.B. 940 A BILL TO BE ENTITLED AN ACT DIRECTING THE STATE TREASURER TO CONDUCT A STUDY OF THE PERMISSIBLE INVESTMENTS FOR LOCAL UNITS OF GOVERNMENT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 940
Finance Committee Substitute Adopted 4/29/97

Short Title: Treasurer Study Local Investments. (Public)

Sponsors:

Referred to:

April 17, 1997

A BILL TO BE ENTITLED

AN ACT DIRECTING THE STATE TREASURER TO CONDUCT A STUDY OF THE PERMISSIBLE INVESTMENTS FOR LOCAL UNITS OF GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. The Office of State Treasurer is directed to study the laws that give local units of government the authority to invest their funds to determine if any changes are needed in these laws. The study must consider whether these laws should be changed to allow local units of government to invest their funds in funding agreements. In conducting this study, the Office of State Treasurer may consult with the Institute of Government, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, and others who are affected by this issue or have expertise on this issue.

Section 2. The Office of State Treasurer must submit a written report of the study directed by this act to the 1998 Regular Session of the 1997 General Assembly. The report must be submitted by April 1, 1998. The report must include the findings of the study and any recommendations for changes in the laws on investments of local units of government. The report is considered to be submitted when the Office of State Treasurer files five copies of the report with the Legislative Library and files one copy of the report with each of the following: the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Director of the Fiscal Research Division.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 940
Finance Committee Substitute Adopted 4/29/97
Proposed House Committee Substitute
S940-CSRN-002

Short Title: Federal-Match Required-9/30/98 (Public)

Sponsors:

Referred to:

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO MATCH FEDERAL FUNDS.

The General Assembly of North Carolina enacts:

CURRENT OPERATIONS APPROPRIATION/GENERAL FUND

Section 1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the fiscal year ending June 30, 1999, according to the schedule that follows.

Current Operations - General Fund	1998-99
Department of Crime Control and Public Safety -- Matching Funds for the National Guard Tarheel Challenge Program	$ 542,000 NR
Department of Environment and Natural Resources	
01. Federal Wastewater Assistance -- Matching Funds	4,860,532 NR
02. Federal Water Supply Assistance --	

Matching Funds	2,571,880 NR
TOTAL -- Department of Environment and Natural Resources	7,432,412 NR
TOTAL: Current Operations - General Fund	$7,974,412 NR

CAPITAL APPROPRIATIONS/GENERAL FUND

Section 2. Appropriations are made from the General Fund of the State for the 1998-99 fiscal year for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

Capital Improvements - General Fund

	1998-99
Department of Administration, Reserve for State Veterans Nursing Home -- Salisbury Renovation of a 100-bed nursing care unit	$1,000,000
Department of Environment and Natural Resources	
01. State Match-Water Resources Projects -- Funds for the State share of federal civil works projects	$5,240,000
02. Channel Widening/Deepening-Wilmington Port -- Funds to improve navigation for shipping terminals and industries	$4,800,000
03. B. Everett Jordan Lake Water Supply--repayment of State cost-share funds for federal funds previously expended	110,000
TOTAL: Capital Improvements - General Fund	$11,150,000

AUTHORIZE TRANSFER TO MEET TANF MAINTENANCE OF EFFORT REQUIREMENTS

Section 3. Notwithstanding any other provision of law to the contrary, to the extent necessary to meet federal maintenance of effort requirements for Temporary Assistance for Needy Families (TANF), the Department of Health and Human Services may, for the first quarter of the 1998-99 fiscal year only, use State funds for the TANF Work First Family Assistance.

FIRST STOP EMPLOYMENT ASSISTANCE/COUNTY WORK INITIATIVES

Section 4. It is the intent of the General Assembly that excess Temporary Assistance for Needy Families (TANF) funds in the amount of twenty-five million, three hundred thirty-two thousand, one-hundred seventy three dollars ($25,332,173) be used to continue the implementation of First Stop Employment

Assistance, established pursuant to G.S. 108A-29. The Employment Security Commission shall implement this initiative in consultation with the Department of Health and Human Services and the Department of Community Colleges, to enable counties to develop and administer their own work initiatives to assist hard-to-employ TANF recipients, former TANF recipients, and non-custodial parents in securing gainful employment and achieving economic self-sufficiency.

WATER RESOURCES DEVELOPMENT PROJECTS FUNDS

Section 5. (a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose estimated costs are as indicated:

Name of Project	
1. Morehead City Harbor Turning Basin	$ 2,000,000
2. Wilmington Harbor Maintenance Dredging	200,000
3. Wilmington Harbor Long-Term Disposal	1,400,000
4. Beaufort Harbor Maintenance Dredging	80,000
5. Manteo Shallowbag Bay Maintenance Dredging	200,000
6. Rollinson Channel Maintenance Dredging (Dare County)	400,000
8. Pine Knolls Shores Protection (Carteret Co.)	200,000
9. Tar River Road Streambank Protection (City of Greenville)	50,000
10. Battery Island Bird Habitat Restoration (Brunswick County)	140,000
11. Dare County Beaches Feasibility Study	70,000
12. Deep Creek Watershed Project (Yadkin Co.)	500,000
Total	$ 5,240,000

(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1998-99 fiscal year, or if the projects listed in subsection (a)

of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Corps of Engineers project feasibility studies.
(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1998-99.
(3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1999-2000 fiscal year.

(c) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.
(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

CARING PROGRAM FOR CHILDREN

Section 6. G.S. 108A-70.18(8), as enacted by Section 1 of S.L. 1998-1 Extra Session, reads as rewritten:

"(8) "Uninsured" means the applicant for Program benefits was not covered under any private or employer-sponsored comprehensive health insurance plan for the six-month period immediately preceding the date ~~the Program becomes effective.~~ of application for Program benefits. Effective ~~six months from date the Program becomes effective,~~ April 1, 1999, "uninsured" means the applicant is and was not covered under any private or employer-sponsored comprehensive health insurance plan for 60 days immediately preceding the date of application. The waiting periods required under this subdivision shall be waived if the child has been enrolled in Medicaid and has lost Medicaid ~~eligibility due to a change in family income~~ eligibility, has lost health care benefits due to cessation of a nonprofit organization program that

provides health care benefits to low-income children, or has lost employer-sponsored comprehensive health care coverage due to termination of employment, cessation by the employer of employer-sponsored health coverage, or cessation of the employer's business."

MENTAL HEALTH RESERVE FOR MEDICAID MATCH

Section 7. There is appropriated from the General Fund to the Department of Health and Human Services the sum of thirty-eight million dollars ($38,000,000) for the 1998-99 fiscal year. These funds shall be placed in a Mental Health Restricted Reserve in the Office of the Controller of the Department of Health and Human Services. In addition to these funds, the Department shall transfer to the Mental Health Restricted Reserve from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the total amount of funds in the Division's budget allocated as matching funds for Medicaid payments to area mental health authorities. Funds placed in the Reserve may only be used as a State match for Medicaid payments to area mental health authorities for the 1998-99 fiscal year. Funds in the Reserve that are unexpended and unencumbered as of June 30, 1999, shall revert to the General Fund. This appropriation shall become part of the continuation budget.

MOST TEXT APPLIES ONLY TO 1998-99

Section 8. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1998-99 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1998-99 fiscal year.

1997-98 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

Section 9. (a) Except where expressly repealed or amended by this act, the provisions of S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, and S.L. 1998-153 remain in effect.

(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 1998-99 fiscal year in S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, and S.L. 1998-153 that applied to appropriations to particular agencies or for particular purposes apply to the newly

enacted appropriations of this act for those same particular purposes.

EFFECT OF HEADINGS

Section 10. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SEVERABILITY CLAUSE

Section 11. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

Section 12. Except as otherwise provided, this act becomes effective July 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 940
Finance Committee Substitute Adopted 4/29/97
Proposed House Committee Substitute S940-PCS6889-RN002

Short Title: Federal-Match Required-9/30/98. (Public)

Sponsors:

Referred to:

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO MATCH FEDERAL FUNDS.

The General Assembly of North Carolina enacts:

CURRENT OPERATIONS APPROPRIATION/GENERAL FUND

Section 1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the fiscal year ending June 30, 1999, according to the schedule that follows.

Current Operations - General Fund		1998-99
Department of Crime Control and Public Safety -- Matching Funds for the National Guard Tarheel Challenge Program		$ 542,000 NR
Department of Environment and Natural Resources		
01. Federal Wastewater Assistance -- Matching Funds	4,860,532 NR	
02. Federal Water Supply Assistance -- Matching Funds	2,571,880 NR	
TOTAL -- Department of Environment and Natural Resources		7,432,412 NR

TOTAL: Current Operations - General Fund $7,974,412 NR

CAPITAL APPROPRIATIONS/GENERAL FUND

Section 2. Appropriations are made from the General Fund of the State for the 1998-99 fiscal year for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

Capital Improvements - General Fund	1998-99
Department of Administration, Reserve for State Veterans Nursing Home -- Salisbury Renovation of a 100-bed nursing care unit	$1,000,000
Department of Environment and Natural Resources	
01. State Match-Water Resources Projects -- Funds for the State share of federal civil works projects	$5,240,000
02. Channel Widening/Deepening-Wilmington Port -- Funds to improve navigation for shipping terminals and industries	$4,800,000
03. B. Everett Jordan Lake Water Supply--repayment of State cost-share funds for federal funds previously expended	110,000
TOTAL: Capital Improvements - General Fund	$11,150,000

AUTHORIZE TRANSFER TO MEET TANF MAINTENANCE OF EFFORT REQUIREMENTS

Section 3. Notwithstanding any other provision of law to the contrary, to the extent necessary to meet federal maintenance of effort requirements for Temporary Assistance for Needy Families (TANF), the Department of Health and Human Services may, for the first quarter of the 1998-99 fiscal year only, use State funds for the TANF Work First Family Assistance.

FIRST STOP EMPLOYMENT ASSISTANCE/COUNTY WORK INITIATIVES

Section 4. It is the intent of the General Assembly that excess Temporary Assistance for Needy Families (TANF) funds in the amount of twenty-five million three hundred thirty-two thousand one hundred seventy-three dollars ($25,332,173) be used to continue the implementation of First Stop Employment Assistance, established pursuant to G.S. 108A-29. The Employment Security Commission shall implement this initiative in consultation with the Department of Health and Human Services and the Department of Community Colleges, to enable counties to develop and administer their own work initiatives to assist hard-to-employ TANF recipients, former TANF recipients, and noncustodial parents in securing gainful employment and achieving economic self-sufficiency.

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Section 5. (a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose estimated costs are as indicated:

	Name of Project	
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2.	Wilmington Harbor Maintenance Dredging	200,000
3.	Wilmington Harbor Long-Term Disposal	1,400,000
4.	Beaufort Harbor Maintenance Dredging	80,000
5.	Manteo Shallowbag Bay Maintenance Dredging	200,000
6.	Rollinson Channel Maintenance Dredging (Dare County)	400,000
8.	Pine Knolls Shores Protection (Carteret Co.)	200,000
9.	Tar River Road Streambank Protection (City of Greenville)	50,000
10.	Battery Island Bird Habitat Restoration (Brunswick County)	140,000
11.	Dare County Beaches Feasibility Study	70,000
12.	Deep Creek Watershed Project (Yadkin Co.)	500,000
	Total	$ 5,240,000

(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1998-99 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Corps of Engineers project feasibility studies.

(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1998-99.

(3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1999-2000 fiscal year.

(c) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.

(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

CARING PROGRAM FOR CHILDREN

Section 6. G.S. 108A-70.18(8), as enacted by Section 1 of S.L. 1998-1 Extra Session, reads as rewritten:

"(8) 'Uninsured' means the applicant for Program benefits was not covered under any private or employer-sponsored comprehensive health insurance plan for the six-month period immediately preceding the date ~~the Program becomes effective.~~ of application for Program benefits. Effective ~~six months from date the Program becomes effective,~~ April 1, 1999, 'uninsured' means the applicant is and was not covered under any private or employer-sponsored comprehensive health insurance plan for 60 days immediately preceding the date of application. The waiting periods required under this subdivision shall be waived if the child has been enrolled in Medicaid and has lost Medicaid ~~eligibility due to a change in family income~~ eligibility, has lost health care benefits due to cessation of a nonprofit organization program that provides health care benefits to low-income children, or has lost employer-sponsored comprehensive health care coverage due to termination of employment, cessation by the employer of employer-sponsored health coverage, or cessation of the employer's business."

MENTAL HEALTH RESERVE FOR MEDICAID MATCH

Section 7. There is appropriated from the General Fund to the Department of Health and Human Services the sum of thirty-eight million dollars ($38,000,000) for the 1998-99 fiscal year. These funds shall be placed in a Mental Health Restricted Reserve in the Office of the Controller of the Department of Health and Human Services. In addition to these funds, the Department shall transfer to the Mental Health Restricted Reserve from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the total amount of funds in the Division's budget allocated as matching funds for Medicaid payments to area mental health authorities. Funds placed in the Reserve may only be used as a State match for Medicaid payments to area mental health authorities for the 1998-99 fiscal year. Funds in the Reserve that are unexpended and unencumbered as of June 30, 1999, shall revert to the General Fund. This appropriation shall become part of the continuation budget.

MOST TEXT APPLIES ONLY TO 1998-99

Section 8. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1998-99 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1998-99 fiscal year.

1997-98 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

Section 9. (a) Except where expressly repealed or amended by this act, the provisions of S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, and S.L. 1998-153 remain in effect.

(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 1998-99 fiscal year in S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, and S.L. 1998-153 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations of this act for those same particular purposes.

EFFECT OF HEADINGS

Section 10. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SEVERABILITY CLAUSE

Section 11. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

Section 12. Except as otherwise provided, this act becomes effective July 1, 1998.

VISITOR REGISTRATION SHEET

Rules
Name of Committee

9/29/89
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Robert Redford	Hollywood CA.
Fred Tyll	WRAL-TV
O R Beam	the capital Group
Andy Romanet	C.T.A.S
Lu-Ann Coe	FFF
Henry Jones	Attorney Raleigh
Jim Brown	State Ports
Mary Anne Mouff	DHHS - Human Resources
Roslyn Lavett	L.O.B.B.Y.I.S.T! L'shana Tovah
Jack Swanee	NCAEP
John Bowdish	Zeb Alley P.A
Paula A. Wolf.	Covenant w/ NC's Children
V Lynn McBride	NSA
Roger Bone	Bone & Assoc
A B. Swindell	BFI
Jean Rikard	[illegible]

VISITOR REGISTRATION SHEET

Rules
Name of Committee

9/29/98
Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Stephanie Mansur	NC Assoc. of Realtors
David Simmons	ZDA, PA
Katherine Lewis	ElectriCities
Michael Thompson	North Carolina Power
Alan Miles	Bailey & Dixon LLP
KB Mitchell	NyTRNG
Steve Woodson	NC Farm Bureau
Josh Politis	AT&T
Susan Harrison	WCPSS
Deborah Ross	ACLU
Leanne Winner	NCSBA
Susan Markham	EGHS
Heather Fine Jaffee	OSA
Martha Blum	DOA

MINUTES
COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE
September 29, 1998

The Committee on Rules, Calendar and Operations of the House met September 29, 1998 at 2:25 p.m. in the House Conference Room of the Legislative Building. Representative Morgan, committee chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, vice-chair; Representatives Crawford, Culp, Dockham, Esposito, Gulley, Hill, McMahan, Miner, Mitchell, Neely, Thompson, and C. Wilson.

The Chair recognized Representative Mitchell who moved to reconsider the vote by which the committee substitute for Senate Bill 940 (PCS6889-RN002), FEDERAL-MATCH REQUIRED-9/30/98, received a favorable report. Motion carried.

A proposed House committee substitute was distributed. Representative Mitchell offered the following amendment to the bill:

On page 1, line 2, to read: "AN ACT TO APPROPRIATE FUNDS FOR FEDERAL MATCHING FUNDS FOR THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, CAPITAL FUNDS FOR FEDERAL MATCHING FUNDS FOR THE DEPARTMENT OF ADMINISTRATION AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO PROVIDE THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT EXCESS TANF FUNDS BE USED TO CONTINUE THE IMPLEMENTATION OF FIRST STOP EMPLOYMENT ASSISTANCE, TO MEET TANF MAINTENANCE OF EFFORT REQUIREMENTS, TO PROVIDE FOR WATER RESOURCES DEVELOPMENT PROJECTS, TO AMEND THE CARING PROGRAM FOR CHILDREN LAW, AND TO PROVIDE A MENTAL HEALTH RESERVE MATCH. Linwood Jones, staff counsel, explained that the amendment changes the title and sets out all the substantive provisions of the bill. Representative Mitchell moved for the adoption of the amendment and the amendment was adopted. He then moved that the amendment be incorporated into a new committee substitute for Senate Bill 940 with a favorable report; unfavorable to the original bill. Motion carried.

There being no further business, the meeting adjourned at 2:45 p.m.

Representative Richard T. Morgan
Committee Chairman

Anne M. Cole
Acting Committee Clerk

Attachments:
Committee Bills

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 940
Finance Committee Substitute Adopted 4/29/97
Proposed House Committee Substitute S940-PCS6889-RN002

Short Title: Federal-Match Required-9/30/98. (Public)

Sponsors:

Referred to:

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO MATCH FEDERAL FUNDS.

The General Assembly of North Carolina enacts:

CURRENT OPERATIONS APPROPRIATION/GENERAL FUND

Section 1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the fiscal year ending June 30, 1999, according to the schedule that follows.

Current Operations - General Fund		1998-99
Department of Crime Control and Public Safety -- Matching Funds for the National Guard Tarheel Challenge Program		$ 542,000 NR
Department of Environment and Natural Resources		
01. Federal Wastewater Assistance -- Matching Funds	4,860,532 NR	
02. Federal Water Supply Assistance -- Matching Funds	2,571,880 NR	
TOTAL -- Department of Environment and Natural Resources		7,432,412 NR

TOTAL: Current Operations - General Fund $7,974,412 NR

CAPITAL APPROPRIATIONS/GENERAL FUND

Section 2. Appropriations are made from the General Fund of the State for the 1998-99 fiscal year for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

Capital Improvements - General Fund	1998-99
Department of Administration, Reserve for State Veterans Nursing Home -- Salisbury Renovation of a 100-bed nursing care unit	$1,000,000
Department of Environment and Natural Resources	
01. State Match-Water Resources Projects -- Funds for the State share of federal civil works projects	$5,240,000
02. Channel Widening/Deepening-Wilmington Port -- Funds to improve navigation for shipping terminals and industries	$4,800,000
03. B. Everett Jordan Lake Water Supply--repayment of State cost-share funds for federal funds previously expended	110,000
TOTAL: Capital Improvements - General Fund	$11,150,000

AUTHORIZE TRANSFER TO MEET TANF MAINTENANCE OF EFFORT REQUIREMENTS

Section 3. Notwithstanding any other provision of law to the contrary, to the extent necessary to meet federal maintenance of effort requirements for Temporary Assistance for Needy Families (TANF), the Department of Health and Human Services may, for the first quarter of the 1998-99 fiscal year only, use State funds for the TANF Work First Family Assistance.

FIRST STOP EMPLOYMENT ASSISTANCE/COUNTY WORK INITIATIVES

Section 4. It is the intent of the General Assembly that excess Temporary Assistance for Needy Families (TANF) funds in the amount of twenty-five million three hundred thirty-two thousand one hundred seventy-three dollars ($25,332,173) be used to continue the implementation of First Stop Employment Assistance, established pursuant to G.S. 108A-29. The Employment Security Commission shall implement this initiative in consultation with the Department of Health and Human Services and the Department of Community Colleges, to enable counties to develop and administer their own work initiatives to assist hard-to-employ TANF recipients, former TANF recipients, and noncustodial parents in securing gainful employment and achieving economic self-sufficiency.

WATER RESOURCES DEVELOPMENT PROJECTS FUNDS

Section 5. (a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose estimated costs are as indicated:

	Name of Project	
1.	Morehead City Harbor Turning Basin	$ 2,000,000
2.	Wilmington Harbor Maintenance Dredging	200,000
3.	Wilmington Harbor Long-Term Disposal	1,400,000
4.	Beaufort Harbor Maintenance Dredging	80,000
5.	Manteo Shallowbag Bay Maintenance Dredging	200,000
6.	Rollinson Channel Maintenance Dredging (Dare County)	400,000
8.	Pine Knolls Shores Protection (Carteret Co.)	200,000
9.	Tar River Road Streambank Protection (City of Greenville)	50,000
10.	Battery Island Bird Habitat Restoration (Brunswick County)	140,000
11.	Dare County Beaches Feasibility Study	70,000
12.	Deep Creek Watershed Project (Yadkin Co.)	500,000
	Total	$ 5,240,000

(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1998-99 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Corps of Engineers project feasibility studies.
(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1998-99.
(3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1999-2000 fiscal year.

(c) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.

(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

CARING PROGRAM FOR CHILDREN

Section 6. G.S. 108A-70.18(8), as enacted by Section 1 of S.L. 1998-1 Extra Session, reads as rewritten:

"(8) 'Uninsured' means the applicant for Program benefits was not covered under any private or employer-sponsored comprehensive health insurance plan for the six-month period immediately preceding the date ~~the Program becomes effective.~~ of application for Program benefits. Effective ~~six months from date the Program becomes effective,~~ April 1, 1999, 'uninsured' means the applicant is and was not covered under any private or employer-sponsored comprehensive health insurance plan for 60 days immediately preceding the date of application. The waiting periods required under this subdivision shall be waived if the child has been enrolled in Medicaid and has lost Medicaid ~~eligibility due to a change in family income~~ eligibility, has lost health care benefits due to cessation of a nonprofit organization program that provides health care benefits to low-income children, or has lost employer-sponsored comprehensive health care coverage due to termination of employment, cessation by the employer of employer-sponsored health coverage, or cessation of the employer's business."

MENTAL HEALTH RESERVE FOR MEDICAID MATCH

Section 7. There is appropriated from the General Fund to the Department of Health and Human Services the sum of thirty-eight million dollars ($38,000,000) for the 1998-99 fiscal year. These funds shall be placed in a Mental Health Restricted Reserve in the Office of the Controller of the Department of Health and Human Services. In addition to these funds, the Department shall transfer to the Mental Health Restricted Reserve from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the total amount of funds in the Division's budget allocated as matching funds for Medicaid payments to area mental health authorities. Funds placed in the Reserve may only be used as a State match for Medicaid payments to area mental health authorities for the 1998-99 fiscal year. Funds in the Reserve that are unexpended and unencumbered as of June 30, 1999, shall revert to the General Fund. This appropriation shall become part of the continuation budget.

MOST TEXT APPLIES ONLY TO 1998-99

Section 8. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1998-99 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1998-99 fiscal year.

1997-98 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

Section 9. (a) Except where expressly repealed or amended by this act, the provisions of S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, and S.L. 1998-153 remain in effect.

(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 1998-99 fiscal year in S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, and S.L. 1998-153 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations of this act for those same particular purposes.

EFFECT OF HEADINGS

Section 10. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SEVERABILITY CLAUSE

Section 11. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

Section 12. Except as otherwise provided, this act becomes effective July 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 940
Finance Committee Substitute Adopted 4/29/97
Proposed House Committee Substitute S940-PCS6890-RN002

Short Title: Federal-Match Required-9/30/98. (Public)

Sponsors:

Referred to:

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS FOR FEDERAL MATCHING FUNDS FOR THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY AND WASTEWATER AND WATER SUPPLY MATCHING FUNDS FOR THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO APPROPRIATE FUNDS FOR CAPITAL APPROPRIATIONS FOR THE DEPARTMENT OF ADMINISTRATION AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO AUTHORIZE A TRANSFER OF FUNDS TO MEET TANF MAINTENANCE OF EFFORT REQUIREMENTS, TO PROVIDE THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT EXCESS TANF FUNDS BE USED TO CONTINUE THE IMPLEMENTATION OF FIRST STOP EMPLOYMENT ASSISTANCE, TO PROVIDE FOR WATER RESOURCES DEVELOPMENT PROJECTS, TO AMEND THE CARING PROGRAM FOR CHILDREN LAW ON THE UNINSURED, AND TO PROVIDE A MENTAL HEALTH RESERVE MATCH FOR MEDICAID.

The General Assembly of North Carolina enacts:

CURRENT OPERATIONS APPROPRIATION/GENERAL FUND

Section 1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other

purposes as enumerated are made for the fiscal year ending June 30, 1999, according to the schedule that follows.

Current Operations - General Fund		1998-99
Department of Crime Control and Public Safety -- Matching Funds for the National Guard Tarheel Challenge Program		$ 542,000 NR
Department of Environment and Natural Resources		
01. Federal Wastewater Assistance -- Matching Funds	4,860,532 NR	
02. Federal Water Supply Assistance -- Matching Funds	2,571,880 NR	
TOTAL -- Department of Environment and Natural Resources		7,432,412 NR
TOTAL: Current Operations - General Fund		$7,974,412 NR

CAPITAL APPROPRIATIONS/GENERAL FUND

Section 2. Appropriations are made from the General Fund of the State for the 1998-99 fiscal year for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

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Department of Administration, Reserve for State Veterans Nursing Home -- Salisbury Renovation of a 100-bed nursing care unit	$1,000,000
Department of Environment and Natural Resources	
01. State Match-Water Resources Projects -- Funds for the State share of federal civil works projects	$5,240,000
02. Channel Widening/Deepening-Wilmington Port -- Funds to improve navigation for shipping terminals and industries	$4,800,000
03. B. Everett Jordan Lake Water Supply--repayment of State cost-share funds for federal funds previously expended	110,000
TOTAL: Capital Improvements - General Fund	$11,150,000

AUTHORIZE TRANSFER TO MEET TANF MAINTENANCE OF EFFORT REQUIREMENTS

Section 3. Notwithstanding any other provision of law to the contrary, to the extent necessary to meet federal maintenance of effort requirements for

Temporary Assistance for Needy Families (TANF), the Department of Health and Human Services may, for the first quarter of the 1998-99 fiscal year only, use State funds for the TANF Work First Family Assistance.

FIRST STOP EMPLOYMENT ASSISTANCE/COUNTY WORK INITIATIVES

Section 4. It is the intent of the General Assembly that excess Temporary Assistance for Needy Families (TANF) funds in the amount of twenty-five million three hundred thirty-two thousand one hundred seventy-three dollars ($25,332,173) be used to continue the implementation of First Stop Employment Assistance, established pursuant to G.S. 108A-29. The Employment Security Commission shall implement this initiative in consultation with the Department of Health and Human Services and the Department of Community Colleges, to enable counties to develop and administer their own work initiatives to assist hard-to-employ TANF recipients, former TANF recipients, and noncustodial parents in securing gainful employment and achieving economic self-sufficiency.

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6.	Rollinson Channel Maintenance Dredging (Dare County)	400,000
8.	Pine Knolls Shores Protection (Carteret Co.)	200,000
9.	Tar River Road Streambank Protection (City of Greenville)	50,000
10.	Battery Island Bird Habitat Restoration (Brunswick County)	140,000
11.	Dare County Beaches Feasibility Study	70,000
12.	Deep Creek Watershed Project (Yadkin Co.)	500,000

Total $ 5,240,000

(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1998-99 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Corps of Engineers project feasibility studies.
(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1998-99.
(3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1999-2000 fiscal year.

(c) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.
(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

CARING PROGRAM FOR CHILDREN

Section 6. G.S. 108A-70.18(8), as enacted by Section 1 of S.L. 1998-1 Extra Session, reads as rewritten:

"(8) 'Uninsured' means the applicant for Program benefits was not covered under any private or employer-sponsored comprehensive health insurance plan for the six-month period immediately preceding the date ~~the Program becomes effective.~~ of application for Program benefits. Effective ~~six months from date the Program becomes effective,~~ April 1, 1999, 'uninsured' means the applicant is and was not covered under any private or employer-sponsored comprehensive health insurance plan for 60 days immediately preceding the date of application. The waiting periods required under this subdivision shall be waived if the child has been enrolled in Medicaid and has lost Medicaid ~~eligibility due to a change in family income~~ eligibility, has lost health care benefits due to cessation of a nonprofit organization program that provides health care benefits to low-income children, or has lost employer-sponsored comprehensive health care coverage due to termination of employment, cessation by the employer of employer-sponsored health coverage, or cessation of the employer's business."

MENTAL HEALTH RESERVE FOR MEDICAID MATCH

Section 7. There is appropriated from the General Fund to the Department of Health and Human Services the sum of thirty-eight million dollars ($38,000,000) for the 1998-99 fiscal year. These funds shall be placed in a Mental Health Restricted Reserve in the Office of the Controller of the Department of Health and Human Services. In addition to these funds, the Department shall transfer to the Mental Health Restricted Reserve from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the total amount of funds in the Division's budget allocated as matching funds for Medicaid payments to area mental health authorities. Funds placed in the Reserve may only be used as a State match for Medicaid payments to area mental health authorities for the 1998-99 fiscal year. Funds in the Reserve that are unexpended and unencumbered as of June 30, 1999, shall revert to the General Fund. This appropriation shall become part of the continuation budget.

MOST TEXT APPLIES ONLY TO 1998-99

Section 8. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1998-99 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1998-99 fiscal year.

1997-98 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

Section 9. (a) Except where expressly repealed or amended by this act, the provisions of S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, and S.L. 1998-153 remain in effect.

(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 1998-99 fiscal year in S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, and S.L. 1998-153 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations of this act for those same particular purposes.

EFFECT OF HEADINGS

Section 10. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SEVERABILITY CLAUSE

Section 11. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

Section 12. Except as otherwise provided, this act becomes effective July 1, 1998.

MINUTES
COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE
September 29, 1998

The Committee on Rules, Calendar and Operations of the House met September 29, 1998, at 4:30 p.m. in the House Conference Room of the Legislative Building. Representative Morgan, committee chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, vice-chair; Representatives Crawford, Culp, Esposito, Gulley, Hill, Miner, Mitchell, Neely and Thompson.

The following bills were considered:

Senate Bill 940 - proposed House committee substitute for Senate Bill 940 (CSRN002), FEDERAL-MATCH REQUIRED - 9/30/98. Representative Mitchell moved to reconsider the vote by which House committee substitute for Senate Bill 940 as amended and rolled into a committee substitute received a favorable report; motion carried. Representative Mitchell moved that the committee adopt the new committee substitute for Senate Bill 940 (PCS6891RN002) for the purpose of discussion. Motion carried. The chair called on Linwood Jones, staff counsel, to explain the new committee substitute.. This is the same bill passed at the previous meeting except Section 4 has been taken out. Representative Bowie moved that the proposed House committee substitute for SB 940 be given a favorable report; unfavorable to the original bill. Motion carried.

Senate Bill 307 - proposed House committee substitute for Senate Bill 307, - CHILDREN & HUMAN RESOURCES COMMITTEE SUBSTITUTE ADOPTED 4-30-97 -was before the committee. Representative Esposito moved that the proposed House committee substitute for Senate Bill 307 (PCS6892) be adopted for the purpose of discussion. Motion carried. The chair called on staff counsel, Linwood Jones, to explain the substitute. This substitute contains the one provision that came out of Senate Bill 940, the use of excess TANF funds to continue the implementation of First Stop Employment Assistance/County Work Initiatives. It is identical to what was passed in SB 940. Representative Esposito moved that proposed House committee substitute for SB 307 be given a favorable report; unfavorable to the original bill. Motion carried.

There being no further business, the meeting adjourned at 4:35 p.m.

Representative Richard T. Morgan
Committee Chairman

Anne M. Cole
Acting Committee Clerk

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR AND OPERATIONS OF THE HOUSE.**

☒ Committee Substitute for
S.B. 307 A BILL TO BE ENTITLED AN ACT TO UNDERTAKE THE REORGANIZATION OF THE DEPARTMENT OF HUMAN RESOURCES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#_____), ☒ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 940
Finance Committee Substitute Adopted 4/29/97
Proposed House Committee Substitute S940-PCS6891-RN002

Short Title: Federal-Match Required-9/30/98. (Public)

Sponsors:

Referred to:

April 17, 1997

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS FOR FEDERAL MATCHING FUNDS FOR THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY AND WASTEWATER AND WATER SUPPLY MATCHING FUNDS FOR THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO APPROPRIATE FUNDS FOR CAPITAL APPROPRIATIONS FOR THE DEPARTMENT OF ADMINISTRATION AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO AUTHORIZE A TRANSFER OF FUNDS TO MEET TANF MAINTENANCE OF EFFORT REQUIREMENTS, TO PROVIDE FOR WATER RESOURCES DEVELOPMENT PROJECTS, TO AMEND THE CARING PROGRAM FOR CHILDREN LAW ON THE UNINSURED, AND TO PROVIDE A MENTAL HEALTH RESERVE MATCH FOR MEDICAID.

The General Assembly of North Carolina enacts:

CURRENT OPERATIONS APPROPRIATION/GENERAL FUND

Section 1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the fiscal year ending June 30, 1999, according to the schedule that follows.

Current Operations - General Fund		1998-99
Department of Crime Control and Public Safety -- Matching Funds for the National Guard Tarheel Challenge Program		$ 542,000 NR
Department of Environment and Natural Resources		
01. Federal Wastewater Assistance -- Matching Funds	4,860,532 NR	
02. Federal Water Supply Assistance -- Matching Funds	2,571,880 NR	
TOTAL -- Department of Environment and Natural Resources		7,432,412 NR
TOTAL: Current Operations - General Fund		$7,974,412 NR

CAPITAL APPROPRIATIONS/GENERAL FUND

Section 2. Appropriations are made from the General Fund of the State for the 1998-99 fiscal year for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

Capital Improvements - General Fund	1998-99
Department of Administration, Reserve for State Veterans Nursing Home -- Salisbury Renovation of a 100-bed nursing care unit	$1,000,000
Department of Environment and Natural Resources	
01. State Match-Water Resources Projects -- Funds for the State share of federal civil works projects	$5,240,000
02. Channel Widening/Deepening-Wilmington Port -- Funds to improve navigation for shipping terminals and industries	$4,800,000
03. B. Everett Jordan Lake Water Supply--repayment of State cost-share funds for federal funds previously expended	110,000
TOTAL: Capital Improvements - General Fund	$11,150,000

AUTHORIZE TRANSFER TO MEET TANF MAINTENANCE OF EFFORT REQUIREMENTS

Section 3. Notwithstanding any other provision of law to the contrary, to the extent necessary to meet federal maintenance of effort requirements for Temporary Assistance for Needy Families (TANF), the Department of Health and Human Services may, for the first quarter of the 1998-99 fiscal year only, use State funds for the TANF Work First Family Assistance.

WATER RESOURCES DEVELOPMENT PROJECTS FUNDS

Section 4. (a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose estimated costs are as indicated:

	Name of Project	
1.	Morehead City Harbor Turning Basin	$ 2,000,000
2.	Wilmington Harbor Maintenance Dredging	200,000
3.	Wilmington Harbor Long-Term Disposal	1,400,000
4.	Beaufort Harbor Maintenance Dredging	80,000
5.	Manteo Shallowbag Bay Maintenance Dredging	200,000
6.	Rollinson Channel Maintenance Dredging (Dare County)	400,000
8.	Pine Knolls Shores Protection (Carteret Co.)	200,000
9.	Tar River Road Streambank Protection (City of Greenville)	50,000
10.	Battery Island Bird Habitat Restoration (Brunswick County)	140,000
11.	Dare County Beaches Feasibility Study	70,000
12.	Deep Creek Watershed Project (Yadkin Co.)	500,000
	Total	$ 5,240,000

(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1998-99 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Corps of Engineers project feasibility studies.
(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1998-99.
(3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1999-2000 fiscal year.

(c) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.

(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

CARING PROGRAM FOR CHILDREN

Section 5. G.S. 108A-70.18(8), as enacted by Section 1 of S.L. 1998-1 Extra Session, reads as rewritten:

"(8) 'Uninsured' means the applicant for Program benefits was not covered under any private or employer-sponsored comprehensive health insurance plan for the six-month period immediately preceding the date ~~the Program becomes effective.~~ of application for Program benefits. Effective ~~six months from date the Program becomes effective,~~ April 1, 1999, 'uninsured' means the applicant is and was not covered under any private or employer-sponsored comprehensive health insurance plan for 60 days immediately preceding the date of application. The waiting periods required under this subdivision shall be waived if the child has been enrolled in Medicaid and has lost Medicaid ~~eligibility due to a change in family income~~ eligibility, has lost health care benefits due to cessation of a nonprofit organization program that provides health care benefits to low-income children, or has lost employer-sponsored comprehensive health care coverage due to termination of employment, cessation by the employer of employer-sponsored health coverage, or cessation of the employer's business."

MENTAL HEALTH RESERVE FOR MEDICAID MATCH

Section 6. There is appropriated from the General Fund to the Department of Health and Human Services the sum of thirty-eight million dollars ($38,000,000) for the 1998-99 fiscal year. These funds shall be placed in a Mental Health Restricted Reserve in the Office of the Controller of the Department of Health and Human Services. In addition to these funds, the Department shall transfer to the Mental Health Restricted Reserve from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the total amount of funds in the Division's budget allocated as matching funds for Medicaid payments to area mental health authorities. Funds placed in the Reserve may only be used as a State match for Medicaid payments to area mental health authorities for the 1998-99 fiscal year. Funds in the Reserve that are unexpended and unencumbered as of June 30, 1999, shall revert to the General Fund. This appropriation shall become part of the continuation budget.

MOST TEXT APPLIES ONLY TO 1998-99

Section 7. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1998-99 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1998-99 fiscal year.

1997-98 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

Section 8. (a) Except where expressly repealed or amended by this act, the provisions of S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, and S.L. 1998-153 remain in effect.

(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 1998-99 fiscal year in S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, and S.L. 1998-153 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations of this act for those same particular purposes.

EFFECT OF HEADINGS

Section 9. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SEVERABILITY CLAUSE

Section 10. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

Section 11. Except as otherwise provided, this act becomes effective July 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 307
Children & Human Resources Committee Substitute Adopted 4/30/97
Proposed House Committee Substitute S307-PCS6892

Short Title: TANF/First Stop Employment Assistance. (Public)

Sponsors:

Referred to:

March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT EXCESS TANF FUNDS BE USED TO CONTINUE THE IMPLEMENTATION OF FIRST STOP EMPLOYMENT ASSISTANCE.

The General Assembly of North Carolina enacts:

Section 1. It is the intent of the General Assembly that excess Temporary Assistance for Needy Families (TANF) funds in the amount of twenty-five million three hundred thirty-two thousand one hundred seventy-three dollars ($25,332,173) be used to continue the implementation of First Stop Employment Assistance, established pursuant to G.S. 108A-29. The Employment Security Commission shall implement this initiative in consultation with the Department of Health and Human Services and the Department of Community Colleges, to enable counties to develop and administer their own work initiatives to assist hard-to-employ TANF recipients, former TANF recipients, and noncustodial parents in securing gainful employment and achieving economic self-sufficiency.

Section 2. This act becomes effective July 1, 1998.

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
September 30, 1998

The Committee on Rules, Calendar, and Operations of the House met September 30, 1998, at 11:45 p.m. in the House Conference Room in the Legislative Building. Representative Morgan, Committee Chair, called the meeting to order. The following members were present: Representative Bowie, Vice Chair, and Representatives Culp, Dockham, Esposito, Gulley, Hill, McMahan, Miner, Mitchell, Neely and Thompson.

The bill brought before the Committee was Senate Committee Substitute for HB 900 - A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS FOR FEDERAL MATCHING FUNDS FOR THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY AND WASTEWATER AND WATER SUPPLY MATCHING FUNDS FOR THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO APPROPRIATE FUNDS FOR CAPITAL APPROPRIATIONS FOR THE DEPARTMENT OF ADMINISTRATION AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO AUTHORIZE A TRANSFER OF FUNDS TO MEET TANF MAINTENANCE OF EFFORT REQUIREMENTS, TO PROVIDE THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT EXCESS TANF FUNDS MAY BE USED TO CONTINUE THE IMPLEMENTATION OF FIRST STOP EMPLOYMENT ASSISTANCE, TO APPROPRIATE FEDERAL BLOCK GRANT FUNDS FOR THE WELFARE TO WORK FORMULA GRANT PLAN, TO PROVIDE FOR WATER RESOURCES DEVELOPMENT PROJECTS, TO AMEND THE CARING PROGRAM FOR CHILDREN STATUTE ON THE UNINSURED, AD TO PROVIDE A MENTAL HEALTH RESERVE MATCH FOR MEDICAID, introduced by Representative Watson.

Staff Attorney Gann Watson was recognized to explain the bill. She explained that the bill contains certain time essential proponents that is budget items for the Department of Crime Control and Public Safety capital appropriations, general funds and authorization to transfer funds to fix the MOE problem. Representative Mitchell moved for a favorable report. Chairman Morgan told the Committee that there is an agreement that goes along with the passage of the bill. Members of the negotiating team have reached an agreement on many of the welfare reform items on the budget. This bill is part of an agreement with the Senate. The motion carried.

Representative Mitchell moved to reconsider the vote. The recommendation was to concur with the senate committee substitute. Staff Attorney Gann Watson, was recognized to explain the amendment. She explained that the amendment changed the title to add the House version of the First Stop Employment Assistance to appropriate federal grant block funds from excess TANF funds and thus the intent of the General Assembly is to use excess TANF funds up to $25,332.00 to continue the implementation of First Up Employment Assistance to establish pursuant to State law. It also adds

language to take care of the potential problem for using those TANF funds that would impact MOE. The language provide that funds identified for the match may be used only to the extent that they are not needed to meet federal TANF maintenance of effort (MOE) requirements and only to the extent that the funds do not reduce funds obligated for child welfare services.

Chairman Morgan stated that the amendment came to the committee unengrossed. The committee is dealing with the bill and the amendment. The motion by Representative Mitchell is that the House do concur with the Senate Committee Substitute for HB 900 and the amendment. Committee Counsel Linwood Jones advised that the amendment had been engrossed in the 4th edition. The motion before the Committee is the recommendation that the House do concur with the Senate Committee Substitute. Motion carried.

The committee adjourned at 11:55 p.m..

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:

Committee Report
Bill

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR AND OPERATIONS OF THE HOUSE.**

X Senate Committee Substitute for

H.B. 900 A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS FOR FEDERAL MATCHING FUNDS FOR THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY AND WASTEWATER AND WATER SUPPLY MATCHING FUNDS FOR THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO APPROPRIATE FUNDS FOR CAPITAL APPROPRIATIONS FOR THE DEPARTMENT OF ADMINISTRATION AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO AUTHORIZE A TRANSFER OF FUNDS TO MEET TANF MAINTENANCE OF EFFORT REQUIREMENTS, TO PROVIDE THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT EXCESS TANF FUNDS BE USED TO CONTINUE THE IMPLEMENTATION OF FIRST STOP EMPLOYMENT ASSISTANCE, TO APPROPRIATE FEDERAL BLOCK GRANT FUNDS FOR THE WELFARE TO WORK FORMULA GRANT PLAN, TO PROVIDE FOR WATER RESOURCES DEVELOPMENT PROJECTS, TO AMEND THE CARING PROGRAM FOR CHILDREN STATUTE ON THE UNINSURED, AND TO PROVIDE A MENTAL HEALTH RESERVE MATCH FOR MEDICAID.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

X With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(a), the bill is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ The (committee substitute) bill/resolution (, as amended,) is placed on the Consent Calendar of _____. The original bill/resolution is placed on the Unfavorable Calendar.

____ The bill/resolution is re-referred to the Committee on _____.

____ On motion of (Rep. _____,) (the Chair,) the (committee substitute) bill/resolution is (ordered engrossed and) re-referred to the Committee on _____.

____ Pursuant to Rule 36(a), the (House)committee substitute bill (No. ____)/resolution is placed on the Calendar of _____. (The original bill) (House Committee Substitute Bill No. ____)/resolution is placed on the Unfavorable Calendar.

____ On motion of Rep. _____, (the rules are suspended) (Rule ____ is suspended) and the bill/resolution is placed on today's calendar. (for immediate consideration.)

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ On motion of Rep. _____, Committee Amendment No.(s) _____ is/are adopted (by EV____ ____).

____ Rep. _____ offers Amendment No. _____ which (is adopted.) (fails of adoption.) (by EV ____ ____.) ( ) This amendment changes the title.

____ The bill/resolution (, as amended,) passes its second reading (by following vote, ____ ____ RC) (, by EV ____ ____,) and (remains on the Calendar,) (and there being no objection is read a third time).

____ The bill/resolution (, as amended,) passes its third reading (by the following vote, ____ ____ RC) (, by EV ____ ____,) and is ordered
____ sent to the Senate.
____ without engrossment. ____ by Special message.
____ sent to the Senate for concurrence in
_____ House amendment (s).
_____ House committee substitute.
____ enrolled.

____ On motion of Rep. _____, the House concurs in the (material) Senate _____ (by the following vote, ____ ____ RC) (, by EV ____ ____,) and the bill is ordered enrolled.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 4

HOUSE BILL 900
Committee Substitute Favorable 4/23/97
Senate Appropriations Committee Substitute Adopted 9/29/98
Fourth Edition Engrossed 9/30/98

Short Title: Federal Match Required-9/30/98. (Public)

Sponsors:

Referred to:

April 8, 1997

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS FOR FEDERAL MATCHING FUNDS FOR THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY AND WASTEWATER AND WATER SUPPLY MATCHING FUNDS FOR THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO APPROPRIATE FUNDS FOR CAPITAL APPROPRIATIONS FOR THE DEPARTMENT OF ADMINISTRATION AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, TO AUTHORIZE A TRANSFER OF FUNDS TO MEET TANF MAINTENANCE OF EFFORT REQUIREMENTS, TO PROVIDE THAT IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT EXCESS TANF FUNDS BE USED TO CONTINUE THE IMPLEMENTATION OF FIRST STOP EMPLOYMENT ASSISTANCE, TO APPROPRIATE FEDERAL BLOCK GRANT FUNDS FOR THE WELFARE TO WORK FORMULA GRANT PLAN, TO PROVIDE FOR WATER RESOURCES DEVELOPMENT PROJECTS, TO AMEND THE CARING PROGRAM FOR CHILDREN STATUTE ON THE UNINSURED, AND TO PROVIDE A MENTAL HEALTH RESERVE MATCH FOR MEDICAID.

The General Assembly of North Carolina enacts:

CURRENT OPERATIONS APPROPRIATION/GENERAL FUND

Section 1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated are made for the fiscal year ending June 30, 1999, according to the schedule that follows.

Current Operations - General Fund	1998-99
Department of Crime Control and Public Safety -- Matching Funds for the National Guard Tarheel Challenge Program	$ 542,000 NR
Department of Environment and Natural Resources	
01. Federal Wastewater Assistance -- Matching Funds	4,860,532 NR
02. Federal Water Supply Assistance -- Matching Funds	2,571,880 NR
TOTAL -- Department of Environment and Natural Resources	7,432,412 NR
TOTAL: Current Operations - General Fund	$7,974,412 NR

CAPITAL APPROPRIATIONS/GENERAL FUND

Section 2. Appropriations are made from the General Fund of the State for the 1998-99 fiscal year for use by the State departments, institutions, and agencies to provide for capital improvement projects according to the following schedule:

Capital Improvements - General Fund	1998-99
Department of Administration, Reserve for State Veterans Nursing Home -- Salisbury Renovation of a 100-bed nursing care unit	$1,000,000
Department of Environment and Natural Resources	
01. State Match-Water Resources Projects -- Funds for the State share of federal civil works projects	$5,240,000
02. Channel Widening/Deepening-Wilmington Port -- Funds to improve navigation for shipping terminals and industries	$4,800,000
03. B. Everett Jordan Lake Water Supply -- repayment of State cost-share funds for federal funds previously expended	$ 110,000

TOTAL: Capital Improvements - General Fund $11,150,000

AUTHORIZE TRANSFER TO MEET TANF MAINTENANCE OF EFFORT REQUIREMENTS

Section 3. Notwithstanding any other provision of law to the contrary, to the extent necessary to meet federal maintenance of effort requirements for Temporary Assistance for Needy Families (TANF), the Department of Health and Human Services may, for the first quarter of the 1998-99 fiscal year only, use State funds for the TANF Work First Family Assistance.

FIRST STOP EMPLOYMENT ASSISTANCE/ APPROPRIATE FEDERAL BLOCK GRANT FUNDS FOR WELFARE TO WORK FORMULA GRANT PLAN

Section 4. (a) It is the intent of the General Assembly that excess Temporary Assistance for Needy Families (TANF) funds up to twenty-five million three hundred thirty-two thousand one hundred seventy-three dollars ($25,332,173) be used to continue the implementation of First Stop Employment Assistance, established pursuant to G.S. 108A-29. The Employment Security Commission shall implement this initiative in consultation with the Department of Commerce, the Department of Health and Human Services, and the Department of Community Colleges.

(b) Section 12.20A(b) of S.L. 1997-443 reads as rewritten:

"(b) The Department of Commerce, the Employment Security Commission, and the Department of Health and Human Services shall develop a plan to implement the Welfare-to-Work initiative in this State, develop performance goals and measures for this initiative, and estimate the cost impact on the State budget for the next five years of implementing the initiative. The Department of Commerce, the Employment Security Commission, and the Department of Health and Human Services shall report to the General Assembly its findings and recommendations by April 1, 1998. ~~The Department of Commerce shall not expend any State or federal funds for the Welfare-to-Work initiative until the amended State Plan is submitted to the General Assembly and the amended State Plan becomes law.~~"

(c) There is appropriated to the Department of Commerce from federal Welfare to Work Block Grant funds for the fiscal year ending June 30, 1999, the sum of twenty-five million three hundred thirty-two thousand one hundred seventy-three dollars ($25,332,173). The Office of State Budget and Management may identify potential sources of State and local funds that may be used as a match for the federal Welfare-to-Work Block Grant, except that funds identified may be used as a match only to the extent that the funds are not needed to meet federal TANF maintenance of effort requirements and only to the extent that the funds will not reduce funds obligated or appropriated for Work First County Block Grants and child welfare services.

WATER RESOURCES DEVELOPMENT PROJECTS FUNDS

Section 5. (a) The Department of Environment and Natural Resources shall allocate the funds appropriated in this act for water resources development projects to the following projects whose estimated costs are as indicated:

	Name of Project	
1.	Morehead City Harbor Turning Basin	$ 2,000,000
2.	Wilmington Harbor Maintenance Dredging	200,000
3.	Wilmington Harbor Long-Term Disposal	1,400,000
4.	Beaufort Harbor Maintenance Dredging	80,000
5.	Manteo Shallowbag Bay Maintenance Dredging	200,000
6.	Rollinson Channel Maintenance Dredging (Dare County)	400,000
8.	Pine Knolls Shores Protection (Carteret Co.)	200,000
9.	Tar River Road Streambank Protection (City of Greenville)	50,000
10.	Battery Island Bird Habitat Restoration (Brunswick County)	140,000
11.	Dare County Beaches Feasibility Study	70,000
12.	Deep Creek Watershed Project (Yadkin Co.)	500,000
	Total	$ 5,240,000

(b) Where the actual costs are different from the estimated costs under subsection (a) of this section, the Department may adjust the allocations among projects as needed. If any projects listed in subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 1998-99 fiscal year, or if the projects listed in subsection (a) of this section are accomplished at a lower cost, the Department may use the resulting fund availability to fund any of the following:

(1) Corps of Engineers project feasibility studies.

(2) Corps of Engineers projects whose schedules have advanced and require State matching funds in fiscal year 1998-99.

(3) State-local water resources development projects.

Funds not expended or encumbered for these purposes shall revert to the General Fund at the end of the 1999-2000 fiscal year.

(c) The Department shall make quarterly reports on the use of these funds to the Joint Legislative Commission on Governmental Operations, the Fiscal Research Division, and the Office of State Budget and Management. Each report shall include all of the following:

(1) All projects listed in this section.
(2) The estimated cost of each project.
(3) The date that work on each project began or is expected to begin.
(4) The date that work on each project was completed or is expected to be completed.
(5) The actual cost of each project.

The quarterly reports shall also show those projects advanced in schedule, those projects delayed in schedule, and an estimate of the amount of funds expected to revert to the General Fund.

CARING PROGRAM FOR CHILDREN

Section 6. G.S. 108A-70.18(8), as enacted by Section 1 of S.L. 1998-1 Extra Session, reads as rewritten:

"(8) 'Uninsured' means the applicant for Program benefits was not covered under any private or employer-sponsored comprehensive health insurance plan for the six-month period immediately preceding the date ~~the Program becomes effective.~~ of application for Program benefits. Effective ~~six months from date the Program becomes effective,~~ April 1, 1999, 'uninsured' means the applicant is and was not covered under any private or employer-sponsored comprehensive health insurance plan for 60 days immediately preceding the date of application. The waiting periods required under this subdivision shall be waived if the child has been enrolled in Medicaid and has lost Medicaid ~~eligibility due to a change in family income~~ eligibility, has lost health care benefits due to cessation of a nonprofit organization program that provides health care benefits to low-income children, or has lost employer-sponsored comprehensive health care coverage due to termination of employment, cessation by the employer of employer-sponsored health coverage, or cessation of the employer's business."

MENTAL HEALTH RESERVE FOR MEDICAID MATCH

Section 7. There is appropriated from the General Fund to the Department of Health and Human Services the sum of thirty-eight million dollars ($38,000,000) for the 1998-99 fiscal year. These funds shall be placed in a Mental Health Restricted Reserve in the Office of the Controller of the Department of Health and Human Services. In addition to these funds, the Department shall transfer to the Mental Health Restricted Reserve from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, the total amount of funds in the Division's budget allocated as matching funds for Medicaid payments to area

mental health authorities for the 1998-99 fiscal year. Funds in the Reserve that are unexpended and unencumbered as of June 30, 1999, shall revert to the General Fund. This appropriation shall become part of the continuation budget.

MOST TEXT APPLIES ONLY TO 1998-99

Section 8. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 1998-99 fiscal year, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 1998-99 fiscal year.

1997-98 APPROPRIATIONS LIMITATIONS AND DIRECTIONS APPLY

Section 9. (a) Except where expressly repealed or amended by this act, the provisions of S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, and S.L. 1998-153 remain in effect.

(b) Notwithstanding any modifications by this act in the amounts appropriated, except where expressly repealed or amended, the limitations and directions for the 1998-99 fiscal year in S.L. 1997-443, S.L. 1998-1 Extra Session, S.L. 1998-9, S.L. 1998-23, and S.L. 1998-153 that applied to appropriations to particular agencies or for particular purposes apply to the newly enacted appropriations of this act for those same particular purposes.

EFFECT OF HEADINGS

Section 10. The headings to the sections of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

SEVERABILITY CLAUSE

Section 11. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

EFFECTIVE DATE

Section 12. Except as otherwise provided, this act becomes effective July 1, 1998.

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
October 7, 1998

The Committee on Rules, Calendar, and Operations of the House met October 7, 1998, at 1:00 p.m. in the House Conference Room in the Legislative Building. Representative Morgan, Committee Chair, called the meeting to order. The following members were present: Representative Bowie, Vice Chair, and Representatives Culp, Dockham, Esposito, Gulley, McMahan, Miner, Mitchell, Thompson, and Wilson.

The first bill to consider was S.B. 1274 - A BILL TO BE ENTITLED AN ACT TO EXTEND THE TIME FOR THE RESOLUTION OF CLAIMS TO LAND UNDER NAVIGABLE WATERS AND TO AMEND THE CURRENT LAW REGARDING THE CONTROL OF CHILDHOOD LEAD EXPOSURE, introduced by Senator Albertson. Representative Bowie moved for adoption of a House committee substitute for the purpose of discussion and the motion carried. Representative Eddins was recognized to explain the committee substitute. He stated that children under the age of six that have had a high lead level will be put on a yearly maintenance program if their lead level drops back into a safe range. He also stated that the bill had no opposition. Representative Bowie moved for a favorable report to the House committee substitute and an unfavorable report to the original bill. The motion carried.

The next bill to be heard was S.B. 809 - A BILL TO BE ENTITLED AN ACT AMENDING THE NORTH CAROLINA APPRAISERS ACT, introduced by Senator Ledbetter. Representative Gulley moved to adopt a committee substitute for discussion and the motion carried. Representative Cansler was recognized and explain the committee substitute. He explained that the committee substitute is identical to the committee substitute for S.B. 425 which went through finance several weeks. It does two things; (1) with respect to the State Board of Refrigeration examiners with respect to reciprocal license for folks moving in and out of state and how many businesses may be served by a licensee and (2) for the Board of CPA examiners, it deals with their ability to lease/purchase real estate, etc. giving them the same ability that has been given to the bar licensing for medical examiners, etc. There is no opposition and it is at the request of both boards. Representative Miner moved for a favorable report to the committee substitute and unfavorable to the original bill and the motion carried.

Chairman Morgan read a list of bills to the committee (see attached list). Representative Dockham moved the list of bills be reported postponed indefinite with the exception of HB 925. The motion carried.

S.J.R. 1597 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF SAMUEL JAMES ERVIN, IV MADE BY THE GOVERNOR TO MEMBERSHIP OF THE

NORTH CAROLINA UTILITIES COMMISSION, introduced by Senator Soles, was brought before the committee for consideration only at this time. This is the enabling resolution which would allow S.J.R. 1599 to be heard. S.J.R. 1599 - A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF SAMUEL JAMES ERVIN, IV MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION, introduced by Senator Soles, was also brought before the committee for consideration only. Chairman Morgan stated that the Committee would recall that on 3 or 4 occasions of the Rules Committee meeting, he asked the members to engage input and consideration to the confirmation bills. That was announced publicly to those in attendance and reflected accordingly in the minutes. At the present time the Chair has received no communication from the nominee, Mr. Ervin, nor has any communication been received from the sponsor of the legislation. The Chair has received communication from the Chairman of the House Public Utilities Committee and the chair intends to make this information public at the next meeting of the Committee in which this matter is considered. Again, Chairman Morgan asked the committee members to review this confirmation bill with any input they wish to provide to the Chair. Chairman Morgan told Franklin Freeman that he would be glad to hear from the governor or any other interested party.

There being no further business, the committee adjourned at 1:15 p.m.

Representative Richard T. Morgan
Chairman

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ House Committee Substitute for
S.B. 1274 A BILL TO BE ENTITLED AN ACT TO EXTEND THE TIME FOR THE RESOLUTION OF CLAIMS TO LAND UNDER NAVIGABLE WATERS AND TO AMEND THE CURRENT LAW REGARDING THE CONTROL OF CHILDHOOD LEAD EXPOSURE.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (# 2), ☒ which changes the title, unfavorable as to ~~Senate~~ House committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 1274*
House Committee Substitute Favorable 9/16/98
Proposed House Committee Substitute S1274-PCS9623-RT002

Short Title: Childhood Lead Exposure Amends. (Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING THE CONTROL OF CHILDHOOD LEAD EXPOSURE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 130A-131.5 reads as rewritten:

"**§ 130A-131.5. Commission to adopt rules.**

(a) For the protection of the public health, the Commission shall adopt rules for the prevention and control of lead poisoning in children in accordance with this Part. ~~children. The rules shall include provisions for:~~

~~(1) Reporting by laboratories of elevated blood lead levels in children less than six years of age; the rules shall specify the public health agency to which reports shall be made, and shall establish when a blood lead level is considered to be elevated. The rules shall further provide the specific information to be included in the reports, the time limits for reporting, and the form in which reports shall be submitted;~~

~~(2) Investigation by the Department to determine the source of elevated blood lead levels;~~

~~(3) Identification of lead poisoning hazards;~~

~~(4) Examination and testing of children less than six years of age who are reasonably suspected of having elevated blood lead levels; and~~

~~(5) Abatement of lead poisoning hazards in dwellings, schools and child care centers determined by the Department to be a potential source of an elevated blood lead level in a child less than six years of age.~~

~~(b) Abatement orders issued by the Department pursuant to this section shall require elimination of the lead poisoning hazard. Removal of children from the dwelling, school, or child care center shall not constitute abatement if the property continues to be used for a dwelling, school, or child care center.~~"

Section 2. G.S. 130A-131.7(1) reads as rewritten:

"(1) 'Abatement' means ~~identifying lead-based paint, identifying or assessing a lead-based paint hazard, or~~ undertaking any of the following measures to eliminate a lead-based paint hazard:

a. Removing lead-based paint from a surface and repainting the surface.

b. Removing a component, such as a windowsill, painted with lead-based paint and replacing the component.

c. Enclosing a surface painted with lead-based paint with paneling, vinyl siding, or another approved material.

d. Encapsulating a surface painted with lead-based paint with a sealant.

e. Any other measure approved by the Commission.

~~The term includes an inspection and a risk assessment.~~"

Section 3. G.S. 130A-131.9C(j) reads as rewritten:

"(j) The Department shall verify by visual inspection that the approved remediation plan has been completed. The Department may also verify plan completion by residual lead dust monitoring and soil or drinking water lead level measurement.

(j1) Compliance with the maintenance standard ~~shall be deemed equivalent to meeting~~ satisfies the remediation ~~plan requirements as long as exterior surfaces are also addressed.~~ requirements for confirmed lead poisoning cases identified on or after 1 October 1990 as long as all lead poisoning hazards identified on interior and exterior surfaces are addressed by remediation. Except for owner-occupied residential housing units, continued compliance shall be verified by means of an annual monitoring inspection conducted by the Department. For owner-occupied residential housing units, continued compliance shall be verified (i) by means of an annual monitoring inspection, (ii) by documentation that no child less than six years of age has resided in or regularly visited the residential housing unit within the past year, or (iii) by documentation that no child less than six years of age residing in or regularly visiting the unit has an elevated blood lead level."

Section 4. G.S. 130A-131.9D reads as rewritten:

"**§ 130A-131.9D. Effect of compliance with maintenance standard.**

Any owner of a residential housing unit constructed prior to 1978 who is sued by a current or former occupant seeking damages for injuries allegedly arising from exposure to lead-based paint or lead-contaminated dust, shall not be deemed liable (i)

for any injuries sustained by that occupant after the owner first complied with the maintenance standard defined under G.S. ~~130A-131.7(10)~~ 130A-131.7 provided the owner has repeated the steps provided for in the maintenance standard annually for units in which children of less than six years of age have resided or regularly visited within the past year and obtained a certificate of compliance under G.S. 130A-131.9E annually during such occupancy; or (ii) if the owner is able to show by other documentation that compliance with the maintenance standard has been maintained during the period when the injuries were sustained; or (iii) if the owner is able to show that the unit was lead-safe housing containing no lead-based paint hazards during the period when the injuries were sustained."

Section 5. Part 4 of Article 5 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"**§ 130A-131.9H. Application fees for certificates of compliance.**

The Department shall collect an application fee of ten dollars ($10.00) for each certificate of compliance. Fee receipts shall be used to support the program that is developed to implement this Part. Fee receipts also may be used to provide for relocation and medical expenses incurred by children with confirmed lead poisoning."

Section 6. This act is effective when it becomes law.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ House Committee Substitute for
S.B. 809 A BILL TO BE ENTITLED AN ACT AMENDING THE NORTH CAROLINA APPRAISERS ACT.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (# 2), ☒ which changes the title, unfavorable as to ~~Senate~~ House committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 809
Commerce Committee Substitute Adopted 4/23/97
Third Edition Engrossed 4/29/97
House Committee Substitute Favorable 6/4/97
Fifth Edition Engrossed 7/2/97
Proposed House Committee Substitute #2 S809-PCS9626-RN002

Short Title: Refrig. Contractors/CPA Examiners. (Public)

Sponsors:

Referred to:

April 10, 1997

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ARTICLE ON REFRIGERATION CONTRACTORS AND RELATING TO THE CONVEYANCE OF PROPERTY BY THE NORTH CAROLINA BOARD OF CPA EXAMINERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 87-58(a) reads as rewritten:

"(a) As applied in this Article, 'refrigeration trade or business' is defined to include all persons, firms or corporations engaged in the installation, maintenance, servicing and repairing of refrigerating machinery, equipment, devices and components relating thereto and within limits as set forth in the codes, laws and regulations governing refrigeration installation, maintenance, service and repairs within the State of North Carolina or any of its political ~~subdivisions, provided however, that this~~ subdivisions. This Article shall not apply to the replacement of lamps and fuses and to the installation and servicing of domestic household refrigerators and freezers or domestic ice-making appliances connected by means of attachment plug-in devices to suitable receptacles which have been permanently ~~installed, and provided, further, that the~~ installed. The provisions of this Article shall not repeal any wording, phrase, or paragraph as set forth in Article 2 of Chapter 87 of the General Statutes. ~~North Carolina General Statutes, Chapter 87, Article 2; and provided, further, that this~~ This Article shall not apply to employees of persons,

firms, or corporations or persons, firms or corporations, not engaged in refrigeration contracting as herein defined, that install, maintain and service their own refrigerating machinery, equipment and devices. The provisions of this Article shall not apply to any person, firm or corporation engaged in the business of selling, repairing and installing any ~~air-conditioning units,~~ comfort cooling devices or ~~systems~~ systems. ~~for the purpose of cooling offices, buildings, houses, works, manufacturing plants, or any machinery, manufactured article or processing of material.~~"

Section 2. G.S. 87-58(d) reads as rewritten:

"(d) In order to protect the public health, comfort and safety, the Board shall prescribe the standard of experience to be required of an applicant for license and shall give an examination designed to ascertain the technical and practical knowledge of the applicant concerning the analysis of plans and specifications, estimating cost, fundamentals of installation and design as they pertain to refrigeration; and as a result of the examination, the Board shall issue a certificate of license in refrigeration to applicants who pass the required examination and a license shall be obtained in accordance with the provisions of this Article, before any person, firm or corporation shall engage in, or offer to engage in the business of refrigeration contracting. The Board shall prescribe standards for and issue licenses for refrigeration contracting and for transport refrigeration contracting. A transport refrigeration contractor license is a specialty license that authorizes the licensee to engage only in transport refrigeration contracting. A refrigeration contractor licensee is authorized to engage in transport refrigeration and all other aspects of refrigeration contracting.

Each application for examination shall be accompanied by a check, post-office money order or cash in the amount of the annual license fee required by this Article. Regular examinations shall be given in the months of April and October of each year and additional examinations may be given at times the Board deems wise and necessary. Any person may demand in writing a special examination and upon payment by the applicant of the cost of holding the examination and the deposit of the amount of the annual license fee, the Board in its discretion will fix a time and place for the examination. ~~A person who fails to pass any examination shall not be reexamined until the next regular examination.~~"

Section 2.1. G.S. 87-58 is amended by adding a new subsection to read:

"(j) The Board in its discretion upon application may grant a reciprocal license to a person holding a valid, active substantially comparable license from another jurisdiction, but only to the extent the other jurisdiction grants reciprocal privileges to North Carolina licensees."

Section 3. G.S. 87-60 reads as rewritten:

"**§ 87-60. Reissuance of revoked licenses; replacing lost or destroyed licenses.**

The Board may in its discretion reissue license to any person, firm or corporation whose license ~~may have been revoked: Provided, three or more members~~ was revoked if a majority of the Board ~~vote~~ votes in favor of such reissuance for reasons deemed sufficient by the Board. A new certificate of registration to replace any license which may be lost or destroyed may be issued subject to the rules and regulations of the Board."

Section 4. G.S. 87-62 reads as rewritten:

"**§ 87-62. Only one person in partnership or corporation need have license.**

(a) A corporation or partnership may engage in the business of refrigeration contracting ~~provided~~ if one or more persons connected with ~~such~~ the corporation or partnership is registered and licensed as herein ~~required; and provided such~~ required, and the licensed person ~~shall execute~~ executes all contracts, ~~exercise~~ exercises general supervision over the work done thereunder and ~~be~~ is responsible for compliance with all the provisions of this Article. The Board may determine the number of businesses and the proximity of the businesses one to another over which the licensed person may be responsible.

(b) For purposes of this section, the licensee's connection to the corporation or partnership shall be in the form of a written contract that is executed prior to the corporation or partnership engaging in refrigeration contracting.

(c) Nothing in this Article shall prohibit any employee from becoming licensed pursuant to the provisions thereof."

Section 5. G.S. 87-64 reads as rewritten:

"**§ 87-64. Examination and license fees; annual renewal.**

Each applicant for a license by examination shall pay to the Board of Refrigeration Examiners a nonrefundable examination fee in an amount not to exceed the sum of forty dollars ($40.00). In the event the applicant successfully passes ~~said~~ the examination, the examination fee ~~so paid~~ shall be applied to the license fee required of licensees for the current year in which the examination was taken and passed.

The license of every person licensed under the provisions of this statute shall be annually renewed. On or before November 1 of each year the Board shall cause to be mailed an application for renewal of license to every person who has received from the Board a license to engage in the refrigeration business, as heretofore defined. On or before January 1 of each year every licensed person who desires to continue in the refrigeration business shall forward to the Board a renewal fee in an amount not to exceed forty dollars ($40.00) together with the application for renewal. Upon receipt of the application and renewal fee the Board shall issue a renewal certificate for the current year. Failure to renew the license annually shall automatically result in a forfeiture of the right to engage in the refrigeration business. Any licensee who allows ~~his~~ the license to lapse may be reinstated by the Board upon payment of a fee not to exceed ~~forty-five dollars ($45.00); provided any~~ seventy-five dollars ($75.00). Any person who fails to renew ~~his~~ a license for two consecutive years shall be required to take and pass the examination prescribed by the Board for new applicants before being licensed to engage further in the refrigeration business."

Section 6. G.S. 93-12 is amended by adding a new subdivision to read:

"(17) The Board shall have the power to acquire, hold, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to approval of the Governor and the Council of State as to the acquisition, rental, encumbering, leasing, and sale of real property. Collateral pledged

by the Board for an encumbrance is limited to the assets, income, and revenues of the Board."

Section 7. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 5

SENATE BILL 809
Commerce Committee Substitute Adopted 4/23/97
Third Edition Engrossed 4/29/97
House Committee Substitute Favorable 6/4/97
Fifth Edition Engrossed 7/2/97

Short Title: Amend NC Appraisers Act. (Public)

Sponsors:

Referred to:

April 10, 1997

A BILL TO BE ENTITLED

AN ACT AMENDING THE NORTH CAROLINA APPRAISERS ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 93E-1-3(c) reads as rewritten:

"(c) Nothing in this Chapter shall preclude a real estate broker or salesman licensed under Chapter 93A of the General Statutes from performing a comparative market ~~analysis, provided~~ analysis or broker's market analysis so long as the person does not represent himself or herself as being State-licensed or State-certified as a real estate ~~appraiser.~~ appraiser, and the analysis states that it is not an appraisal and shall not be used for lending purposes. A real estate broker or salesman may perform a comparative market analysis or broker's market analysis for compensation only for the following:

(1) A brokerage client or prospective brokerage client of the broker or salesman.

(2) Real property involved in an employee relocation program."

Section 2. G.S. 93E-1-4 reads as rewritten:

"**§ 93E-1-4. Definitions.**

~~When used in this Chapter, unless the context otherwise requires, the term:~~ The following definitions apply in this Chapter:

(1) ~~"Appraisal" or "real estate appraisal" means an~~ Appraisal or real estate appraisal. -- An analysis, opinion, or conclusion as to the

value of identified real estate or specified interests therein performed for compensation or other valuable consideration.

(2) ~~"Appraisal assignment" means an~~ Appraisal assignment. -- An engagement for which an appraiser is employed or retained to act, or would be perceived by third parties or the public as acting, as a disinterested third party in rendering an unbiased appraisal.

(3) ~~"Appraisal Board" or "Board" means the~~ Appraisal Board or Board. -- The North Carolina Appraisal Board established under G.S. 93E-1-5.

(4) ~~"Appraisal Foundation" or "Foundation" means~~ Appraisal Foundation or Foundation. -- The Appraisal Foundation established on November 20, 1987, as a not-for-profit corporation under the laws of Illinois.

(5) ~~"Appraisal report" means any~~ Appraisal report. -- Any communication, written or oral, of an appraisal.

(5a) Broker's market analysis. -- The analysis of a property's condition and of competition and future market conditions to derive an indication of the probable sales price of the property and market strategies to be used by a licensed real estate broker or salesperson.

(6) ~~"Certificate" means that~~ Certificate. -- The document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements for certification as a State-certified real estate appraiser and bearing a certificate number assigned by the Board.

(7) ~~"Certificate holder" means a~~ Certificate holder. -- A person who is certified by the Board under the provisions of this Chapter.

(7a) ~~"Comparative market analysis" means the~~ Comparative market analysis. -- The analysis of sales of similar recently sold properties in order to derive an indication of the probable sales price of a particular property by a licensed real estate broker or ~~salesperson for the broker's or salesperson's principal.~~ salesperson.

(8) ~~"License" means that~~ License. -- The document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements for licensure as a State-licensed real estate appraiser and bearing a license number assigned by the Board.

(9) ~~"Licensee" means a~~ Licensee. -- A person licensed by the Board under the provisions of this Chapter.

(10) ~~"Real estate" or "real property" means land,~~ Real estate or real property. -- Land, including the air above and ground below and all appurtenances and improvements thereto, as well as any interest or right inherent in the ownership of land.

(11) ~~"Real estate appraiser" or "appraiser" means a~~ Real estate appraiser or appraiser. -- A person who for a fee or valuable

consideration develops and communicates real estate appraisals or otherwise gives an opinion of the value of real estate or any interest therein.

(12) ~~"Real estate appraising" means the~~ Real estate appraising. -- The practice of developing and communicating real estate appraisals.

(13) ~~"Residential real estate" means any~~ Residential real estate. -- Any parcel of real estate, improved or unimproved, that is exclusively residential in nature and that includes or is intended to include a residential structure containing not more than four dwelling units and no other improvements except those which are typical residential improvements that support the residential use for the location and property type. A residential unit in a condominium, town house, or cooperative complex, or planned unit development is considered to be residential real estate.

(14) ~~"State-certified general real estate appraiser" means a~~ State-certified general real estate appraiser. -- A person who holds a current, valid certificate as a State-certified general real estate appraiser issued under the provisions of this Chapter.

(15) ~~"State-certified residential real estate appraiser" means a~~ State-certified residential real estate appraiser. -- A person who holds a current, valid certificate as a State-certified residential real estate appraiser issued under the provisions of this Chapter.

(16) ~~"State-licensed residential real estate appraiser" means a~~ State-licensed residential real estate appraiser. -- A person who holds a current, valid license as a State-licensed residential real estate appraiser issued under the provisions of this Chapter.

(17) ~~"Temporary appraiser licensure or certification" means the~~ Temporary appraiser licensure or certification. -- The issuance of a temporary license or certificate by the Board to a person licensed or certified in another state who enters this State for the purpose of completing a particular appraisal assignment.

(18) ~~"Trainee", "registered trainee", or "trainee real estate appraiser" means a~~ Trainee, registered trainee, or trainee real estate appraiser. -- A person who has satisfied the requirements to be registered as a trainee pursuant to G.S. 93E-1-6, but who has not satisfied the experience and other requirements set forth in G.S. 93E-1-6 to be licensed as a real estate appraiser.

(19) ~~"Trainee registration" or "registration as a trainee" means the~~ Trainee registration or registration as a trainee. -- The document issued by the North Carolina Appraisal Board evidencing that the person named therein has satisfied the requirements of registration as a trainee real estate appraiser and bearing a registration number assigned by the Board."

Section 3. G.S. 93E-1-10 reads as rewritten:

"**§ 93E-1-10. Rule-making authority.**

(a) The Board may adopt rules not inconsistent with the provisions of this Chapter and the General Statutes of North Carolina which may be reasonably necessary to implement, administer, and enforce the provisions of this Chapter, including, but not limited to, the authority to:

(1) Prescribe forms and procedures for submitting information to the Board;

(2) Prescribe standards of practice for persons licensed or certified under this Chapter; and

(3) Prescribe standards for the operation of real estate appraiser education programs.

(b) The Board shall not adopt any rule or take any administrative action that is more restrictive than the Uniform Standards of Professional Appraisal Practice (USPAP) as promulgated and interpreted by the Appraisal Standards Board of the Appraisal Foundation pursuant to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (Public Law 101-73)."

Section 4. This act becomes effective October 1, 1997.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Morgan** for the Committee on **Rules, Calendar and Operations of the House..**

Reports the following bills

☒ With an indefinite postponement report.

3/25/98

Bill Number	Short Title
H 9 CS	STUDY SAFETY INSPECTIONS
H 25	CONSUMER PROTECTION STUDY
H 26	AMEND LP GAS CODE
H 40	CONTINUE WATER ISSUES STUDY
H 47	BUILDING CODE STUDY
H 50	DOWNTOWN REVITALIZATION STUDY
H 56	EXTEND DHR REORG STUDY
H 58	REVENUE LAWS STUDY COMMITTEE
H 82	GRANDPARENT VISITATION
H 83	1997 EDUCATION LOTTERY
H 85 CS	SWINE FARM SITING ACT
H 98	LRC CEMETERY COMMISSION STUDY
H 107	GUARDIAN AD LITEM STUDY
H 116 SCS	COLUMBUS & BRUNSWICK ALLIGATORS
H 117	ENERGY STUDY RECOMMENDATIONS
H 129	TRANSFER DMV TO PUBLIC SAFETY
H 163	MUNICIPAL INCORPORATION STUDY
H 172	ELECT UNC BD. GOV.
H 182 CS	EXCLUDE 10 YR. CONVICTION
H 199 CS	STUDY MEDICAL PROVIDERS' LIENS
H 224 CS	USE OF INACTIVE HAZARDOUS SITES
H 238 SCS	FACILITATE ANIMAL WASTE RESEARCH
H 253	SHELLFISHING STUDY
H 257 CS	RR PORTS USE INCENTIVE STUDY
H 263	DHR REORGANIZATION
H 269 SCS	BURLINGTON, WAYNE, PITT LOCAL ACT
H 270	BETHANIA CHARTER AMENDED
H 290	ELECTRONIC COMMERCE COMMISSION
H 292	TOWN MANAGERS/DUAL OFFICE HOLDING
H 297	STATE LOTTERY FOR PUBLIC WORKS
H 310	SUPPORT FEDERAL BALANCED BUDGET
H 321 CS	STUDY HUNTING ON SUNDAY
H 322	INDEP. REDIST. COMM'N-2
H 339	FAYETTEVILLE RECALL
H 356	NONBANKING CONS. INDUSTRIES STUDY
H 378	HIGH POINT ZONING
H 382 CS	LOBBYIST POLITICAL ACTIVITY
H 387	JOHNSTON SCHOOL BOARD ELECTIONS
H 390	HIGH POINT ZONING-2
H 393	1997 CAPITAL EXPENDITURES BUDGET
H 396	1997 CURRENT OPERATIONS BUDGET-2
H 397	1997 CAPITAL EXPENDITURES BUDGET-2
H 403	1997 CAPITAL EXPENDITURES BUDGET-3
H 413	WELFARE REFORM ACT OF 1997
H 416	CATAWBA LOCAL ACT
H 417 CS#2	MITCHELL/MADISON RIVER RAFTING

H 419	BURKE LOCAL ACT
H 422	1997 CURRENT OPERATIONS BUDGET-4
H 423	1997 CAPITAL EXPENDITURES BUDGET-4
H 438	STOKES LOCAL ACT-1
H 439	STOKES LOCAL ACT-2
H 440	SURRY LOCAL ACT-2
H 441	ALLEGHANY LOCAL ACT-1
H 442	ALLEGHANY LOCAL ACT-2
H 443	ASHE LOCAL ACT-1
H 444	ASHE LOCAL ACT-2
H 445	WATAUGA LOCAL ACT-1
H 446	WATAUGA LOCAL ACT-2
H 459	NC NATIONAL GUARD AUTHORITY
H 498	HONOR HENRY KENDALL
H 503	GATES LOCAL ACT
H 504	BERTIE LOCAL ACT
H 505	NORTHAMPTON LOCAL ACT
H 513 CS	LRC STUDY WATERCRAFT SAFETY
H 519	CLEAN WATER BONDS/NATURAL GAS
H 550	MINORITY AND AT-RISK STUDENT STUDY
H 567	WAKE LOCAL ACT-3
H 571	SCOTLAND COUNTY ACT
H 572	STORM HAZARD MITIGATION STUDY
H 595	REIDSVILLE ANNEXATIONS
H 601	LOCAL GOVERNMENT-1
H 602	LOCAL GOVERNMENT-3
H 605	REAL ESTATE BROKER'S CONTINUING ED
H 606	JONES LOCAL ACT
H 607	LENOIR COUNTY LOCAL ACT
H 608	PAMLICO LOCAL ACT
H 609	CRAVEN LOCAL ACT
H 619	HAYWOOD CO. TOURISM
H 621	DAVIE LOCAL ACT-2
H 622	DAVIE LOCAL ACT-1
H 625	ONSLOW LOCAL ACT
H 630	KERNERSVILLE LOCAL ACT
H 632	84TH HOUSE DIST. LOCAL ACT
H 634 CS	MTN. ISLAND LAKE MARINA COMMISSION
H 638	OFFICIAL STATE DANCE
H 644	RESTORE THE NAME OF HALIFAX STREET
H 647	ROCKINGHAM LOCAL ACT
H 648	MODIFY STATE LAW
H 650	53rd HOUSE DIST. LOCAL ACT
H 657	ALAMANCE LOCAL ACT
H 658	ORANGE LOCAL ACT
H 659	CASWELL LOCAL ACT
H 669	MONTGOMEREY LOCAL ACT-3

H 686	COLUMBUS COUNTY LOCAL ACT-1
H 689	ANSON COUNTY LOCAL ACT-3
H 690	ANSON COUNTY LOCAL ACT-4
H 691	STANLY COUNTY LOCAL ACT-3
H 692	STANLY COUNTY LOCAL ACT-4
H 693	MONTGOMEREY COUNTY LOCAL ACT-4
H 694	MONTGOMEREY COUNTY LOCAL ACT-5
H 697	IREDELL COUNTY LOCAL ACT
H 700	14TH HOUSE DISTRICT -1
H 702	6TH HOUSE DIST. LOCAL ACT
H 703	LOCAL BEAR HUNTING
H 707 CS	LRC STUDY PUPIL ASSIGNMENT OPTIONS
H 713	RICHMOND LOCAL ACT
H 714	RICHMOND LOCAL ACT-2
H 715	SCOTLAND LOCAL ACT
H 720	HYDE LOCAL ACT
H 721	PITT LOCAL ACT
H 723	HYDE LOCAL ACT-2
H 724	BEAUFORT COUNTY LOCAL ACT-2
H 725	CRAVEN LOCAL ACT
H 726	HYDE LOCAL ACT-3
H 727	CRAVEN LOCAL ACT-2
H 728	HYDE LOCAL ACT-4
H 729	BEAUFORT COUNTY LOCAL ACT-3
H 730	PITT LOCAL ACT-2
H 731	BEAUFORT COUNTY LOCAL ACT-4
H 732	BEAUFORT COUNTY LOCAL ACT-5
H 737	DAVIDSON COUNTY LOCAL ACT
H 744	WAKE COUNTY LOCAL ACT
H 755	UNION COUNTY LOCAL ACT-3
H 756	UNION COUNTY LOCAL ACT-4
H 757	NORTHEASTERN COMMISSION MEMBERS
H 760 CS	CARRBORO CHARTER AMENDMENTS
H 776	HALIFAX LOCAL ACT
H 777 CS#2	KINGS MT. ANNEXATION/MOSS LAKE USE
H 778	KINGS MOUNTAIN ETJ
H 780	VANCE LOCAL ACT
H 781	PERSON LOCAL ACT-2
H 782	WARREN LOCAL ACT
H 783	GRANVILLE LOCAL ACT
H 784	FRANKLIN COUNTY LOCAL ACT
H 785	ROANOKE RAPIDS
H 793	JOHNSTON LOCAL ACT
H 799	DUPLIN LOCAL ACT
H 800	DUPLIN LOCAL ACT-2
H 801	DUPLIN LOCAL ACT-3
H 808 CS	CARY TREE ORDINANCES

H 815	CHOWAN LOCAL ACT
H 818	DARE LOCAL ACT
H 819	PERQUIMANS LOCAL ACT
H 820	TYRRELL LOCAL ACT
H 821	WASHINGTON COUNTY LOCAL ACT
H 824	LICENSE ATHLETIC TRAINERS
H 829	CUMBERLAND COUNTY LOCAL ACT
H 830	CUMBERLAND COUNTY LOCAL ACT-2
H 832 SCS	COLLECT DELINQUENT PROPERTY TAX
H 837	PENDER LOCAL ACT
H 838	NEW HANOVER LOCAL ACT
H 839	NAVASSA LOCAL ACT
H 840	WILMINGTON LOCAL ACT
H 846	DENTON LOCAL ACT-1
H 850	TOWN OF MATTHEWS-1
H 862	FAYETTEVILLE REVITALIZATION
H 875	PENDER LOCAL ACT
H 876	SAMPSON LOCAL ACT
H 882	GUILFORD LOCAL ACT-4
H 884	GUILFORD LOCAL ACT-5
H 889	WAKE LOCAL ACT-2
H 901	CONGRESSIONAL REDISTRICTING-5
H 909	DOMESTIC VIOLENCE STUDY
H 918	1997 EDUCATION LOTTERY-2
H 921	CHILD FATALITY TF/STUDY
[redacted]	[redacted]
H 934	ADOPT STATE FRUIT-1
H 944	ZONING/SITING SWINE FARMS
H 955	ADD NCCJETSC MEMBER
H 965	MARINE FISHERIES
H 985	CHILD HEALTH CARE STUDY
H 998 SCS	FEDERAL MATCH REQUIRED - 9/30/98
H1002	DHR SCHOOLS STUDY
H1017	BOARD OF MORTUARY SCIENCE
H1018	COOPERATIVE EXTENSION LRC STUDY
H1021	SEPTIC TANK STANDARDS/PROCESS STUDY
H1023 SCS	PRETRIAL RELEASE & BOND FORFEITURE
H1029	DENTAL EXAMINATION PILOT PROGRAM
H1034	IRMC RESTRUCTURING
H1035 CS	STUDY LAW ENFORCEMENT RETIREMENT
H1036 CS	STUDY INDIGENT COUNSEL RESTRICTION
H1038	PHARMACY BOARD CHANGES
H1040	ENVIRONMENTAL MGMT. PROFESSIONALS
H1047	INFORMATION TECHNOLOGY COMMISSION
H1048	INCREASE COCK FIGHTING PENALTY
H1053	STOP CORP. POLITICAL CONTRIBUTIONS
H1063	AMEND PSYCHOLOGY PRACTICE ACT-2

H1072 CS	LRC STUDY STUDENT DISCIPLINE
H1073	MV APPLICATIONS & FEES FROM DEALERS
H1083	TRANSFER FUNDS/SPOT SAFETY & MAINT.
H1101	SUPPORT TEACHERS
H1104	RIGHT-OF-WAY SURVEY STANDARDS
H1105	HEALTH CONTRACT PLANS
H1111	AMEND LEO RETIREMENT DEFINITION-2
H1117	ENHANCE AMERICAN ENGLISH
H1119	REVISE COASTAL INSURANCE COVERAGE
H1125 CS	STUDY MORTGAGE LENDERS
H1127	CUSTOMER CHOICE IN ELECTRICITY
H1133	ENGINEERING & LAND SURVEYING
H1134	LOW LEVEL WASTE/UTILITIES
H1135 SCS	STATE EMPLOYEE AMENDMENTS
H1136 CS	REVISE COMM. COLLEGE ELECTION
H1139 CS	CLEAN WATER REVOLVING LOAN FUNDS
H1160	BOARD OF GOVERNORS VACANCY
H1165	STUDY PUBLIC OFFICIAL CONFLICTS
H1175	AGRICULTURE AWARENESS
H1177	SMALL BUSINESS DEV STUDY COMMISSION
H1182	TEACHERS' NONTEACHING DUTIES/STUDY
H1192	LRC FUTURE OF COURTS STUDY
H1195	ENVIRONMENTAL IMPACTS STUDY/FUNDS
H1197	ORGAN DONOR STUDY/FUNDS
H1201	LRC SANITARIAN STUDY
H1204	STUDY HEALTH CARE COSTS
H1205	SUPPORT ECONOMIC SECURITY 2000
H1207	STUDY REVIEW OF HEALTH BILLS
H1210	MINORITY WOMEN'S HEALTH/STUDY
H1219	ASSISTED LIVING ADMINISTRATORS
H1220	TEACHER SUPPLEMENTAL PAY STUDY
H1221	ENGLISH AS A 2ND LANGUAGE STUDY
H1222	STUDY COMMISSION ON AT-RISK YOUTH
H1228	STUDY AND SUNSET TAX CREDITS
H1230	STUDY & SUNSET CORPORATE TAX BREAKS
H1242	STUDY TRUCK SAFETY
H1245	VOTE HISTORY ON WEB
H1255	ALLOW SPECIAL OLYMPICS BILL
H1257	ALLOW INTEREST DEFERRAL BILL
H1280	ALLOW DNC INVITATION BILL
H1301	ALLOW MESSER MEMORIAL BILL
H1302	ALLOW ENLOE MEMORIAL BILL
H1305	ALLOW APPLE TRUCK BILL
H1308	MITCHELL LOCAL ACT-2
H1310	CATAWBA COUNTY LOCAL ACT
H1311	CALDWELL LOCAL ACT-2
H1315	TAX CREDIT FOR OPERATING LEASE

H1324	HONOR ARCHIBALD DAVIS
H1325	ALLOW DAVIS MEMORIAL
H1344	PROCUREMENT CARD REGULATION
H1349	FUNDING FOR WORKERS' COMPENSATION
H1351	LOWER UNEMPLOYMENT TAX IN 1999
H1365	FUTURE OF COURTS PILOTS
H1377	ALLOW INSANITY BILL
H1385 CS	PHARMACY PERSONNEL
H1387	53RD HOUSE DIST. LOCAL ACT-1
H1388	53RD HOUSE DIST. LOCAL ACT-2
H1417	ANSON LOCAL ACT-1
H1418	ANSON LOCAL ACT-2
H1419	MONTGOMERY LOCAL ACT-1
H1420	STANLY LOCAL ACT
H1421	MONTGOMERY LOCAL ACT-2
H1447	DEEP RIVER/GUILFORD
H1450	RICHMOND LOCAL ACT
H1451	MONTGOMERY LOCAL ACT-3
H1452	SCOTLAND LOCAL ACT-1
H1454	ADVANCE DIRECTIVES CORRECTIONS
H1457	PRIVATE PRISON STANDARDS
H1507	52ND HOUSE DISTRICT LOCAL ACT-2
H1509	96TH HOUSE DISTRICT FUNDS-2
H1510	96TH HOUSE DISTRICT FUNDS-3
H1511	96TH HOUSE DISTRICT FUNDS-1
H1515	52ND HOUSE DISTRICT LOCAL ACT-1
H1519	WAKE LOCAL ACT-3
H1520	WAKE LOCAL ACT-4
H1526	EXEMPT CERTAIN NONPROFIT COVERAGE
H1534	22ND HOUSE DISTRICT LOCAL ACT
H1547	DIVORCE EDUCATION FUNDS
H1558 CS	SCH. BLDG. FLEXIBILITY-3 COUNTIES
H1559	ALLOW "BUCK' HARRIS MEMORIAL
H1571	BEAUFORT LOCAL BILL-1
H1572	BEAUFORT LOCAL BILL-2
H1573	HYDE LOCAL BILL-1
H1574	HYDE LOCAL BILL-2
H1575	HYDE LOCAL BILL-3
H1576	CRAVEN LOCAL BILL
H1577	PITT LOCAL BILL
H1578	BEAUFORT/HYDE HUNTING AND TRAPPING
H1581	BRUNSWICK LOCAL ACT
H1585	LOCUST LOCAL ACT
H1586	STANLY LOCAL ACT-2
[redacted]	[redacted]
H1597	NEW HANOVER LOCAL ACT
H1599	NEW HANOVER CO. FUNDS

H1601	STATE PORT FUNDS
H1608	UNION LOCAL ACT-2
H1609	UNION LOCAL ACT-3
H1612	ROCKINGHAM COUNTY LOCAL BILL-2
H1619	ROCKINGHAM COUNTY LOCAL BILL-4
H1640	HALIFAX/WELDON SCHOOL MERGER
H1641	ENFIELD ANNEXATION
H1655	40TH HOUSE DIST. LOCAL ACT-1
H1656	40TH HOUSE DIST. LOCAL ACT-2
H1657	40TH HOUSE DIST. LOCAL ACT-3
H1658	40TH HOUSE DIST. LOCAL ACT-4
H1659	40TH HOUSE DIST. LOCAL ACT-5
H1662	CLINTON LOCAL RETIREMENT
H1663	SAMPSON LOCAL ACT-2
H1664	SAMPSON LOCAL ACT-3
H1665	PENDER LOCAL ACT-1
H1666	PENDER LOCAL ACT-2
[redacted]	[redacted]
H1677	BLANK APPROPRIATIONS BILL-13
H1683	BLANK APPROPRIATIONS BILL-14
H1693	STUDY D/C PENSION PLAN
H1698	LEGISLATOR GUIDES
H1702	REPEAL DOT SALES TAX REIMBURSEMENT
H1703	ALLOW WILL DISSENT BILL
H1708	ALLOW POYNER MEMORIAL
H1713	RECIPROCITY
H1724	COMMISSION ON NC BLACK TROOPS/FUNDS
H1725	ALLOW DOMESTIC TRESPASS BILL
H1734	INSTRUCT JURY/LIFE WITHOUT PAROLE
H1735	COLUMBUS ECON. DEV. FUNDS
H1736	NC CLOSE UP FUNDS
H1738	ALLOW DRUG PENALTY BILL
H1743	COMPETITIVE STUDENT BOOK PRICES
H1744	STOP SPAM
H1745	BLANK APPROPRIATIONS BILL -16
H1747	SEPARATION OF POWERS AGREEMENT
H1749	MV TECHNICAL CORRECTIONS
H1752	NO UNMARKED VEHICLE NIGHT STOPS
H1753	ALLOW WILLIAMS MEMORIAL
H1756	ALLOW ECONOMOS MEMORIAL
H1759	ALLOW LILLIAN CLEMENT RESOLUTION
H1764	HONOR JAMES POYNER

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE JOINT RESOLUTION 1597

Sponsors: Senator Soles.

Referred to: Rules Suspended; Passed 2nd and 3rd; to House.

June 24, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF SAMUEL JAMES ERVIN, IV MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF SAMUEL JAMES ERVIN, IV MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE JOINT RESOLUTION 1599

Sponsors: Senator Soles.

Referred to: Commerce.

July 2, 1998

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF SAMUEL JAMES ERVIN, IV MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, a vacancy has occurred on the North Carolina Utilities Commission because of the resignation of Allyson K. Duncan; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the name of his appointee to serve the remainder of the unexpired term on the North Carolina Utilities Commission of Allyson K. Duncan, which will expire June 30, 1999; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The appointment of Samuel James Ervin, IV to the North Carolina Utilities Commission for a term to expire June 30, 1999, is confirmed.

Section 2. This resolution is effective upon ratification.

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, OCT. 7, 1998

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
J. Brown	NCSPA
Bruce Smith	NC Coalition Against Domestic Violence
B. Simmons	NC Equity
Henry Jones	Attorney - Raleigh
Jerry Kalmus	C.U.C.A.
Sharon Miller	C.U.C.A.

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
October 13, 1998

The Committee on Rules, Calendar, and Operations of the House met October 13, 1998, at 3:15 p.m. in the House Conference Room in the Legislative Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Culp, Gulley, Hill, McMahan, Miner, Mitchell, Neely, and Wood

H.B. 1757 was called up and immediately displaced by the Chair.

S.B. 304 - A BILL TO BE ENTITLED AN ACT TO PROVIDE COUNTIES WITH FINANCIAL INCENTIVE TO INVESTIGATE AND PURSUE DAY CARE FRAUD AND OVERPAYMENTS BY PAYING COUNTIES TWENTY-FIVE PERCENT OF ACTUAL COLLECTIONS, introduced by Senator Odom, was brought before the committee. Representative Gulley moved for adoption of a committee substitute for discussion and the vote carried. Representative Capps was recognized and explained that the committee substitute has the language that was in House Bill 1757, which took exception to certain day care rules. The exceptions were credentialing and playground equipment. Representative Mitchell moved for a favorable report to the committee substitute and unfavorable to the original bill. The motion carried.

House Committee Substitute for H.B. 1273 - A BILL TO BE ENTITLED AN ACT TO REFUND THE UNCONSTITUTIONAL INTANGIBLES TAX PAID ON STOCK FOR THE 1990 THROUGH 1994 TAX YEARS WITH INTEREST, REGARDLESS OF THE THIRTY-DAY PROTEST, introduced by Representative Allred, was next before the committee, and he was recognized to explain the bill. He stated that the bill had passed through the Finance Committee and it would provide a refund of the intangibles taxes paid by the non-protesters, plus interest over a three year period. It would not affect this year's budget. The first payment would begin on July 1, 1999. The total amount to refund would be $335 million over three years. Committee Counsel Linwood Jones reviewed the fiscal note (see Attachment 1). Representative Neely asked Counsel if he or staff are prepared to say that there are no adverse constitution implications in this. Mr. Jones stated he didn't know that he or anyone on the staff could say that there were absolutely none and the status is unresolved at this point. Representative Gulley moved for a favorable report to the House Committee substitute. Representative Neely stated that he had some problems with the bill without understanding what the legal implications are for the state. A vote was taken and a division was called. A roll call vote was taken with 6 voting yes and 4 voting no. The bill is to be reported favorable.

The meeting adjourned at 3:25 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
Attachment 1
Roll Call Vote
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERTIONS OF THE HOUSE.**

☐ Committee Substitute for
S.B. 304 A BILL TO BE ENTITLED AN ACT TO PROVIDE COUNTIES WITH FINANCIAL INCENTIVE TO INVESTIGATE AND PURSUE DAY CARE FRAUD AND OVERPAYMENTS BY PAYING COUNTIES TWENTY-FIVE PERCENT OF ACTUAL COLLECTIONS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to House committee substitute bill ~~(# _____)~~, ☒ which changes the title, unfavorable as to original bill ~~(Committee Substitute Bill # _____), (and recommendation that the committee substitute bill # _____) be re-referred to the Committee on _____.)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 304
Proposed House Committee Substitute
S304-CSRN-001

Short Title: Disapproval of Certain Rules (Public)

Sponsors:

Referred to: Children and Human Resources.

March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO DISAPPROVE THE CHILD CARE RULES ON PLAYGROUND EQUIPMENT AND CERTIFICATION THAT WERE TO BECOME EFFECTIVE JULY 1, 1998.

The General Assembly of North Carolina enacts:

Section 1. (a) Pursuant to G.S. 150B-21.3(b), 10 NCAC 3U .0605, A CONDITION OF OUTDOOR PLAY EQUIPMENT, adopted by the Child Care Commission of the Department of Health and Human Services and approved by the Rules Review Commission on March 19, 1998, is disapproved.

(b) Pursuant to G.S. 150B-21.3(b), 10 NCAC 3U .0703, GENERAL STATUTORY REQUIREMENTS; 10 NCAC 3U .0707, IN-SERVICE TRAINING REQUIREMENTS; and 10 NCAC 3U .0708, MEETING IN-SERVICE REQUIREMENTS, amended by the Child Care Commission of the Department of Health and Human Services and approved by the Rules Review Commission on March 19, 1998, are disapproved.

(c) Pursuant to G.S. 150B-21.3(b), 10 NCAC 3U .0704, PRESERVICE REQUIREMENTS FOR ADMINISTRATORS, and 10 NCAC 3U .0710, PRESERVICE REQUIREMENTS FOR TEACHERS AND AIDES, amended by the Child Care Commission of the Department of Health and Human Services and approved by the Rules Review Commission on April 15, 1998, are disapproved.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE BILL 304

Short Title: County Share/Day Care Fraud Collections. (Public)

Sponsors: Senator Odom.

Referred to: Children and Human Resources.

March 5, 1997

A BILL TO BE ENTITLED

AN ACT TO PROVIDE COUNTIES WITH FINANCIAL INCENTIVE TO INVESTIGATE AND PURSUE DAY CARE FRAUD AND OVERPAYMENTS BY PAYING COUNTIES TWENTY-FIVE PERCENT OF ACTUAL COLLECTIONS.

The General Assembly of North Carolina enacts:

Section 1. (a) The Department of Human Resources shall award each county incentive bonuses for each of the county's day care fraud and overpayment claims collected. Each incentive bonus shall equal twenty-five percent (25%) of the actual amount collected and recouped by the county. Incentive bonuses paid pursuant to this section shall be used by the county for subsidized day care. On or before each fiscal year, each county shall report to Department of Human Resources on the use of the incentive bonuses paid pursuant to this section during the previous fiscal year.

(b) This act does not apply to claims for day care fraud recouped pursuant to the AFDC Fraud Control Program. Incentive bonuses for claims for day care fraud recouped pursuant to the AFDC Fraud Control Program shall be paid pursuant to Section 24.30 of Chapter 18 of the Session Laws, Second Extra Session 1996.

Section 2. This act is effective when it becomes law and applies to day care fraud and overpayment claims collected after July 1, 1997.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ Committee Substitute for
H.B. 1273 A BILL TO BE ENTITLED AN ACT TO REFUND THE UNCONSTITUTIONAL INTANGIBLES TAX PAID ON STOCK FOR THE 1990 THROUGH 1994 TAX YEARS WITH INTEREST, REGARDLESS OF THE THIRTY-DAY PROTEST RULE.

☑ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 2

HOUSE BILL 1273
Committee Substitute Favorable 7/29/98

Short Title: Refund Intangibles Tax to All. (Public)

Sponsors:

Referred to:

May 14, 1998

A BILL TO BE ENTITLED

AN ACT TO REFUND THE UNCONSTITUTIONAL INTANGIBLES TAX PAID ON STOCK FOR THE 1990 THROUGH 1994 TAX YEARS WITH INTEREST, REGARDLESS OF THE THIRTY-DAY PROTEST RULE.

The General Assembly of North Carolina enacts:

Section 1. Effective retroactively for the 1990, 1991, 1992, 1993, and 1994 tax years, G.S. 105-203 is repealed.

Section 2. Notwithstanding the provisions of G.S. 105-267, the Secretary of Revenue shall refund the tax repealed by this act, with interest, in three annual installments as provided in this section. Refunds for the 1993 and 1994 tax years shall be paid on July 1, 1999. Refunds for the 1992 and 1991 tax years shall be paid on July 1, 2000. Refunds for the 1990 tax year shall be paid on July 1, 2001. The Secretary of Revenue shall draw the refunds from collections under Part 2 of Article 4 of Chapter 105 of the General Statutes.

Section 3. The Secretary of Revenue may draw the sum of five million dollars ($5,000,000) from collections under Part 2 of Article 4 of Chapter 105 of the General Statutes for the 1998-99 fiscal year to pay for the costs of administering this act. These funds shall not revert at the end of the fiscal year but shall remain available until used for this purpose.

Section 4. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute repealed by this act before the effective date of its repeal; nor does it affect the right to any refund or credit of a tax that accrued under the repealed statute before the effective date of its repeal.

Section 5. Section 1 of this act is effective retroactively for the 1990, 1991, 1992, 1993, and 1994 tax years. The remainder of this act is effective when this act becomes law.

Attachment 1

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL ESTIMATE

BILL NUMBER: HB 1273 (Second Edition)
SHORT TITLE: Refund Intangibles Tax to All

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

($Million)

	FY 1998-99	FY 1999-00	FY 2000-01	FY 2001-02	Total
REVENUES*					
Refunds		**-$70.76**	**-$164.35**	**-$62.50**	**-$297.61**
Interest		**- 28.69**	**- 106.19**	**- 53.98**	**- 188.86**
Total		**-$99.45**	**-$270.54**	**-$116.48**	**$486.47**
Earmarking	**-$5.0****				

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: The refunds would be administered by the Department of Revenue.

*This estimate assumes the State will not be found liable for some or all of the refunds as a result of the impact of the Bailey case language on the intangibles tax litigation (Smith case).

**Maximum reduction. A May 26, 1998 analysis of the Department of Revenue indicates that the estimated cost of administering the refunds is $529,426. Of this amount, $453,000 would be out of pocket expenses for postage, forms, checks, and envelopes. The remaining amount would be used for computer programming and other administrative functions.

BILL SUMMARY: Retroactively repeals the intangibles tax on shares of stock for the 1990-94 tax years and requires the Secretary of Revenue to pays refunds with interest on intangibles taxes paid on shares of stock by nonprotestors for the 1990-94 tax years according to the following schedule:

7/1/99	1993 and 1994 tax years
7/1/00	1991 and 1992 tax years
7/1/01	1990 tax year.

The refunds will be netted out of personal income tax collections. In addition, the Department of Revenue will be allowed to earmark up to $5 million of personal income tax collections for the 1998-99 fiscal year to pay the costs of administering the refunds. The earmarking would not revert at the end of the fiscal year but would remain available for granting refunds in future years.

ASSUMPTIONS AND METHODOLOGY: Data on estimated refunds and interest calculated through September 30, 1997 was provided by the Department of Revenue. The additional interest from that date until the payout date specified in the bill was calculated by FRD assuming 9% simple interest per year. In addition, the analysis assumes that all taxpayers eligible for the refund will actually receive the refund.

There were an estimated 926,053 intangibles tax returns filed on shares of stock during the 1990-94 period. Thus, the average refund and interest check will be $525 Some taxpayers will receive a refund for more than one year.

FISCAL RESEARCH DIVISION (733-4910)
PREPARED BY: Dave Crotts
DATE: August 4, 1998

ROLL CALL VOTE

____ YES ____ NO = _____(TOTAL)

HB# 1213
SB# ____

HOUSE STANDING COMMITTEE ON Rules, Calendar, and Operations of the House

~~House Subcommittee on~~

YES	NO	MEMBER (last name)	YES	NO	MEMBER (last name)
___	___	MORGAN	✓	___	
___	___	BOWIE	___	✓	
___	___	CRAWFORD	___	___	
___	___	CULP	✓	___	
___	___	DOCKHAM	___	___	
___	___	ESPOSITO	___	___	
___	___	GULLEY	✓	___	
___	___	HILL	___	✓	
___	___	MCMAHAN	✓	___	
___	___	MINER	✓	___	
___	___	MITCHELL	___	✓	
___	___	NEELY	___	✓	
___	___	THOMPSON	___	___	
___	___	WILSON, C.	___	___	
___	___		___	___	
___	___	DAUGHTRY	___	___	
___	___	HOWARD	___	___	
___	___	WOOD	✓	___	
___	___		___	___	
___	___	Total =	6	4	
___	___		Ex officio Members		
___	___		___	___	Speaker Pro Tem
___	___		___	___	Majority Leader
___	___		___	___	Majority Whip

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE - OCT. 13, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Smarkham	FCHR
David Ferrell	HRCC of C
John Polgreen	AT&T
Paul Wilms	NCMBA
Jean Upchurch	CP&L

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
October 26, 1998
5:35 P.M.

The Committee on Rules, Calendar, and Operations of the House met October 26, 1998, at 5:35 p.m. in the House Conference Room in the Legislative Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Dockham, Esposito, Gulley, McMahan, Mitchell, Neely, and Thompson.

The first bill on the agenda was HB 1448 - A BILL TO BE ENTITLED AN ACT TO AMEND THE FISHERIES REFORM ACT OF 1997 AND RELATED MARINE FISHERIES LAWS AND TO RECOGNIZE THE COMMON LAW RIGHT OF THE PUBLIC TO THE CUSTOMARY FREE USE AND ENJOYMENT OF THE OCEAN BEACHES, introduced by Representative Preston. Chairman Morgan stated that the Senate Finance committee substitute for HB 1448 was before the Committee for recommendation as to concurrence or non concurrence. Staff attorney George Givens was recognized and explained the Senate changes. Section 5.1 is a new section that provides seaward boundary of coastal lands shall not be construed to impair the customary public use of the beaches. Staff Attorney Jeff Hudson explained that there was a title change to reflect the amendment that was just explained and Section 1.8 was added to heighten the quorum requirement for the Marine Fisheries Commission. That nine member commission will now have a quorum of six members to include a commercial and recreational member being present. If there is not a quorum due to lack of a commercial or recreational member, the chair will have to call another meeting within 30 days. The Chair stated that this was Representative Preston's bill and she is ok with the changes. Representative Neely moved that the Rules Committee recommend to the House that the House do concur with the Senate committee substitute and the motion carried.

S.J.R. 1597 - A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF SAMUEL JAMES ERVIN, IV MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION, introduced by Senator Soles was next on the agenda. Also S.J.R. 1599 - A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF SAMUEL JAMES ERVIN, IV MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION, introduced by Senator Soles, was brought before the Committee. The Chair stated that members have had adequate time to review these resolutions. Committee Counsel Linwood Jones was recognized and explained that S.J.R. 1597 is an enabling resolution and S.J.R. 1599 is a confirmation resolution.

Representative Mitchell moved that S.J.R. 1597 be given an unfavorable report. Representative Neely asked if the Committee would have an opportunity to hear about the credentials of the candidate. The Chair stated the Committee could have that if that was the wish, but the Chair had asked the Committee members to look at the confirmation bills that were in the Rules Committee and let him know of any thoughts or concerns. The Committee voted on the amendment and the motion passed to report it unfavorable. Representative Mitchell moved that S.J.R. 1599 be given an unfavorable report and the motion carried.

Chairman Morgan told the Rules Committee that they would be quite active the next few hours and he would like for them to be on standby for a called meeting after session and the Committee would probably meet tomorrow before session. It is the intention of the Chair to take up several pieces of remaining legislation and also take up the Technical Amendment bill as well as the Speaker's Appointments bill.

There being no further business, the meeting adjourned at 5:45 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ **Senate** Committee Substitute for
H.B. 1448 A BILL TO BE ENTITLED AN ACT TO AMEND THE FISHERIES REFORM ACT OF 1997 AND RELATED MARINE FISHERIES LAWS AND TO RECOGNIZE THE COMMON LAW RIGHT OF THE PUBLIC TO THE CUSTOMARY FREE USE AND ENJOYMENT OF THE OCEAN BEACHES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☒ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 5

HOUSE BILL 1448*
Committee Substitute Favorable 7/29/98
Committee Substitute #2 Favorable 8/12/98
Senate Finance Committee Substitute Adopted 9/24/98
Fifth Edition Engrossed 10/7/98

Short Title: 1998 Marine Fisheries Amendments. (Public)

Sponsors:

Referred to:

May 25, 1998

A BILL TO BE ENTITLED

AN ACT TO AMEND THE FISHERIES REFORM ACT OF 1997 AND RELATED MARINE FISHERIES LAWS AND TO RECOGNIZE THE COMMON LAW RIGHT OF THE PUBLIC TO THE CUSTOMARY FREE USE AND ENJOYMENT OF THE OCEAN BEACHES.

The General Assembly of North Carolina enacts:

PART I. MARINE FISHERIES COMMISSION

Section 1.1. G.S. 113-128(5a) reads as rewritten:

"(5a) Marine Fisheries Commission. -- The Marine Fisheries Commission of the Department as established by ~~Part 5A~~ Part 5D of Article 7 of Chapter 143B of the General Statutes."

Section 1.2. G.S. 120-123(53) reads as rewritten:

"(53) The North Carolina Marine Fisheries Commission as established by ~~G.S. 143B-289.5.~~ G.S. 143B-289.51."

Section 1.3. G.S. 143B-289.52(b)(3) reads as rewritten:

"(3) To govern all license requirements ~~and taxes~~ prescribed in Article 14 of Chapter 113 of the General Statutes."

Section 1.4. G.S. 143B-289.52 is amended by adding a new subsection to read:

"(d1) The Commission may regulate participation in a fishery that is subject to a federal fishery management plan if that plan imposes a quota on the State for the harvest or landing of fish in the fishery. If the Commission regulates participation in a fishery under this subsection, the Division may issue a license to participate in the fishery to a person who:

(1) Held a valid license issued by the Division to harvest, land, or sell fish during at least two of the three license years immediately preceding the date adopted by the Commission to determine participation in the fishery; and

(2) Participated in the fishery during at least two of those license years by landing in the State at least the minimum number of pounds of fish adopted by the Commission to determine participation in the fishery."

Section 1.5. G.S. 143B-289.52(e) reads as rewritten:

"(e) The Commission may adopt rules to implement or comply with a ~~fisheries~~ fishery management plan adopted by the Atlantic States Marine Fisheries Commission or ~~an interstate fisheries management council.~~ adopted by the United States Secretary of Commerce pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq. Notwithstanding G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any time within six months of the adoption or amendment of a ~~fisheries~~ fishery management plan ~~by the Atlantic States Marine Fisheries Council [Commission] or an interstate fisheries management council.~~ or the notification of a change in management measures needed to remain in compliance with a fishery management plan."

Section 1.6. G.S. 143B-289.54(c) reads as rewritten:

"(c) Additional Considerations. -- In making appointments to the Commission, the Governor shall provide for appropriate representation of women and minorities on the Commission. The Governor shall make appointments to the Commission consistent with the restrictions of G.S. 113-200(g)."

Section 1.7. G.S. 143B-289.54(h) reads as rewritten:

"(h) Removal. -- The Governor may remove, as provided in ~~G.S. 143-13,~~ G.S. 143B-13, any member of the Commission for misfeasance, malfeasance, or nonfeasance."

Section 1.8. G.S. 143B-289.56 reads as rewritten:

"**§ 143B-289.56. Marine Fisheries Commission -- meetings; quorum.**

(a) The Commission shall meet at least once each calendar quarter and may hold additional meetings at any time and place within the State at the call of the Chair or upon the written request of at least four members. At least three of the four quarterly meetings of the Commission shall be held in one of the coastal regions designated in G.S. 143B-289.54.

(b) (1) ~~Five~~ Six members of the Commission shall constitute a quorum for the transaction of business.

(2) A quorum of the Commission may transact business only if one member, other than the Chair, appointed pursuant to subdivision (1), (2), or (3) of G.S. 143B-289.54(a) and one member, other than the Chair, appointed pursuant to subdivision (4), (5), or (6) of G.S. 143B-289.54(a) are present.

(c) If the Commission is unable to transact business because the requirements of subdivision (2) of subsection (b) of this section are not met, the Chair shall call another meeting of the Commission within 30 days and shall place on the agenda for that meeting every matter with respect to which the Commission was unable to transact business. Five members of the Commission shall constitute a quorum for the transaction of business at a meeting called under this subsection. The requirements of subdivision (2) of subsection (b) of this section shall not apply to a meeting called under this subsection."

PART II. FISHERY MANAGEMENT PLANS

Section 2.1. G.S. 113-182.1 reads as rewritten:

"**§ 113-182.1. (Effective July 1, 1998) Fishery Management Plans.**

(a) The Department shall prepare proposed Fishery Management Plans for adoption by the Marine Fisheries Commission for all commercially or recreationally significant species or fisheries that comprise State marine or estuarine resources. Proposed Fishery Management Plans shall be developed in accordance with the Priority List, Schedule, and guidance criteria established by the Marine Fisheries Commission under ~~G.S. 143B-289.22.~~ G.S. 143B-289.52.

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

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

(2) Recommend management actions pertaining to the fishery or fisheries.

(3) Include conservation and management measures that prevent overfishing, while achieving, on a continuing basis, the optimal yield from each fishery.

(c) To assist in the development of each Fishery Management Plan, the Chair of the Marine Fisheries Commission shall appoint ~~an Advisory Council.~~ a fishery management plan advisory committee. Each ~~Advisory Council~~ fishery management plan advisory committee shall be composed of commercial fishermen, recreational

fishermen, and scientists, all with expertise in the fishery for which the Fishery Management Plan is being developed.

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

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

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

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

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

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

PART III. MARINE FISHERIES LAW ENFORCEMENT

Section 3.1. G.S. 113-136(b) reads as rewritten:

"(b) The jurisdiction of inspectors extends to all matters within the jurisdiction of the Department set out in this Subchapter, Part ~~5A~~ 5D of Article 7 of Chapter 143B of the General Statutes, Article 5 of Chapter 76 of the General Statutes, and Article 2 of Chapter 77 of the General Statutes, and to all other matters within the jurisdiction of the Department which it directs inspectors to enforce. In addition, inspectors have jurisdiction over all offenses involving property of or leased to or managed by the Department in connection with the conservation of marine and estuarine resources."

Section 3.2. G.S. 113-136(g) reads as rewritten:

"(g) Protectors may not temporarily stop or inspect vehicles proceeding along primary highways of the State without clear evidence that someone within the vehicle is or has recently been engaged in an activity regulated by the Wildlife Resources Commission. Inspectors may temporarily stop vehicles, boats, airplanes, and other conveyances upon reasonable grounds to believe that they are transporting ~~taxable~~ seafood products; they are authorized to inspect any seafood products being transported to determine whether they were taken in accordance with law and to require exhibition of any applicable license, ~~tax~~ receipts, permits, bills of lading, or other identification required to accompany such seafood products."

Section 3.3. G.S. 113-184(a) reads as rewritten:

"(a) It is unlawful to carry aboard any vessel subject to licensing requirements under ~~Article 14~~ Article 14A under way or at anchor in coastal fishing waters during the regular closed oyster season any scoops, scrapes, dredges, or winders such as are

usually or can be used for taking oysters. Provided that when such vessels are engaged in lawfully permitted oyster harvesting operations on any privately held shellfish bottom lease under G.S. 113-202 or G.S. 113-205, the vessel shall be exempt from this requirement."

Section 3.4. G.S. 113-185(a) reads as rewritten:

"(a) It is unlawful to fish in the ocean from vessels or with a net within 750 feet of an ocean pier licensed in accordance with ~~G.S. 113-156.1.~~ G.S. 113-169.4. The prohibition shall be effective when:

(1) Buoys or beach markers, placed at the owner's expense in accordance with the rules adopted by the Marine Fisheries Commission, indicate clearly to fishermen in vessels and on the beach the requisite distance of 750 feet from the pier, and

(2) The public is allowed to fish from the pier for a reasonable fee.

The prohibition shall not apply to littoral proprietors whose property is within 750 feet of a duly licensed ocean pier."

Section 3.5. G.S. 113-191(d) reads as rewritten:

"(d) In determining the amount of the penalty, the Secretary shall consider the factors set out in ~~G.S. 143B-289.23(b).~~ G.S. 143B-289.53(b). The procedures set out in ~~G.S. 143B-289.23~~ G.S. 143B-289.53 shall apply to civil penalty assessments that are presented to the Commission for final agency decision."

Section 3.6. G.S. 113-191(f) reads as rewritten:

"(f) Requests for remission of civil penalties shall be filed with the Secretary. Remission requests shall not be considered unless filed within 30 days of receipt of the notice of assessment. Remission requests must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based. Consistent with the limitations in ~~G.S. 143B-289.23(c),~~ G.S. 143B-289.53(c), remission requests may be resolved by the Secretary and the violator. If the Secretary and the violator are unable to resolve the request, the Secretary shall deliver remission requests and his recommended action to the Committee on Civil Penalty Remissions of the Marine Fisheries Commission appointed pursuant to ~~G.S. 143B-289.23(c).~~ G.S. 143B-289.53(c)."

Section 3.7. G.S. 113-208(a) reads as rewritten:

"(a) It is unlawful for any person, other than the holder of private shellfish rights, to take or attempt to take shellfish from any privately leased, franchised, or deeded shellfish bottom area without written authorization of the holder and with actual knowledge it is a private shellfish bottom area. Actual knowledge will be presumed when the shellfish are taken or attempted to be taken:

(1) From within the confines of posted boundaries of the area as identified by signs, whether the whole or any part of the area is posted, or

(2) When the area has been regularly posted and identified and the person knew the area to be the subject of private shellfish rights.

A violation of this section shall constitute a ~~Class 2~~ Class A1 misdemeanor, which may include a fine of not more than five thousand dollars ($5,000). The written authorization shall include the lease number or deed reference, name and address of authorized person, date of issuance, and date of expiration, and it must be signed by the holder of the private shellfish right. Identification signs shall include the lease number or deed reference and the name of the holder."

Section 3.8. G.S. 113-221(e) reads as rewritten:

"(e) The Marine Fisheries Commission may delegate to the Fisheries Director the authority to issue proclamations suspending or implementing, in whole or in part, particular rules of the Commission which may be affected by variable conditions. Such proclamations are to be issued by the Fisheries Director or by a person designated by the Fisheries Director. All proclamations must state the hour and date upon which they become effective and must be issued at least 48 hours in advance of the effective date and time. In those situations in which the proclamation prohibits the taking of certain fisheries resources for reasons of public health, the proclamation can be made effective immediately upon issuance. Notwithstanding any other provisions of this subsection, a proclamation can be issued at least 12 hours in advance of the effective date and time to reopen the taking of certain fisheries resources closed for reason of public health through a prior proclamation made effective immediately upon issuance. Persons violating any proclamation which is made effective immediately shall not be charged with a criminal offense during the time between the issuance and 48 hours after such issuance unless such person had actual notice of the issuance of such proclamation. Fisheries resources taken or possessed by any person in violation of any proclamation may be seized regardless of whether such person had actual notice of the proclamation. A permanent file of the text of all proclamations shall be maintained in the office of the Fisheries Director. Certified copies of proclamations are entitled to judicial notice in any civil or criminal proceeding.

The Fisheries Director must make every reasonable effort to give actual notice of the terms of any proclamation to the persons who may be affected thereby. Reasonable effort includes press releases to communications media, posting of notices at docks and other places where persons affected may gather, personal communication by inspectors and other agents of the Fisheries Director, and such other measures designed to reach the persons who may be affected. ~~The Fisheries Director may determine, on a case-by-case basis and at the Fisheries Director's sole discretion, that a proclamation did not apply to an individual licensee when an act of God occurred that prevented the licensee from receiving notice of the proclamation.~~ It is a defense to an enforcement action for a violation of a proclamation that a licensee was prevented from receiving notice of the proclamation due to a natural disaster or other act of God occasioned exclusively by violence of nature without interference of any human agency and that could not have been prevented or avoided by the exercise of due care or foresight."

Section 3.9. G.S. 113-268 reads as rewritten:

"**§ 113-268. ~~Robbing or injuring~~ Injuring, destroying, stealing, or stealing from nets, seines, buoys, pots, etc.**

(a) It is unlawful for any person without the authority of the owner of the equipment to take fish from nets, traps, pots, and other devices to catch fish which have been lawfully placed in the open waters of the State.

(b) It is unlawful for any master or other person having the management or control of a vessel in the navigable waters of the State to willfully, wantonly, and unnecessarily do injury to any seine, net or pot which may lawfully be hauled, set, or fixed in such waters for the purpose of taking fish except that a net set across a channel may be temporarily moved to accommodate persons engaged in drift netting, provided that no fish are removed and no damage is done to the net moved.

(c) It is unlawful for any person to willfully ~~destroy~~ steal, destroy, or injure any buoys, markers, stakes, nets, pots, or other devices on property lawfully set out in the open waters of the State in connection with any fishing or fishery.

(d) Violation of subsections (a), (b), or (c) is a ~~Class 2 misdemeanor for a first conviction, and a Class 1 misdemeanor for a second or subsequent conviction.~~ Class A1 misdemeanor.

(e) The Department may, either before or after the institution of any other action or proceeding authorized by this section, institute a civil action for injunctive relief to restrain a violation or threatened violation of subsections (a), (b), or (c) of this section pursuant to G.S. 113-131. The action shall be brought in the superior court of the county in which the violation or threatened violation is occurring or about to occur and shall be in the name of the State upon the relation of the Secretary. The court, in issuing any final order in any action brought pursuant to this subsection may, in its discretion, award costs of litigation including reasonable attorney and expert-witness fees to any party."

Section 3.10. G.S. 113-277(a3) reads as rewritten:

"(a3) As used in this Article, the term 'conviction' has the same meaning assigned to it in ~~G.S. 113-166(a).~~ G.S. 113-171."

PART IV. FISHING LICENSES; TRANSITIONAL PROVISIONS

Section 4.1. G.S. 75A-5(h) reads as rewritten:

"(h) Each certificate of number awarded pursuant to this Chapter must be renewed on or before the first day of the month next succeeding that during which the same expires; otherwise, such certificate shall lapse and be void until such time as it may thereafter be renewed. Application for renewal shall be submitted on a form approved by the Wildlife Resources Commission and shall be accompanied by a fee of eight dollars ($8.00) for a one-year period or by a fee of twenty dollars ($20.00) for a three-year period; provided, there shall be no fee required for renewal of certificates of number which have been previously issued to commercial fishing ~~boats~~ vessels as defined in G.S. 75A-5.1, upon compliance with all of the requirements of that section."

Section 4.2. G.S. 75A-5.1 reads as rewritten:

"**§ 75A-5.1. Commercial fishing ~~boats;~~ vessels; renewal of number.**

(a) The owner ~~or operator~~ of any commercial fishing ~~boat which is currently licensed for the use of commercial fishing gear shall be entitled to renewal of~~ vessel that is registered under the provisions of ~~G.S. 113-152,~~ G.S. 113-168.6 may renew the certificate of number of ~~such boat~~ the vessel when ~~such~~ the owner has complied with all of the conditions of this section.

(b) ~~For the purpose of this section, commercial fishing boats are defined as vessels which are used primarily for commercial fishing operations, from which operations the owners and/or operators thereof derived more than one half of their gross incomes during the preceding calendar year.~~ As used in this section, 'commercial fishing vessel' is a vessel used in a commercial fishing operation, as defined in G.S. 113-168.

(c) In order to be entitled to renewal of certificate of number under the provisions of this section, the owner of the ~~boat~~ vessel shall submit, and the Wildlife Resources Commission shall require:

(1) The regular application for renewal of the certificate of number of ~~such boat,~~ the vessel, as provided by G.S. 75A-5;

(2) A statement, on a form to be supplied by the Commission, and signed by the applicant, that the ~~boat~~ vessel for which the application for renewal is made is a commercial fishing ~~boat as herein defined;~~ vessel; and

(3) A receipt, signed by an authorized agent of the Department of Environment and Natural Resources, and bearing the number awarded to the boat under the provisions of this Chapter, showing that the commercial fishing ~~boat license tax imposed by G.S. 113-152~~ vessel registration fee imposed by G.S. 113-168.6 has been paid for ~~such boat~~ the vessel for the period during which the application for renewal of the certificate of number is submitted.

(d) Any person who shall willfully give false information upon the application or the statement required by ~~the preceding paragraph,~~ this section or who shall falsify any ~~tax~~ registration fee receipt ~~thereby required,~~ required by this section shall be guilty of a Class 1 misdemeanor."

Section 4.3. G.S. 105-164.13(9) reads as rewritten:

"(9) Sales of boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints, parts, accessories, and supplies to persons for use by them principally in commercial fishing operations within the meaning of ~~G.S. 113-152,~~ G.S. 113-168, except when the property is for use by persons principally to take fish for recreation or personal use or consumption. As used in this subdivision, 'fish' is defined as in G.S. 113-129(7)."

Section 4.4. The title for Article 14 of Chapter 113 of the General Statutes reads as rewritten:

"ARTICLE 14.

Commercial and Sports Fisheries ~~Licenses and Taxes.~~ Licenses."

Section 4.5. Subsections (d) and (e) of G.S. 113-154.1 read as rewritten:

"(d) Application for Non-Vessel Endorsement. -- An application for issuance or renewal of an endorsement to sell shall be filed with the Morehead City ~~offices~~ office of the Division of Marine Fisheries or license agents authorized to sell licenses under this Article. An application shall be accompanied by the fee established in subsection (b) of this section. Applications shall not be accepted from persons ineligible to hold a license issued by the Marine Fisheries Commission, including any applicant whose endorsement is suspended or revoked on the date of the application. The applicant shall be provided with a copy of the application marked received. The copy shall serve as the endorsement to sell, until the endorsement issued by the Division is received or the Division determines that the applicant is ineligible to hold an endorsement. In addition to the information required in subsection (c) of this section, the applicant shall disclose on the application a valid address, and such other information as the Division may require.

(e) Application for Replacement Non-Vessel Endorsement to Sell. -- A replacement endorsement shall only be obtained from the Morehead City ~~offices~~ office of the Division of Marine Fisheries. The Division shall not accept an application for a replacement endorsement unless the Division determines that the applicant's current license has not been suspended or revoked. A copy of an application duly filed with the Division shall serve as the endorsement until the replacement license has been received."

Section 4.6. G.S. 113-154.1(h1) reads as rewritten:

"(h1) Transfer of Endorsement to Sell Fish on a Vessel ~~License; Limitation on Use of Endorsement to Sell Fish on a Vessel License by Other Persons.~~ License. -- A valid endorsement to sell fish on a vessel license may be transferred with the vessel license when the vessel license is transferred by the vessel licensee to (i) another vessel purchased by the vessel licensee or (ii) a vessel that is purchased by another person who is otherwise qualified to hold the vessel license and endorsement under this Article. Upon application to the Morehead City office of the Division of Marine Fisheries by a vessel licensee who is eligible to transfer an endorsement to sell fish on a vessel license under this subsection, the Division shall transfer the endorsement to sell fish on the vessel license. ~~It is unlawful to use an endorsement to sell fish on a vessel license issued to another person in the sale or attempted sale of fish or for the holder of an endorsement to sell fish on a vessel license to allow fish to be sold under the endorsement by any other person except that a person:~~

~~(1) Under the age of 16 may sell fish under the endorsement to sell fish on a vessel license of a relative or guardian.~~

~~(2) May sell fish that are taken in a fishing operation in which that person and the holder of the endorsement both participated.~~"

Section 4.7. G.S. 113-154.1(i) is repealed.

Section 4.8. G.S. 113-156(i) is repealed.

Section 4.9. G.S. 113-168 reads as rewritten:

"**§ 113-168. Definitions.**

As used in this Article:

(1) 'Commercial fishing operation' means any activity preparatory to, during, or subsequent to the taking of any fish, the taking of which is subject to regulation by the Commission, either with the use of commercial fishing equipment or gear, or by any means if the purpose of the taking is to obtain fish for sale. ~~Commercial fishing operation includes taking people fishing for hire.~~ Commercial fishing operation does not include (i) the taking of fish as part of a recreational fishing tournament, unless commercial fishing equipment or gear is used or (ii) the taking of fish under a RCGL.

(2) 'Commission' means the Marine Fisheries Commission.

(3) 'Division' means the Division of Marine Fisheries in the Department of Environment and Natural Resources.

(3a) 'Immediate family' means the mother, father, brothers, sisters, spouse, children, stepparents, stepbrothers, stepsisters, and stepchildren of a person.

(4) 'License year' means the period beginning 1 July of a year and ending on 30 June of the following year.

(5) 'North Carolina resident' means a person who is a resident within the meaning of G.S. 113-130(4). ~~G.S. 113-130(4) and who filed a State income tax return as a resident of the State for the previous calendar or tax year.~~

(6) 'RCGL' means Recreational Commercial Gear License.

(7) 'RSCFL' means Retired Standard Commercial Fishing License.

(8) 'SCFL' means Standard Commercial Fishing License."

Section 4.10. G.S. 113-168.1 reads as rewritten:

"**§ 113-168.1. General provisions ~~for commercial~~ governing licenses and endorsements.**

(a) Duration, Fees. -- Except as provided in G.S. 113-173(f), ~~All~~ all licenses and endorsements issued under this Article expire on the last day of the license year. An applicant for any license or endorsement shall pay the full annual ~~license~~ fee at the time the applicant applies for the license or endorsement regardless of when application is made.

(b) Licenses Required to Engage in Commercial Fishing. -- It is unlawful for any person to engage in a commercial fishing operation without ~~being licensed as~~ holding a license and any endorsements required by this Article. It is unlawful for anyone to command a vessel engaged in a commercial fishing operation without complying with the provisions of this Article and rules adopted by the Commission under this Article.

(c) ~~Licenses~~ Licenses, Assignments, and Endorsements Available for Inspection. -- It is unlawful for any person to engage in a commercial fishing operation in the State without having ready at hand for inspection all valid ~~licenses~~ licenses, assignments, and endorsements required under this Article. To comply with this subsection, a person must have any required endorsements and either a currently valid (i) license issued in the person's true name and bearing the person's current address or (ii) SCFL and an assignment of ~~a~~ the SCFL authorized under this Article. ~~A licensee or assignee shall not~~ It is unlawful for a person to refuse to exhibit ~~the licenses and~~

~~endorsements~~ any license, assignment, or endorsement required by this Article upon the request of an inspector or ~~any~~ other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(d) No Dual Residency. -- It is unlawful for any person to hold any currently valid license issued under this Article to the person as a North Carolina resident if that person holds any currently valid commercial or recreational fishing license issued by another state to the person as a resident of that state.

(e) License Format. -- Licenses issued under this Article shall be issued in the name of the applicant. Each license shall show the type of license and any endorsements; the name, mailing address, physical or residence address, and date of birth of the licensee; the date on which the license is issued; the date on which the license expires; and any other information that the Commission or the Division determines to be necessary to accomplish the purposes of this Subchapter.

(f) License Issuance and Renewal. -- Except as provided in G.S. 113-173(d), the Division shall issue licenses and endorsements under this Article to eligible applicants at any office of the Division or by mail from the Morehead City office of the Division. A license or endorsement may be renewed in person at any office of the Division or by mail to the Morehead City office of the Division. Eligibility to renew an expired SCFL shall end one year after the date of expiration of the SCFL.

(g) Limitations on Eligibility. -- A person is not eligible to obtain or renew a license or endorsement under this Article if, at the time the person applies for the license or endorsement, any other license or endorsement issued to the person under this Article is suspended or revoked. A person is not eligible to obtain a license or endorsement under this Article if, within the three years prior to the date of application, the person has been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources. An applicant shall certify that the applicant has not been determined to be responsible for four or more violations of state laws, regulations, or rules governing the management of marine and estuarine resources during the previous three years. The Division may also consider violations of federal law and regulations governing the management of marine and estuarine resources in determining whether an applicant is eligible for a license.

(h) Replacement Licenses and Endorsements. -- The Division shall issue a replacement license, including any endorsements, to a licensee for a license that has not been suspended or revoked. A licensee may apply for a replacement license for a license that has been lost, stolen, or destroyed and shall apply for a replacement license within 30 days of a change in the licensee's name or address. A licensee may apply for a replacement license in person at any office of the Division or by mail to the Morehead City office of the Division. A licensee may use a copy of the application for a replacement license that has been filed with the Division as a temporary license until the licensee receives the replacement license. The Commission may establish a fee for each type of replacement license, not to exceed ten dollars ($10.00), that compensates the Division for the administrative costs associated with issuing the replacement license.

(i) Cancellation. -- The Division may cancel a license or endorsement issued on the basis of an application that contains false information supplied by the applicant. A cancelled license or endorsement is void from the date of issuance. A person in possession of a cancelled license or endorsement shall surrender the cancelled license or endorsement to the Division. It is unlawful to refuse to surrender a cancelled license or endorsement upon demand of any authorized agent of the Division."

Section 4.11. G.S. 113-168.2 reads as rewritten:

"**§ 113-168.2. Standard Commercial Fishing License.**

(a) Requirement. -- ~~No person shall~~ Except as otherwise provided in this Article, it is unlawful for any person to engage in a commercial fishing operation in the coastal fishing waters without holding a ~~Standard Commercial Fishing License~~ SCFL issued by the Division. A person who works as a member of the crew of a vessel engaged in a commercial fishing operation under the direction of a person who holds a valid SCFL ~~or RSCFL~~ is not required to hold a ~~SCFL or RSCFL.~~ SCFL. A person who holds a SCFL is not authorized to take shellfish unless the SCFL is endorsed as provided in G.S. 113-168.5(d) or the person holds a shellfish license issued pursuant to G.S. 113-169.2.

(a1) Use of Vessels. -- The holder of a SCFL is authorized to use only one vessel in a commercial fishing operation at any given time. The Commission may adopt a rule to exempt from this requirement a person in command of a vessel that is auxiliary to a vessel engaged in a pound net operation, long-haul operation, beach seine operation, or menhaden operation.

~~(b) Purchase; Renewal. -- A person may purchase a SCFL at any office of the Division. The SCFL and endorsements may be renewed by mail by forwarding a completed application, including applicable fees, to the Division's Morehead City office. Any person who is issued a SCFL or a RSCFL is eligible to renew the SCFL or RSCFL and any endorsements if the SCFL or RSCFL has not been suspended or revoked.~~

~~(c) Replacement License. -- A licensee may obtain a replacement license for a lost or destroyed license, including all endorsements, upon receipt of a proper application in the offices of the Division together with a ten dollar ($10.00) fee. The Division shall not accept an application for a replacement license unless the Division determines that the applicant's current license has not been suspended or revoked. A copy of an application duly filed with the Division shall serve as the license until the replacement license has been received. The Commission may provide by rule for the replacement of lost, obliterated, destroyed, or otherwise illegible license plates or decals upon tender of the original license receipt or upon other evidence that the Commission deems sufficient.~~

~~(d) Nonresident Certification Required. -- Persons obtaining licenses who are not North Carolina residents shall certify that their conviction record in their state of residence is such that they would not be denied a license under the standards in G.S. 113-171. When a license application is denied for violations of fisheries laws, whether the violations occurred in North Carolina or another jurisdiction, the license~~

~~fees shall not be refunded and shall be applied to the costs of processing the application.~~

(e) Fees. -- The annual SCFL fee for a ~~North Carolina~~ resident of this State shall be two hundred dollars ($200.00). The annual SCFL fee for a person who is not a resident of ~~North Carolina~~ this State shall be eight hundred dollars ($800.00) or the amount charged to a ~~North Carolina~~ resident of this State in the nonresident's state, whichever is less. In no event, however, may the fee be less than two hundred dollars ($200.00). For purposes of this subsection, a 'resident of this State' is a person who is a resident within the meaning of:

(1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State income tax return as a resident of North Carolina for the previous calendar or tax year, or

(2) G.S. 113-130(4)e.

(f) Assignment. -- The holder of a SCFL may assign the SCFL to any ~~individual, provided that a SCFL or RSCFL issued to the individual is not suspended or revoked.~~ individual who is eligible to hold a SCFL under this Article. ~~If the SCFL is endorsed for one or more vessels, each vessel endorsement may be assigned, independently of the SCFL, to another holder of a SCFL. An assignment of a SCFL vessel endorsement shall be valid only for use by a holder or assignee of a SCFL in the operation of the vessel for which the SCFL is endorsed.~~ The assignment shall be in writing on a form provided by the Division and shall include the name of the licensee, the license number, any endorsements, the assignee's ~~name and~~ name, mailing address, physical or residence address, and the duration of the assignment. ~~A notarized copy of the assignment shall be filed with the Division.~~ If a notarized copy of an assignment is not filed with the Morehead City office of the Division within five days of the date of the assignment, the assignment shall expire. ~~The assignee shall carry the assignment on the assignee's person and have the assignment available for inspection at all times while using the vessel.~~ It is unlawful for the assignee of a SCFL to assign the SCFL. The assignment ~~may be revoked by: (i)~~ shall terminate:

(1) Upon written notification by the assignor to the assignee and the Division that the assignment has been ~~terminated; or (ii) a~~ terminated.

(1a) Upon written notification by the estate of the assignor to the assignee and the Division that the assignment has been terminated.

(2) ~~determination by the Division~~ If the Division determines that the assignee is operating in violation of the terms and conditions applicable to the assignment.

(3) If the assignee becomes ineligible to hold a license under this Article.

(4) Upon the death of the assignee.

(5) If the Division suspends or revokes the assigned SCFL.

(6) At the end of the license year.

(g) Transfer. -- A SCFL may be ~~transferred.~~

~~(1) By the license holder to a member of the license holder's immediate family.~~

~~(2) By the State to the estate of the license holder upon the death of the license holder.~~

~~(3) By a surviving family member to whom a license was transferred pursuant to subdivision (2) of this subsection to a third-party purchaser of the license holder's fishing vessel upon the death of the license holder.~~

~~(4) By the license holder to a third-party purchaser of the license holder's fishing vessel upon retirement of the license holder from commercial fishing.~~

~~(5) Under any other circumstance authorized by rule of the Commission.~~

transferred only by the Division. A SCFL may be transferred pursuant to rules adopted by the Commission or upon the request of:

(1) A licensee, from the licensee to a member of the licensee's immediate family who is eligible to hold a SCFL under this Article.

(2) The administrator or executor of the estate of a deceased licensee, to the administrator or executor of the estate if a surviving member of the deceased licensee's immediate family is eligible to hold a SCFL under this Article. The administrator or executor must request a transfer under this subdivision within six months after the administrator or executor qualifies under Chapter 28A of the General Statutes. An administrator or executor who holds a SCFL under this subdivision may, for the benefit of the estate of the deceased licensee:

a. Engage in a commercial fishing operation under the SCFL if the administrator or executor is eligible to hold a SCFL under this Article.

b. Assign the SCFL as provided in subsection (f) of this section.

c. Renew the SCFL as provided in G.S. 113-168.1.

(3) An administrator or executor to whom a SCFL was transferred pursuant to subdivision (2) of this subsection, to a surviving member of the deceased licensee's immediate family who is eligible to hold a SCFL under this Article.

(4) The surviving member of the deceased licensee's immediate family to whom a SCFL was transferred pursuant to subdivision (3) of this subsection, to a third-party purchaser of the deceased licensee's fishing vessel.

(5) A licensee who is retiring from commercial fishing, to a third-party purchaser of the licensee's fishing vessel.

(h) Identification as Commercial Fisherman. -- The receipt of a current and valid ~~SCFL, RSCFL,~~ SCFL or shellfish license issued by the Division shall serve as proper identification of the licensee as a commercial fisherman.

(i) Record-Keeping Requirements. -- The fish dealer shall record each transaction at the time and place of landing on a form provided by the Division. The transaction form shall include the information on the ~~SCFL, RSCFL,~~ SCFL or shellfish license, the quantity of the fish, the identity of the fish dealer, and other information as the Division deems necessary to accomplish the purposes of this Subchapter. The person who records the transaction shall provide a completed copy of the transaction form to the Division and to the other party of the transaction. The Division's copy of each transaction form shall be transmitted to the Division by the fish dealer on or before the tenth day of the month following the transaction."

Section 4.12. G.S. 113-168.3 reads as rewritten:

"**§ 113-168.3. Retired Standard Commercial Fishing License.**

(a) SCFL Provisions Applicable. -- Except as provided in this section, the provisions set forth in ~~G.S. 113-168.2~~ this Article concerning the SCFL shall apply to the RSCFL.

(b) Eligibility; Fees. -- Any ~~person~~ individual who is 65 years of age or older and who is ~~otherwise~~ eligible for a SCFL under G.S. 113-168.2 may ~~purchase a~~ apply for either a SCFL or RSCFL. An applicant for a RSCFL shall provide proof of age ~~Proof of age shall be supplied~~ at the time the application is made. The annual fee for a RSCFL for a ~~North Carolina~~ resident of this State shall be one hundred dollars ($100.00). The annual fee for a RSCFL for a person who is not a resident of ~~North Carolina~~ this State shall be eight hundred dollars ($800.00) or the amount charged to a ~~North Carolina~~ resident of this State in the nonresident's state, whichever is less. In no event, however, shall the fee be less than one hundred dollars ($100.00). For purposes of this subsection, a 'resident of this State' is a person who is a resident within the meaning of:

(1) Sub-subdivisions a. through d. of G.S. 113-130(4) and who filed a State income tax return as a resident of North Carolina for the previous calendar or tax year, or

(2) G.S. 113-130(4)e.

(c) Transfer. -- The holder of a RSCFL may transfer the RSCFL as provided in G.S. 113-168.2. ~~G.S. 113-168.2 or, upon retirement from commercial fishing, to a third-party purchaser of the RSCFL holder's fishing vessel.~~

(1) If the ~~third-party purchaser~~ transferee is less than 65 years of age, ~~that purchaser~~ the transferee holds a SCFL. When the transferee renews the SCFL, the transferee shall pay the fee ~~for the SCFL~~ set ~~forth~~ out in G.S. 113-168.2.

(2) If the transferee is 65 years of age or older, the transferee may elect to hold either a SCFL or RSCFL. If the transferee elects to hold a SCFL, the transferee shall pay the fee set out in G.S. 113-168.2. If the transferee elects to hold a RSCFL, the transferee shall pay the fee set out in this section.

(d) Assignment. -- The RSCFL shall not be assignable."

Section 4.13. G.S. 113-168.4 reads as rewritten:

"**§ 113-168.4. ~~Regulations concerning the sale~~ Sale of fish.**

(a) Except as otherwise provided in this section, it is unlawful for any person who takes or lands any species of fish under the authority of the Commission from coastal fishing waters by any means whatever, including mariculture operations, to sell, offer for sale, barter or exchange these fish for anything of value ~~for merchandise these fish, without holding a current and valid SCFL or RSCFL issued under G.S. 113-168.2 or G.S. 113-168.3, or a valid shellfish license issued under G.S. 113-169.2.~~ without holding a license required to sell the type of fish being offered. ~~It is unlawful for fish dealers to buy fish unless the seller presents a current and valid SCFL, RSCFL, or shellfish license at the time of the transaction. Any subsequent sale of fish shall be subject to the licensing requirements of fish dealers under G.S. 113-169.3.~~

(b) It is unlawful for any person licensed under this ~~section~~ Article to sell fish taken outside the territorial waters of the State or to sell fish taken from coastal fishing waters except to:

(1) Fish dealers licensed under G.S. 113-169.3; or

(2) The public, if the seller is also licensed as a fish dealer under G.S. 113-169.3.

(c) A person who organizes a ~~nonprofit~~ recreational fishing tournament may sell fish taken in connection with the tournament pursuant to a recreational fishing tournament license to sell fish. A person who organizes a ~~nonprofit~~ recreational fishing tournament may obtain a recreational fishing tournament license to sell fish upon application to the Division and payment of a fee of one hundred dollars ($100.00). It is unlawful for any person licensed under this subsection to sell fish to any person other than a fish dealer licensed under G.S. 113-169.3 unless the seller is also a licensed fish dealer. A recreational fishing tournament is an organized fishing competition occurring within a specified time period not to exceed one week and that is not a commercial fishing operation. ~~Proceeds derived~~ Gross proceeds from the sale of fish may be used only for ~~charitable purposes.~~ charitable, religious, educational, civic, or conservation purposes and shall not be used to pay tournament expenses."

Section 4.14. G.S. 113-168.5 reads as rewritten:

"**§ 113-168.5. License endorsements for Standard Commercial Fishing ~~License and Retired Standard Commercial Fishing~~ License.**

~~(a) A SCFL or RSCFL may be endorsed to authorize the use of a vessel in a commercial fishing operation.~~

~~(b) Vessel Endorsements. –~~

~~(1) As used in this subsection, a North Carolina vessel is a vessel that has its primary situs in the State. A vessel has its primary situs in the State if:~~

~~a. A certificate of number has been issued for the vessel under Article 1 of Chapter 75A of the General Statutes;~~

~~b. A certificate of title has been issued for the vessel under Article 4 of Chapter 75A of the General Statutes; or~~

~~c. A certification of documentation has been issued for the vessel that lists a home port in the State under 42 U.S.C. § 12101, et seq., as amended.~~

~~(2) It is unlawful to use a vessel in a commercial fishing operation in the coastal fishing waters of the State without a vessel endorsement of the license required under this Article for that commercial fishing operation. It is unlawful to use a North Carolina vessel to land or sell fish in the State that are taken during a commercial fishing operation outside the coastal fishing waters of the State without a vessel endorsement of the license required under this Article for that commercial fishing operation. No endorsement is required, however, for a vessel of any length that does not have a motor if the vessel is used only in connection with another vessel for which the required license has been properly endorsed.~~

~~(3) The fee for a vessel endorsement shall be determined by the length of the vessel and shall be in addition to the fee for a SCFL, RSCFL, or shellfish license. The length of a vessel shall be determined by measuring the distance between the ends of the vessel along the deck and through the cabin, excluding the sheer. The fee for a vessel endorsement is:~~

~~a. One dollar ($1.00) per foot for a vessel not over 18 feet in length.~~

~~b. One dollar and fifty cents ($1.50) per foot for a vessel over 18 feet but not over 38 feet in length.~~

~~c. Three dollars ($3.00) per foot for a vessel over 38 feet but not over 50 feet in length.~~

~~d. Six dollars ($6.00) per foot for a vessel over 50 feet in length.~~

~~(4) A vessel endorsement may be assigned as provided in G.S. 113-168.2(f).~~

~~(5) When the owner of a vessel for which a SCFL, RSCFL, or shellfish license has been endorsed transfers ownership of the vessel to a holder of a SCFL, RSCFL, or shellfish license, the vessel endorsement may be transferred from the former owner's SCFL, RSCFL, or shellfish license to the new owner's SCFL, RSCFL, or shellfish license upon the request of the new owner. The new owner of the vessel shall notify the Division of the change in ownership and request that the vessel endorsement be transferred within 30 days of the date on which the transfer of ownership occurred. The notification of a change in the ownership of a vessel and request that the vessel endorsement be transferred shall be made on a form provided by the Division and shall be~~

~~accompanied by satisfactory proof of the transfer of vessel ownership. Transfer of vessel ownership may be proven by a notarized copy of: (i) the bill of sale; (ii) a temporary vessel registration; or (iii) a vessel documentation transfer.~~

(c) Menhaden Endorsements. -- Except as provided in G.S. 113-169, it is unlawful to use a vessel to take menhaden by purse seine in ~~the~~ coastal fishing ~~waters of the State;~~ waters, to land menhaden taken by purse seine, ~~in the State,~~ or to sell menhaden ~~from a vessel in the State~~ taken by purse seine without obtaining a menhaden endorsement of a ~~SCFL or RSCFL.~~ SCFL. The fee for a menhaden endorsement shall be two dollars ($2.00) per ton, based on gross tonnage as determined by the custom house measurement for the mother ship. The menhaden endorsement shall be required for the mother ship but no separate endorsement shall be required for a purse boat carrying a purse seine. The application for a menhaden endorsement must state the name of the person in command of the vessel. Upon a change in command of a menhaden vessel, the owner must notify the Division in writing within 30 days.

(d) Shellfish Endorsement for North Carolina Residents. -- The Division shall issue a shellfish endorsement of a SCFL ~~or RSCFL~~ to a North Carolina resident at no charge. The holder of a SCFL with a shellfish endorsement is authorized to take and sell shellfish."

Section 4.15. Article 14A of Chapter 113 of the General Statutes is amended by adding a new section to read:

"**§ 113-168.6. Commercial fishing vessel registration.**

(a) As used in this subsection, a North Carolina vessel is a vessel that has its primary situs in the State. A vessel has its primary situs in the State if:

(1) A certificate of number has been issued for the vessel under Article 1 of Chapter 75A of the General Statutes;

(2) A certificate of title has been issued for the vessel under Article 4 of Chapter 75A of the General Statutes; or

(3) A certification of documentation has been issued for the vessel that lists a home port in the State under 46 U.S.C. § 12101, et seq., as amended.

(b) The owner of a vessel used in a commercial fishing operation in the coastal fishing waters of the State or a North Carolina vessel used to land or sell fish in the State shall register the vessel with the Division. It is unlawful to use a vessel that is not registered with the Division in a commercial fishing operation in the coastal fishing waters of the State. It is unlawful to use a North Carolina vessel that is not registered with the Division to land or sell fish in the State. No registration is required for a vessel of any length that does not have a motor if the vessel is used only in connection with another vessel that is properly registered.

(c) The annual fee for a commercial fishing vessel registration shall be determined by the length of the vessel and shall be in addition to the fee for other licenses issued under this Article. The length of a vessel shall be determined by measuring the

distance between the ends of the vessel along the deck and through the cabin, excluding the sheer. The annual fee for a commercial fishing vessel registration is:

(1) One dollar ($1.00) per foot for a vessel not over 18 feet in length.

(2) One dollar and fifty cents ($1.50) per foot for a vessel over 18 feet but not over 38 feet in length.

(3) Three dollars ($3.00) per foot for a vessel over 38 feet but not over 50 feet in length.

(4) Six dollars ($6.00) per foot for a vessel over 50 feet in length.

(d) A vessel may be registered at any office of the Division. A commercial fishing vessel registration expires on the last day of the license year.

(e) Within 30 days of the date on which the owner of a registered vessel transfers ownership of the vessel, the new owner of the vessel shall notify the Division of the change in ownership and apply for a replacement commercial fishing vessel registration. An application for a replacement commercial fishing vessel registration shall be accompanied by proof of the transfer of the vessel. The provisions of G.S. 113-168.1(h) apply to a replacement commercial fishing vessel registration."

Section 4.16. G.S. 113-169 reads as rewritten:

"**§ 113-169. Menhaden license for nonresidents not eligible for a SCFL.**

A person who is not a ~~resident of North Carolina,~~ North Carolina resident, who is not eligible for a SCFL under this Article, and who only seeks to engage in ~~menhaden fishing~~ a commercial fishing operation for the harvest and sale of menhaden is eligible to ~~purchase~~ obtain a menhaden license for nonresidents. The fee for the menhaden license for nonresidents shall be two dollars ($2.00) per ton, gross tonnage, customhouse measurements for the mother ship. The menhaden license for nonresidents shall be required for the mother ship to take, land, or sell menhaden in North Carolina taken by purse seine. No separate endorsement shall be required for a purse boat carrying a purse seine. The application for a menhaden license for nonresidents must state the name of the person in command of the vessel. Upon change in command of a menhaden vessel, the owner must notify the Division within 30 days. A person who works as a member of the crew of a vessel engaged in a commercial fishing operation for the harvest and sale of menhaden under the direction of a person who holds a valid menhaden license for nonresidents is not required to hold a menhaden license for nonresidents or a SCFL."

Section 4.17. G.S. 113-169.2 reads as rewritten:

"**§ 113-169.2. Shellfish license for North Carolina residents without a SCFL.**

(a) License or Endorsement Necessary to Take or Sell Shellfish. -- It is unlawful for an individual to take shellfish from the public or private grounds of the State by mechanical means or ~~for commercial use~~ in quantities greater than the personal use limits set forth in subsection (i) of this section by any means without holding either a shellfish license or a shellfish endorsement of a ~~SCFL or RSCFL.~~ SCFL. A North Carolina resident who seeks only to take and sell shellfish shall be eligible to ~~purchase~~ obtain a shellfish license without holding a ~~SCFL or RSCFL.~~ SCFL. ~~The license includes the privilege~~ The shellfish license authorizes the licensee to sell ~~shellfish to a licensed fish dealer.~~ shellfish.

~~(b) Purchase; Renewal. -- A person may purchase a shellfish license at any office of the Division. The shellfish license and endorsements may be renewed by mail by forwarding a completed application, including applicable fees, to the Division's Morehead City Office. Any person who is issued a shellfish license is eligible to renew the shellfish license and any endorsements if the shellfish license has not been suspended or revoked.~~

(c) Fees. -- Shellfish licenses shall be issued annually upon payment of a fee of twenty-five dollars ($25.00) upon proof that the license applicant is a ~~resident of North Carolina.~~ North Carolina resident.

(d) License Available for Inspection. -- It is unlawful for any individual to take shellfish ~~for commercial use~~ in quantities greater than the personal use limits set forth in subsection (i) of this section from the public or private grounds of the State without having ready at hand for inspection a current and valid shellfish license issued to the licensee personally and bearing the licensee's correct name and address. It is unlawful for any individual taking or possessing freshly taken shellfish to refuse to exhibit the individual's license upon the request of an officer authorized to enforce the fishing laws.

~~(e) Vessel Endorsement Required. -- A license holder under this section shall be required to purchase a vessel endorsement under G.S. 113-168.5 if a vessel is used in the take or sale of shellfish. A vessel endorsement of a shellfish license does not authorize the use of the vessel for any commercial fishing operation other than the taking or selling of shellfish.~~

(f) Name or Address Change. -- In the event of a change in name or address or upon receipt of an erroneous shellfish license, the licensee shall, within 30 days, apply for a replacement shellfish license bearing the correct name and address. Upon a showing by the individual that the name or address change occurred within the past 30 days, the trial court or prosecutor shall dismiss any charges brought pursuant to this subsection.

(g) Transfer Prohibited. -- It is unlawful for an individual issued a shellfish license to transfer or offer to transfer the license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure a shellfish license from a source not authorized by the Commission.

(h) Exemption. -- Persons under 16 years of age are exempt from the license requirements of this section if accompanied by a parent, grandparent, or guardian who is in compliance with the requirements of this section or if in possession of a parent's, grandparent's or guardian's shellfish license.

(i) Taking Shellfish Without a License for Personal Use. --

(1) A person may take shellfish for personal use without obtaining a license under this section in quantities up to:

a. One bushel of oysters per day.

b. One-half bushel of scallops per day.

c. One hundred clams per day.

d. Ten conchs per day.

e. One hundred mussels per day.

(2) Two or more persons who are using a vessel to take shellfish may take shellfish for personal use without obtaining a license under this section in quantities up to:
a. Two bushels of oysters per day.
b. One bushel of scallops per day.
c. Two hundred clams per day.
d. Twenty conchs per day.
e. Two hundred mussels per day."

Section 4.18. G.S. 113-169.3 reads as rewritten:

"**§ 113-169.3. Licenses for fish dealers.**

(a) Eligibility. -- A fish dealer license shall be issued to a North Carolina resident upon receipt of a proper application ~~in the Morehead City Office~~ at any office of the Division together with all license fees including the total number of dealer categories set forth in this section. The license shall be issued in the name of the applicant and shall include all dealer categories on the license.

(b) Application for License. -- Applications shall not be accepted from persons ineligible to hold a license issued by the Division, including any applicant whose license is suspended or revoked on the date of the application. The applicant shall be provided with a copy of the application marked received. The copy shall serve as the fish dealer's license until the license issued by the Division is received, or the Division determines that the applicant is ineligible to hold a license. Where an applicant does not have an established location for transacting the fisheries business within the State, the license application shall be denied unless the applicant satisfies the Secretary that his residence, or some other office or address within the State, is a suitable substitute for an established location and that records kept in connection with licensing, sale, and purchase requirements will be available for inspection when necessary. Fish dealers' licenses are issued on a fiscal year basis upon payment of a fee as set forth herein upon proof, satisfactory to the Secretary, that the license applicant is a North Carolina resident.

(c) License Requirement. -- Any person subject to the licensing requirements of this section is a fish dealer. Any person subject to the licensing requirements of this section shall obtain a separate license for each physical location conducting activities required to be licensed under this section. Except as otherwise provided in this section, it is unlawful for any person not licensed pursuant to this ~~article:~~ Article:

(1) To buy fish for resale from any person involved in a commercial fishing operation that takes any species of fish from coastal fishing waters. For purposes of this subdivision, a retailer who purchases fish from a fish dealer shall not be liable if the fish dealer has not complied with the licensing requirements of this section;
(2) To sell fish to the public; or
(3) To sell to the public any species of fish under the authority of the Commission taken from coastal fishing waters.

~~Any person subject to the licensing requirements of this section is a fish dealer. Any person subject to the licensing requirements of this section shall obtain a separate~~

~~license for each physical location conducting activities required to be licensed under this section.~~

(d) Exceptions to License Requirements. -- The Commission may adopt rules to implement this subsection including rules to clarify the status of the listed classes of exempted persons, require submission of statistical data, and require that records be kept in order to establish compliance with this section. Any person not licensed pursuant to this section is exempt from the licensing requirements of this section if all fish handled within any particular licensing category meet one or more of the following requirements:

(1) The fish are sold by persons whose dealings in fish are primarily educational, scientific, or official, and who have been issued a permit by the Division that authorizes the educational, scientific, or official agency to sell fish taken or processed in connection with research or demonstration projects;

(2) The fish are sold by individual employees of fish dealers when transacting the business of their duly licensed employer;

(3) The fish are shipped to a person by a dealer from without the State;

(4) The fish are of a kind the sale of which is regulated exclusively by the Wildlife Resources Commission; or

(5) The fish are purchased from a licensed dealer.

(e) Application Fee for New Fish Dealers. -- An applicant for a new fish dealer license shall pay a nonrefundable application fee of fifty dollars ($50.00) in addition to the license category fees set forth in this section.

(f) License Category Fees. -- Every fish dealer subject to licensing requirements shall secure an annual license at each established location for each of the following activities transacted there, upon payment of the fee set out:

(1) Dealing in oysters: $50.00;

(2) Dealing in scallops: $50.00;

(3) Dealing in clams: $50.00;

(4) Dealing in hard or soft crabs: $50.00;

(5) Dealing in shrimp, including bait: $50.00;

(6) Dealing in finfish, including bait: $50.00;

(7) Operating menhaden or other fish-dehydrating or oil-extracting processing plants: $50.00; or

(8) Consolidated license (all categories): $300.00.

(f1) Other License Categories. -- Any person subject to fish dealer licensing requirements who deals in fish not included in the ~~above~~ categories listed in subsection (f) of this section shall secure a finfish dealer license. The Commission may adopt rules implementing and clarifying the dealer categories of this ~~subsection.~~ section. Bait operations shall be licensed under either the finfish or shrimp dealer license categories.

~~(g) License Format. -- The format of the license shall include the name of the licensee, date of birth, name and physical address of each business location,~~

~~expiration date of the license, and any other information the Division deems necessary to accomplish the purposes of this Subchapter.~~

(h) ~~Application for~~ Replacement License. -- ~~A replacement license shall only be obtained from an office of the Division. The Division shall not accept an application for a replacement license unless the Division determines that the applicant's current license has not been suspended or revoked. A copy of an application duly filed with the Division shall serve as the license until the replacement license has been received.~~ If the licensee fails to comply with the requirements of G.S. 113-168.1(h), the license is revoked.

(i) Unlawful Purchase and Sale of Fish. -- It is unlawful for a fish dealer to purchase, possess, or sell fish taken from coastal fishing waters in violation of this Subchapter or the rules adopted by the Commission implementing this Subchapter. It is unlawful for a fish dealer to buy or accept fish ~~unless the~~ unless, at the time of the transaction:

(1) The seller or donor ~~possesses~~ presents a current and valid ~~SCFL, RSCFL, shellfish license, menhaden license for nonresidents, or a special fisheries sale permit issued under G.S. 113-168.4(c),~~ license to sell the type of fish being offered;

(2) The seller or donor presents the commercial fishing vessel registration of the vessel that was used to take the fish being offered; and ~~the~~

(3) The dealer records the transaction consistent with the record-keeping requirements of G.S. 113-168.2(i).

~~It is unlawful for any person to purchase, possess, or sell fish taken from coastal fishing waters in violation of this Subchapter or the rules adopted by the Commission implementing this Subchapter.~~

(j) Transfer Prohibited. -- Any fish dealer license issued under this section is nontransferable. It is unlawful to use a fish dealer license issued to another person in the sale or attempted sale of fish or for a licensee to lend or transfer a fish dealer license for the purpose of circumventing the requirements of this section."

Section 4.19. G.S. 113-169.4(b) reads as rewritten:

"(b) Within 30 days following a change of ownership of a pier, or a change as to the manager, the manager or new manager shall secure a replacement pier license ~~from the Division. The replacement license is issued without charge.~~ as provided in G.S. 113-168.1(h)."

Section 4.20. G.S. 113-170.1 reads as rewritten:

"**§ 113-170.1. Nonresidents reciprocal agreements.**

Persons who are not North Carolina residents are not ~~entitled~~ eligible to obtain licenses under the provisions of this Article except as provided in this section. Residents of jurisdictions that sell commercial fishing licenses to North Carolina residents are ~~entitled to~~ eligible to hold North Carolina commercial fishing licenses under the provisions of G.S. 113-168.2. Licenses may be restricted in terms of area, gear, and fishery by the Commission so that the nonresidents are licensed to engage in North Carolina fisheries on the same or similar terms that North Carolina residents

can be licensed to engage in the fisheries of other jurisdictions. The Secretary may enter into reciprocal agreements with other jurisdictions as necessary to allow nonresidents to obtain commercial fishing licenses in the State subject to the foregoing provisions."

Section 4.21. G.S. 113-173 reads as rewritten:

"**§ 113-173. Recreational Commercial Gear License.**

(a) License Required. -- Except as provided in subsection (j) of this section, it is unlawful for any person to take or attempt to take fish for recreational purposes by means of commercial fishing equipment or gear in coastal fishing waters without holding a RCGL. As used in this section, fish are taken for recreational purposes if the fish are not taken for the purpose of sale. The RCGL entitles the licensee to use authorized commercial gear to take fish for personal use subject to recreational ~~quotas or~~ possession limits. It is unlawful for any person licensed under this section or fishing under a RCGL to possess fish in excess of recreational possession limits.

(b) Sale of Fish Prohibited. -- It is unlawful for the holder of a RCGL or for a person who is exempt under subsection (j) of this section to sell fish taken under the RCGL or pursuant to the exemption.

(c) Authorized Commercial Gear. -- The Commission shall adopt rules authorizing the use of a limited amount of commercial fishing equipment or gear for recreational fishing under a RCGL. The Commission may authorize the limited use of commercial gear on a uniform basis in all coastal fishing waters or may vary the limited use of commercial gear within specified areas of the coastal fishing waters. The Commission shall periodically evaluate and revise the authorized use of commercial gear for recreational fishing. Authorized commercial gear shall be identified by visible colored tags or other means specified by the Commission in order to distinguish between commercial gear used in a commercial operation and commercial gear used for recreational purposes.

(d) Purchase; Renewal. -- A RCGL may be purchased at designated offices of the Division and from a license agent authorized under G.S. 113-172. A RCGL may be renewed by mail.

(e) Replacement RCGL. -- ~~Upon receipt of a proper application and a two dollar ($2.00) replacement fee, the Division may issue a duplicate RCGL to replace an unexpired RCGL that has been lost or destroyed.~~ The provisions of G.S 113-168.1(h) apply to this section.

(f) Duration; Fees. -- The RCGL shall be valid for a one-year period from the date of purchase. The fee for a RCGL for a North Carolina resident shall be thirty-five dollars ($35.00). The fee for a RCGL for an individual who is not a North Carolina resident shall be two hundred fifty dollars ($250.00).

(g) RCGL Available for Inspection. -- It is unlawful for any person to engage in recreational fishing by means of restricted commercial gear in the State without having ready at hand for inspection a valid RCGL. A holder of a RCGL shall not refuse to exhibit the RCGL upon the request of an inspector or any other law enforcement officer authorized to enforce federal or State laws, regulations, or rules relating to marine fisheries.

(h) Assignment and Transfer Prohibited. -- A RCGL is not transferable. Except as provided in subsection (j) of this section, it is unlawful to buy, sell, lend, borrow, assign, or otherwise transfer a RCGL, or to attempt to buy, sell, lend, borrow, assign, or otherwise transfer a RCGL.

(i) Reporting Requirements. -- The holder of a RCGL shall comply with the biological data sampling and survey programs of the Commission and the Division.

(j) Exemptions. --

(1) A person who is under 16 years of age may take fish for recreational purposes by means of authorized commercial gear without holding a RCGL if the person is accompanied by a parent, grandparent, or guardian who holds a valid RCGL or if the person has in the person's possession a valid RCGL issued to the person's parent, grandparent, or guardian.

(2) A person may take crabs for recreational purposes by means of one or more crab pots attached to the shore along privately owned land or to a privately owned pier without holding a RCGL provided that the crab pots are attached with the permission of the owner of the land or pier.

(3) A person who is on a vessel may take fish for recreational purposes by means of authorized commercial gear without holding a RCGL if there is another person on the vessel who holds a valid RCGL. This exemption does not authorize the use of commercial gear in excess of that authorized for use by the person who holds the valid RCGL or, if more than one person on the vessel holds a RCGL, in excess of that authorized for use by those persons.

(4) A person using nonmechanical means may take shellfish for personal use within the limits specified in G.S. 113-169.2(i) without holding a RCGL."

Section 4.22. G.S. 113-223 reads as rewritten:

"**§ 113-223. Reciprocal agreements by Department generally.**

Subject to the specific provisions of ~~G.S. 113-153~~ G.S. 113-169.5 and ~~G.S. 113-161~~ G.S. 113-170.1 relating to reciprocal provisions as to landing and selling catch and as to licenses, the Department is empowered to make reciprocal agreements with other jurisdictions respecting any of the matters governed in this Subchapter. Pursuant to such agreements the Department may modify provisions of this Subchapter in order to effectuate the purposes of such agreements, in the overall best interests of the conservation of marine and estuarine resources."

Section 4.23. Article 19A of Chapter 113 of the General Statutes reads as rewritten:

"ARTICLE 19A.

"~~South Atlantic~~ Fishery Management ~~Council.~~ Councils.

"**§ 113-259. North Carolina members of the South Atlantic Fishery Management Council.**

(a) In pursuance of Section 302 of the ~~Magnuson~~ Magnuson-Stevens Fishery Conservation and Management Act, 16 ~~United States Code~~ U.S.C. § 1801 ~~et seq.,~~ , et seq., there shall be at least two members of the South Atlantic Fishery Management Council from the State of North Carolina.

(b) The first Council member shall be the principal State official with marine fishery management responsibility and expertise in the State, which official is the Director of the Division of Marine Fisheries of the Department or his designee.

(c) Pursuant to the enabling legislation, other members from the State of North Carolina are selected by the United States Secretary of Commerce from a list of qualified individuals submitted by the Governor of the State. The list of nominees shall be compiled by the Marine Fisheries Commission and must be comprised of individuals who are knowledgeable and experienced with regard to the management, conservation, or commercial or recreational harvest of the fishery resources in the Atlantic Ocean seaward of the ~~States~~ states of North Carolina, South Carolina, Georgia, and Florida. Prior to submission of the list of nominees, the Governor may consult with the Commission regarding additions to the list of nominees to be submitted. Should it be necessary for the Governor to submit additional nominees, the list of nominees shall be compiled by the Marine Fisheries Commission.

"§ 113-260. North Carolina members of the Mid-Atlantic Fishery Management Council.

(a) In pursuance of Section 302 of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801, et seq., there shall be at least two members of the Mid-Atlantic Fishery Management Council from the State of North Carolina.

(b) The first Council member shall be the principal State official with marine fishery management responsibility and expertise in the State, which official is the Director of the Division of Marine Fisheries of the Department or his designee.

(c) Pursuant to the enabling legislation, other members from the State of North Carolina are selected by the United States Secretary of Commerce from a list of qualified individuals submitted by the Governor of the State. The list of nominees shall be compiled by the Marine Fisheries Commission and must be comprised of individuals who are knowledgeable and experienced with regard to the management, conservation, or commercial or recreational harvest of the fishery resources in the Atlantic Ocean seaward of the states of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina. Prior to submission of the list of nominees, the Governor may consult with the Commission regarding additions to the list of nominees to be submitted. Should it be necessary for the Governor to submit additional nominees, the list of nominees shall be compiled by the Marine Fisheries Commission."

Section 4.24. Section 5.2 of S.L. 1997-400 reads as rewritten:

"Section 5.2. (a) Definitions; Citations. The definitions set out in G.S. 113-168 apply to this section. A citation to a provision of the General Statutes in this section means that provision of the General Statutes as enacted by this act.

(b) Transitional Provisions. In order to effect an orderly implementation of this Part and the transition from the moratorium imposed by subsection (a) of Section 3

of Chapter 576 of the 1993 Session Laws, Regular Session 1994, as amended by Section 3 of Chapter 675 of the 1993 Session Laws, Regular Session 1994; subsection (a) of Section 26.5 of Chapter 507 of the 1995 Session Laws; Section 7 of S.L. 1997-256; Section 3 of S.L. 1997-347; and Section 6.1 of this act, to the licensing provision of Article 14A of Chapter 113 of the General Statutes, the provisions of this section shall apply to the issuance of licenses under Article 14A of Chapter 113 of the General Statutes until all Fishery Management Plans have been adopted as required by G.S. 113-182.1 and G.S. 143B-289.22.

(c) Temporary Cap. There is hereby imposed a temporary cap on the total number of SCFLs that the Division may issue. The temporary cap equals the total number of endorsements to sell fish that establish eligibility for a SCFL under subsection (g) of this section plus 500 additional SCFLs, authorized by subsection (d) of this section.

(d) 1999-2000 License Year. For the 1999-2000 license year, the Commission is authorized to issue SCFLs as provided in subsection (g) of this section plus an additional 500 SCFLs using the procedure set out in subsection (h) of this section.

(e) Subsequent License Years. For license years beginning with the 2000-01 license year, the Commission is authorized to issue SCFLs from the pool of available SCFLs as provided in subsection (f) of this section using the procedure set out in subsection (h) of this section.

(f) Adjustment of Number of SCFLs. The number of SCFLs in the pool of available SCFLs in license years beginning with the 2000-01 license year is the temporary cap less the number of SCFLs that ~~are renewed.~~ were issued and renewed during the previous license year. The Commission may increase or decrease the number of SCFLs that are issued from the pool of available SCFLs. The Commission may increase the number of SCFLs that are issued from the pool of available SCFLs up to the temporary cap. The Commission may decrease the number of SCFLs that are issued from the pool of available SCFLs but may not refuse to renew a SCFL that is issued during the previous license year and that has not been suspended or revoked. The Commission shall increase or decrease the number of SCFLs that are issued to reflect its determination as to the effort that the fishery can support, based on the best available scientific evidence.

(g) Eligibility for SCFL. Any person who holds a valid endorsement to sell fish of a vessel license on ~~1 July~~ 30 June 1999 is eligible to receive a SCFL. Any person who holds a valid nonvessel endorsement to sell fish, other than a nonvessel endorsement to sell fish issued for an aquaculture operation or a fishing tournament, on 30 June 1999 is eligible to receive a SCFL. The Division shall issue a SCFL to any person who is eligible under this subsection upon receipt of an application and required fees. If the person held more than one endorsement to sell fish, the person is eligible to receive a SCFL for each endorsement to sell previously held. Eligibility to receive a SCFL under this subsection shall expire ~~1 July~~ 30 June 2000.

(h) Procedure for Issuing Additional SCFLs. The Commission shall determine a procedure for issuing the 500 additional SCFLs authorized by subsection (d) of this section for the 1999-2000 license year and for issuing SCFLs from the pool of

available SCFLs authorized by subsection (e) of this section. The procedure shall set a date on which the Division will begin receiving applications and a date on which the determination by lot of which applicants will receive a SCFL will be made. The Commission shall develop criteria ~~for~~ to be used by the SCFL Eligibility Board in determining eligibility for a SCFL under this subsection. Criteria shall include the past involvement of the applicant and the applicant's family in commercial fishing; the extent to which the applicant has relied on commercial fishing for the applicant's livelihood; the extent to which the applicant has complied with federal and State laws, regulations, and rules relating to coastal fishing and protection of the environment; and any other factors the Commission determines to be relevant. The ~~Division~~ SCFL Eligibility Board shall review each application for a SCFL that ~~it~~ the Division receives during the application period to determine whether the applicant is eligible for a SCFL under the eligibility criteria established by the Commission. The Division shall issue SCFLs under this subsection by lot. All applicants who are determined to be eligible shall have an equal chance of being issued a SCFL.

(i) SCFL Eligibility Board. There is established a SCFL Eligibility Board. The Board shall apply the eligibility criteria adopted by the Commission to determine whether an applicant for a SCFL is eligible for a SCFL under subsection (h) of this section. The Board shall consist of the Secretary of Environment and Natural Resources or the Secretary's designee, the Fisheries Director or the Director's designee, and the Chair of the Commission or the Chair's designee. The Secretary shall designate one member of the Board to serve as Chair of the Board. The Commission shall adopt rules to govern the operation of the Board. The Board is exempt from the provisions of Article 3 of Chapter 150B of the General Statutes. Decisions of the Board shall be subject to judicial review under the provisions of Article 4 of Chapter 150B of the General Statutes."

PART V. MISCELLANEOUS PROVISIONS; EFFECTIVE DATES

Section 5.1. G.S. 77-20 reads as rewritten:

"**§ 77-20. Seaward boundary of coastal lands.**

(a) The seaward boundary of all property within the State of North Carolina, not owned by the State, which adjoins the ocean, is the mean high water mark. Provided, that this section shall not apply where title below the mean high water mark is or has been specifically granted by the State.

(b) Notwithstanding any other provision of law, no agency shall issue any rule or regulation which adopts as the seaward boundary of privately owned property any line other than the mean high water mark. The mean high water mark also shall be used as the seaward boundary for determining the area of any property when such determination is necessary to the application of any rule or regulation issued by any agency.

(c) For purposes of this Article, 'agency' means any part, branch, division, or instrumentality of the State; any county, municipality, or special district; or any

commission, committee, council, or board established by the State, or by any county or municipality.

(d) The public having made frequent, uninterrupted, and unobstructed use of the full width and breadth of the ocean beaches of this State from time immemorial, this section shall not be construed to impair the right of the people to the customary free use and enjoyment of the ocean beaches, which rights remain reserved to the people of this State under the common law and are a part of the common heritage of the State recognized by Article XIV, Section 5 of the Constitution of North Carolina. These public trust rights in the ocean beaches are established in the common law as interpreted and applied by the courts of this State.

(e) As used in this section, 'ocean beaches' means the area adjacent to the ocean and ocean inlets that is subject to public trust rights. This area is in constant flux due to the action of wind, waves, tides, and storms and includes the wet sand area of the beach that is subject to regular flooding by tides and the dry sand area of the beach that is subject to occasional flooding by tides, including wind tides other than those resulting from a hurricane or tropical storm. The landward extent of the ocean beaches is established by the common law as interpreted and applied by the courts of this State. Natural indicators of the landward extent of the ocean beaches include, but are not limited to, the first line of stable, natural vegetation; the toe of the frontal dune; and the storm trash line."

Section 5.2. The Joint Legislative Commission on Seafood and Aquaculture, with the advice and assistance of the Advisory Committee created pursuant to Section 6.11 of S.L. 1997-400, shall study the biological, habitat, and socioeconomic impacts of the use of trawl nets in the sounds, estuaries, and rivers of the State. The Commission and the Advisory Committee shall conduct this study in conjunction with any similar or related studies funded by the Fishery Resource Grant Program. The Commission shall report its findings and recommendations, if any, to the 1999 General Assembly.

Section 5.3. Unless otherwise expressly provided, every agency to which this act applies shall adopt rules to implement the provisions of this act only in accordance with the provisions of Chapter 150B of the General Statutes. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. Every agency to which this act applies that is authorized to adopt rules to implement the provisions of this act may adopt temporary rules to implement the provisions of this act. This section shall continue in effect until all rules necessary to implement the provisions of this act have become effective as either temporary rules or permanent rules.

Section 5.4. The headings to the Parts of this act are a convenience to the reader and are for reference only. The headings do not expand, limit, or define the text of this act.

Section 5.5. If any section or provision of this act is declared unconstitutional or invalid by the courts, the unconstitutional or invalid section or provision does not affect the validity of this act as a whole or any part of this act other than the part declared to be unconstitutional or invalid.

Section 5.6. Sections 1.3, 1.5, 1.8, 2.1, 3.2, 3.8, 4.4, 4.5, 4.23, 5.1, 5.2, 5.3, 5.4, 5.5, and 5.6 of this act are effective when this act becomes law. Sections 3.7 and 3.9 of this act become effective December 1, 1998, and apply to offenses committed on or after that date. Sections 1.4, 3.3, 3.4, 3.10, 4.1, 4.2, 4.3, 4.9, 4.10, 4.11, 4.12, 4.13, 4.14, 4.15, 4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22, and 4.24 become effective July 1, 1999. Section 4.6 is effective retroactively to August 14, 1997. Sections 1.1, 1.2, 1.6, 1.7, 3.1, 3.5, 3.6, 4.7, and 4.8 are effective retroactively to September 1, 1997. Section 4.15 expires September 1, 2003.

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
S.J.R. 1597 A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF SAMUEL JAMES ERVIN, IV MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

X With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
S.J.R. 1599 A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF SAMUEL JAMES ERVIN, IV MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

x With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE JOINT RESOLUTION 1597

Sponsors: Senator Soles.

Referred to: Rules Suspended; Passed 2nd and 3rd; to House.

June 24, 1998

A JOINT RESOLUTION AUTHORIZING THE 1997 GENERAL ASSEMBLY, REGULAR SESSION 1998, TO CONSIDER A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF SAMUEL JAMES ERVIN, IV MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The 1997 General Assembly, Regular Session 1998, may consider "A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF SAMUEL JAMES ERVIN, IV MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION."

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 1

SENATE JOINT RESOLUTION 1599

Sponsors: Senator Soles.

Referred to: Commerce.

July 2, 1998

A JOINT RESOLUTION PROVIDING FOR THE CONFIRMATION OF THE APPOINTMENT OF SAMUEL JAMES ERVIN, IV MADE BY THE GOVERNOR TO MEMBERSHIP ON THE NORTH CAROLINA UTILITIES COMMISSION.

Whereas, under the provisions of G.S. 62-10, appointments made by the Governor to membership on the North Carolina Utilities Commission are subject to confirmation by the General Assembly by joint resolution; and

Whereas, a vacancy has occurred on the North Carolina Utilities Commission because of the resignation of Allyson K. Duncan; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate, the name of his appointee to serve the remainder of the unexpired term on the North Carolina Utilities Commission of Allyson K. Duncan, which will expire June 30, 1999; Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. The appointment of Samuel James Ervin, IV to the North Carolina Utilities Commission for a term to expire June 30, 1999, is confirmed.

Section 2. This resolution is effective upon ratification.

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, OCT. 26, 1998 @ 5:35

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sheila Lapp	Sr. Assistant
Mike Carpenter	NCABA
Jerry Roberts	C.U.C.A.
Katherine Davis	Electricities of NC
Sharon Miller	C.U.C.A.
John Kuster	NCFPC
John Caldwell	AT&T
Don Beason	the capital Group
Mark McClure	DOT
Deborah Ross	ACLU
Steven Schmidt	NC JCDC
Adam Searing	NC HAC
Chris Fitzsimon	Common Sense
Brenda Sullivan	NC Equity
David Farrell	HFCC+C, PA

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
October 26, 1998
7:30 P.M.

The Committee on Rules, Calendar, and Operations of the House met October 26, 1998, at 7:30 p.m. in the House Conference Room in the Legislative Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Crawford, Culp, Dockham, Esposito, Gulley, Mitchell, Neely and Thompson.

The first bill before the Committee was House Committee Substitute for S.B. 1279 - A BILL TO BE ENTITLED AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER TECHNICAL CORRECTIONS AND OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS, introduced by Senator Hartsell. Representative Culp moved for adoption of a committee substitute for discussion and the motion carried. Representative Culp sent forward an amendment to amend the bill on page 21, lines 15-22. Committee Counsel Linwood Jones was recognized to explain the amendment. He stated that the amendment removed Section 40 of the bill, which dealt with a provision having to do with condemnors other than the State being able to condemn railroad property essentially owned by the State. Representative Culp moved for adoption of the amendment and the vote carried. Representative Bowie moved to amend the bill. Linwood Jones explained that when the Board of Transportation Reform Bill was passed recently, there were several provisions for studies to be performed by DOT. All these studies were to be completed by December 31st of this year. DOT asked that one of the studies be delayed until June 30, 1999 because they would need that much time to get it done. Representative Bowie moved for adoption of the amendment and the motion carried. Representative Bowie sent forward another amendment to amend the bill on page 23, lines 27 and 28. Linwood Jones explained that the amendment deals with the changes passed earlier dealing with seizure of vehicles for D.W.I. and what the schools do with them. Everything in the amendment is a clarification of the provisions in the bill that was passed earlier this year. Representative Bowie moved for adoption of the amendment and the motion carried. The Chair recognized Committee Counsel Linwood Jones to explain the technical amendments bill. Representative Dockham moved that the proposed amendments be rolled into a new committee substitute with a favorable report to the committee substitute, unfavorable to the previous House Committee Substitute. The motion carried.

The Chair stated that the appointments are not ready at this time. The Rules Committee will meet at 1:00 on October 27 to take up the Appointments Bill.

The meeting adjourned at 7:40 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:

Committee Report
Bill
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Morgan** for the Committee on **RULES, CALENDAR AND OPERATIONS OF THE HOUSE.**

☒ House Committee Substitute for
S.B. 1279 A BILL TO BE ENTITLED AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER TECHNICAL CORRECTIONS AND OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to House committee substitute bill (# 2), ☒ which changes the title, unfavorable as to House Committee Substitute Bill (# 1).

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3 amendments added under ent. another CS

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 1279
Judiciary Committee Substitute Adopted 8/10/98
Third Edition Engrossed 8/12/98
House Committee Substitute Favorable 10/7/98
Proposed House Committee Substitute S1279-PCS9632-RN

Short Title: 1998 Technical Corrections. (Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO MAKE OTHER TECHNICAL CORRECTIONS, TO CLARIFY THAT THE ATTORNEY GENERAL MAY EXEMPT CERTAIN BUSINESS COMBINATIONS FROM THE SHAREHOLDER PROTECTION ACT, TO AUTHORIZE THE INDUSTRIAL COMMISSION TO ISSUE WRITS OF HABEAS CORPUS AD TESTIFICANDUM, TO RESTORE A PROVISION ON COMMUNITY SERVICE PASSED BUT NOT CODIFIED IN 1997, TO EXTEND THE TIME TO OBTAIN VOLUNTARY EASEMENTS FOR CERTAIN STRUCTURES OVER STATE-OWNED LANDS BY THREE YEARS, TO PROHIBIT CANDIDATES FOR SUPERIOR COURT FROM RUNNING FOR ANOTHER OFFICE AT THE SAME TIME, TO PROHIBIT CERTAIN CONDEMNORS FROM CONDEMNING PROPERTY OWNED BY A RAILROAD COMPANY IN WHICH THE STATE OWNS ALL THE VOTING STOCK, TO REVISE THE APPLICABILITY CLAUSE OF THE WORKPLACE HARASSMENT LAW CONCERNING CASES DISMISSED WITHOUT PREJUDICE PRIOR TO AUGUST 15, 1998, TO PROVIDE FOR THE LICENSING OF THIRD-PARTY ADMINISTRATORS SERVING WORKERS' COMPENSATION SELF-INSURED GROUPS, AND TO PROVIDE FOR DISCOVERY UNDER THE MEDICAL MALPRACTICE REVIEW RULE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-34.6(a)(2) reads as rewritten:

"(2) ~~An~~ A medical responder."

Section 2. G.S. 14-399(c) reads as rewritten:

"(c) Any person who violates this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent offense within three years after the date of a prior offense is punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed."

Section 3. (a) G.S. 14-408 reads as rewritten:

"**§ 14-408. Violation of § 14-406 ~~or 14-407~~ a misdemeanor.**

Any person, firm, or corporation violating any of the provisions of G.S. 14-406 ~~or 14-407~~ shall be guilty of a Class 2 misdemeanor."

(b) This section becomes effective December 1, 1998. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

Section 4. (a) G.S. 14-74 reads as rewritten:

"**§ 14-74. Larceny by servants and other employees.**

If any servant or other employee, to whom any money, goods or other chattels, or any of the articles, securities or choses in action mentioned in ~~the following section,~~ G.S. 14-75, by his master shall be delivered safely to be kept to the use of his master, shall withdraw himself from his master and go away with such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, with intent to steal the same and defraud his master thereof, contrary to the trust and confidence in him reposed by his said master; or if any servant, being in the service of his master, without the assent of his master, shall embezzle such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal them, or to defraud his master thereof, the servant so offending shall be guilty of a felony: Provided, that nothing contained in this section shall extend to apprentices or servants within the age of 16 years. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is one hundred thousand dollars ($100,000) or more, the person is guilty of a Class C felony. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S.

14-75, is less than one hundred thousand dollars ($100,000), the person is guilty of a Class H felony."

(b) G.S. 25-7-502 reads as rewritten:

"**§ 25-7-502. Rights acquired by due negotiation.**

(1) Subject to ~~the following section~~ G.S. 25-7-503 and to the provisions of G.S. 25-7-205 on fungible goods, a holder to whom a negotiable document of title has been duly negotiated acquires thereby:

(a) title to the document;

(b) title to the goods;

(c) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(d) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by him except those arising under the terms of the document or under this article. In the case of a delivery order the bailee's obligation accrues only upon acceptance and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2) Subject to ~~the following section,~~ G.S. 25-7-503, title and rights so acquired are not defeated by any stoppage of the goods represented by the document or by surrender of such goods by the bailee, and are not impaired even though the negotiation or any prior negotiation constituted a breach of duty or even though any person has been deprived of possession of the document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion, or even though a previous sale or other transfer of the goods or document has been made to a third person."

(c) G.S. 25-7-507 reads as rewritten:

"**§ 25-7-507. Warranties on negotiation or transfer of receipt or bill.**

Where a person negotiates or transfers a document of title for value otherwise than as a mere intermediary under ~~the next following section,~~ G.S. 25-7-508, then unless otherwise agreed he warrants to his immediate purchaser only in addition to any warranty made in selling the goods

(a) that the document is genuine; and

(b) that he has no knowledge of any fact which would impair its validity or worth; and

(c) that his negotiation or transfer is rightful and fully effective with respect to the title to the document and the goods it represents."

(d) G.S. 44A-21 reads as rewritten:

"**§ 44A-21. Pro rata payments.**

In the event that the funds in the hands of the obligor and the obligor's personal liability, if any, under ~~the previous section~~ G.S. 44A-20 are less than the amount of valid lien claims that have been filed with the obligor under this Article the parties entitled to liens shall share the funds on a pro rata basis."

Section 5. G.S. 25-8-103(a) reads as rewritten:

"(a) A share ~~of~~ or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security."

Section 6. G.S. 39-23.3(b) reads as rewritten:

"(b) For the purposes of G.S. 39-23.4(a)(2) and G.S. 39-23.5, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, ~~nonexclusive~~ noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement."

Section 7. (a) G.S. 50-11(e) reads as rewritten:

"(e) An absolute divorce obtained within this State shall destroy the right of a spouse to ~~an~~ equitable distribution ~~of the marital property~~ under G.S. 50-20 unless the right is asserted prior to judgment of absolute divorce; except, the defendant may bring an action or file a motion in the cause for equitable distribution within six months from the date of the judgment in such a case if service of process upon the defendant was by publication pursuant to G.S. 1A-1, Rule 4 and the defendant failed to appear in the action for divorce."

(b) G.S. 50-11(f) reads as rewritten:

"(f) An absolute divorce by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property shall not destroy the right of a spouse to ~~an~~ equitable distribution ~~of marital property~~ under G.S. 50-20 if an action or motion in the cause is filed within six months after the judgment of divorce is entered. The validity of such divorce may be attacked in the action for equitable distribution."

(c) G.S. 50-20 reads as rewritten:

"**§ 50-20. Distribution by court of marital and divisible property upon divorce.**

(a) Upon application of a party, the court shall determine what is the marital property and divisible property and shall provide for an equitable distribution of the marital property and divisible property between the parties in accordance with the provisions of this section.

(b) For purposes of this section:

(1) 'Marital property' means all real and personal property acquired by either spouse or both spouses during the course of the marriage and before the date of the separation of the parties, and presently owned, except property determined to be separate property or divisible property in accordance with subdivision (2) or (4) of this subsection. Marital property includes all vested and nonvested pension, retirement, and other deferred compensation rights, and vested and nonvested military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act. It is presumed that all property acquired after the date of marriage and before the date of separation is marital property except property which is separate property under subdivision (2) of this subsection. This presumption may be rebutted by the greater weight of the evidence.

(2) 'Separate property' means all real and personal property acquired by a spouse before marriage or acquired by a spouse by bequest, devise, descent, or gift during the course of the marriage. However, property acquired by gift from the other spouse during the course of the marriage shall be considered separate property only if such an intention is stated in the conveyance. Property acquired in exchange for separate property shall remain separate property regardless of whether the title is in the name of the husband or wife or both and shall not be considered to be marital property unless a contrary intention is expressly stated in the conveyance. The increase in value of separate property and the income derived from separate property shall be considered separate property. All professional licenses and business licenses which would terminate on transfer shall be considered separate property.

(3) 'Distributive award' means payments that are payable either in a lump sum or over a period of time in fixed amounts, but shall not include alimony payments or other similar payments for support and maintenance which are treated as ordinary income to the recipient under the Internal Revenue Code.

(4) 'Divisible property' means all real and personal property as set forth below:

a. All appreciation and diminution in value of marital property and divisible property of the parties occurring after the date of separation and prior to the date of distribution, except that appreciation or diminution in value which is the result of postseparation actions or activities of a spouse shall not be treated as divisible property.

b. All property, property rights, or any portion thereof received after the date of separation but before the date of distribution that was acquired as a result of the efforts of either spouse during the marriage and before the date of separation, including, but not limited to, commissions, bonuses, and contractual rights.

c. Passive income from marital property received after the date of separation, including, but not limited to, interest and dividends.

d. Increases in marital debt and financing charges and interest related to marital debt.

(c) There shall be an equal division by using net value of marital property and not value of divisible property unless the court determines that an equal division is not equitable. If the court determines that an equal division is not equitable, the court shall divide the marital property and divisible property equitably. Factors the court shall consider under this subsection are as follows:

(1) The income, property, and liabilities of each party at the time the division of property is to become effective;
(2) Any obligation for support arising out of a prior marriage;
(3) The duration of the marriage and the age and physical and mental health of both parties;
(4) The need of a parent with custody of a child or children of the marriage to occupy or own the marital residence and to use or own its household effects;
(5) The expectation of pension, retirement, or other deferred compensation rights that are not marital property;
(6) Any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of such marital property by the party not having title, including joint efforts or expenditures and contributions and services, or lack thereof, as a spouse, parent, wage earner or homemaker;
(7) Any direct or indirect contribution made by one spouse to help educate or develop the career potential of the other spouse;
(8) Any direct contribution to an increase in value of separate property which occurs during the course of the marriage;
(9) The liquid or nonliquid character of all marital ~~property;~~ property and divisible property;
(10) The difficulty of evaluating any component asset or any interest in a business, corporation or profession, and the economic desirability of retaining such asset or interest, intact and free from any claim or interference by the other party;
(11) The tax consequences to each party;
(11a) Acts of either party to maintain, preserve, develop, or expand; or to waste, neglect, devalue or convert ~~such~~ the marital ~~property,~~ property or divisible property, or both, during the period after separation of the parties and before the time of distribution; and
(12) Any other factor which the court finds to be just and proper.

(c1) Notwithstanding any other provision of law, a second or subsequent spouse acquires no interest in the marital property and divisible property of his or her spouse from a former marriage until a final determination of equitable distribution is made in the marital property and divisible property of the spouse's former marriage.

(d) Before, during or after marriage the parties may by written agreement, duly executed and acknowledged in accordance with the provisions of G.S. 52-10 and 52-10.1, or by a written agreement valid in the jurisdiction where executed, provide for distribution of the marital property or divisible property, or both, in a manner deemed by the parties to be equitable and the agreement shall be binding on the parties.

(e) Subject to the presumption of subsection (c) of this section that an equal division is equitable, it shall be presumed in every action that an in-kind distribution of marital or divisible property is equitable. This presumption may be rebutted by the

greater weight of the evidence, or by evidence that the property is a closely held business entity or is otherwise not susceptible of division in-kind. In any action in which the presumption is rebutted, the court in lieu of in-kind distribution shall provide for a distributive award in order to achieve equity between the parties. The court may provide for a distributive award to facilitate, effectuate or supplement a distribution of marital or divisible property. The court may provide that any distributive award payable over a period of time be secured by a lien on specific property.

(f) The court shall provide for an equitable distribution without regard to alimony for either party or support of the children of both parties. After the determination of an equitable distribution, the court, upon request of either party, shall consider whether an order for alimony or child support should be modified or vacated pursuant to G.S. 50-16.9 or 50-13.7.

(g) If the court orders the transfer of real or personal property or an interest therein, the court may also enter an order which shall transfer title, as provided in G.S. 1A-1, Rule 70 and G.S. 1-228.

(h) If either party claims that any real property is marital ~~property,~~ property or divisible property, that party may cause a notice of lis pendens to be recorded pursuant to Article 11 of Chapter 1 of the General Statutes. Any person whose conveyance or encumbrance is recorded or whose interest is obtained by descent, prior to the filing of the lis pendens, shall take the real property free of any claim resulting from the equitable distribution proceeding. The court may cancel the notice of lis pendens upon substitution of a bond with surety in an amount determined by the court to be sufficient provided the court finds that the claim of the spouse against property subject to the notice of lis pendens can be satisfied by money damages.

(i) Upon filing an action or motion in the cause requesting an equitable distribution or alleging that an equitable distribution will be requested when it is timely to do so, a party may seek injunctive relief pursuant to G.S. 1A-1, Rule 65 and Chapter 1, Article 37, to prevent the disappearance, waste or conversion of property alleged to be marital ~~property~~ property, divisible property, or separate property of the party seeking relief. The court, in lieu of granting an injunction, may require a bond or other assurance of sufficient amount to protect the interest of the other spouse in the ~~marital or separate~~ property. Upon application by the owner of separate property which was removed from the marital home or possession of its owner by the other spouse, the court may enter an order for reasonable counsel fees and costs of court incurred to regain its possession, but such fees shall not exceed the fair market value of the separate property at the time it was removed.

(i1) Unless good cause is shown that there should not be an interim distribution, the court may, at any time after an action for equitable distribution has been filed and prior to the final judgment of equitable distribution, enter orders declaring what is separate property and may also enter orders dividing part of the marital property, divisible property or debt, or marital debt between the parties. The partial distribution may provide for a distributive award and may also provide for a distribution of marital property, marital debt, divisible property, or divisible debt.

Any such orders entered shall be taken into consideration at trial and proper credit given.

Hearings held pursuant to this subsection may be held at sessions arranged by the chief district court judge pursuant to G.S. 7A-146 and, if held at such sessions, shall not be subject to the reporting requirements of G.S. 7A-198.

(j) In any order for the distribution of property made pursuant to this section, the court shall make written findings of fact that support the determination that the marital property and divisible property has been equitably divided.

(k) The rights of the parties to an equitable distribution of marital property and divisible property are a species of common ownership, the rights of the respective parties vesting at the time of the parties' separation."

Section 8. G.S. 62-268 reads as rewritten:

"**§ 62-268. Security for protection of public; liability insurance.**

No certificate or broker's license shall be issued or remain in force until the applicant shall have procured and filed with the Division of Motor Vehicles such security bond, insurance or self-insurance for the protection of the public as the Commission shall by regulation require. The Commission shall require that every motor carrier for which a certificate or license is required by the ~~provision~~ provisions of this Chapter, shall maintain liability insurance or satisfactory surety of at least fifty thousand dollars ($50,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, one hundred thousand dollars ($100,000) because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars ($50,000) because of injury to or destruction of property of others in any one accident; and the Commission may require any greater amount of insurance as may be necessary for the protection of the public. Notwithstanding any rule or regulation to the contrary, the Commission shall not require that any insurance procured and filed be provided in any single policy of insurance or through a single insurer, if the insurers involved are otherwise qualified. A motor carrier may satisfy the requirements of the Commission by procuring insurance with coverage and limits of liability required by the Commission in one or more policies of insurance issued by one or more insurers.

Notwithstanding any other provisions of this section or Chapter, bus companies shall file with the Commission proof of financial responsibility in the form of bonds, policies of insurance, or shall qualify as a self insurer, with minimum levels of financial responsibility as prescribed for motor carriers of passengers pursuant to the provisions of 49 U.S.C. § ~~10927(a)(1).~~ 31138. Provided, further, that no bus company operating solely within the State of North Carolina and which is exempt from regulation under the provisions of G.S. 62-260(a)(7) shall be required to file with the Commission proof of the financial responsibility in excess of one million five hundred thousand dollars ($1,500,000)."

Section 9. G.S. 78C-16(b) reads as rewritten:

"(b) It is unlawful for any person required to be registered as an investment adviser under this Chapter to employ an investment adviser representative unless the investment adviser representative is registered under this Chapter. The registration of

an investment adviser representative is not effective during any period when the investment adviser representative is not employed by (i) an investment adviser registered under this Chapter; or (ii) an investment adviser covered under federal law who has made a notice filing pursuant to the provisions of G.S. 78C-17(a1). When an investment adviser representative begins or terminates employment or association with an investment adviser who is registered under this Chapter, the investment adviser shall notify promptly the Administrator. When an investment adviser representative begins or terminates employment or association with an investment adviser covered under federal law, the investment adviser representative shall, and the investment adviser may, notify promptly the Administrator. ~~No investment adviser representative may be registered with more than one investment adviser unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control.~~ No investment adviser representative may be registered with more than one investment adviser or investment adviser covered under federal law unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control."

Section 10. G.S. 90-113.40(a)(8) reads as rewritten:

"(8) The applicant <u>for</u> substance abuse counselor has completed either a total of 6,000 hours of supervised experience in the field, whether paid or volunteer, or, if a graduate of a Board-approved master's degree program, a total of 3,000 hours of supervised experience in the field, whether paid or volunteer. The applicant for substance abuse prevention consultant has completed a total of 10,000 hours supervised experience in the field, whether paid or volunteer, or 4,000 hours if the applicant has at least a bachelors degree in a human services field."

Section 11. G.S. 110-91(10) reads as rewritten:

"(10) Each operator or staff member shall attend to any child in a nurturing and appropriate manner, and in keeping with the child's developmental needs.

Each ~~child~~ child care facility shall have a written policy on discipline, describing the methods and practices used to discipline children enrolled in that facility. This written policy shall be discussed with, and a copy given to, each child's parent prior to the first time the child attends the facility. Subsequently, any change in discipline methods or practices shall be communicated in writing to the parents prior to the effective date of the change.

The use of corporal punishment as a form of discipline is prohibited in ~~child~~ child care facilities and may not be used by any operator or staff member of any child care facility, except that corporal punishment may be used in ~~religious sponsored child~~ religious sponsored child care facilities as defined in G.S. 110-106, only if (i) the ~~religious sponsored child~~ religious

sponsored child care facility files with the Department a notice stating that corporal punishment is part of the religious training of its program, and (ii) the ~~religious sponsored child~~ religious sponsored child care facility clearly states in its written policy of discipline that corporal punishment is part of the religious training of its program. The written policy on discipline of ~~nonreligious sponsored child~~ nonreligious sponsored child care facilities shall clearly state the prohibition on corporal punishment."

Section 12. G.S. 115C-404(a) reads as rewritten:

"(a) Written notifications received in accordance with ~~G.S. 7A-675.1~~ G.S. 7A-675.2 are confidential records, are not public records as defined under G.S.132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall maintain these documents until the principal receives notification that the judge dismissed the petition under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court under G.S. 7A-608, or the judge granted the student's petition for expunction of the records. At that time, the principal shall shred, burn, or otherwise destroy the documents to protect the confidentiality of this information. In no case shall the principal make a copy of these documents."

Section 13. G.S. 130A-233 reads as rewritten:

"**§ 130A-233. Definitions.**

The following definitions apply to this Part:

(1) Coastal fishing ~~waters, as defined~~ waters. -- Defined in G.S. 113-129(4).

(2) Inland fishing ~~waters, as defined~~ waters. -- Defined in G.S. 113-129(9)."

Section 14. (a) G.S. 139-3.1 is repealed.

(b) The repeal of this section shall not be construed to affect any language currently in the General Statutes.

Section 15. G.S. 143-53(a)(2) reads as rewritten:

"(2) Prescribing the routine, including consistent contract language, for securing bids on items that do not ~~not~~ exceed the bid value benchmark established under the provisions of G.S. 143-53.1 or G.S. 116-31.10.

The purchasing delegation for securing ~~offers,~~ offers (excluding the special responsibility constituent institutions of The University of North Carolina), for each State department, institution, agency, community college, and public school administrative unit shall be determined by the Director of the Division of Purchase and Contract. For the State agencies this shall be done following the Director's consultation with the State Budget Officer and the State Auditor. The Director for the

Division of Purchase and Contract may set or lower the delegation, or raise the delegation upon written request by the agency, after consideration of their overall capabilities, including staff resources, purchasing compliance reviews, and audit reports of the individual agency. The routine prescribed by the Secretary shall include contract award protest procedures and consistent requirements for advertising of solicitations for securing offers issued by State departments, institutions, universities (including the special responsibility constituent institutions of The University of North Carolina), agencies, community colleges, and the public school administrative units."

Section 16. G.S. 143-129(f) reads as rewritten:

"(f) The provisions of this Article shall not apply to purchases of apparatus, supplies, materials, or equipment when performance or price competition for a product are not available; when a needed product is available from only one source of supply; or when standardization or compatibility is the overriding consideration. Notwithstanding any other provision of this section, the governing board of a municipality, county, or other subdivision of the State shall approve ~~purchases made under this exception~~ the purchases listed in the preceding sentence prior to the award of the contract. In the case of purchases by hospitals, in addition to the other exceptions in this subsection, the provisions of this Article shall not apply when a particular medical item or prosthetic appliance is needed; when a particular product is ordered by an attending physician for his patients; when additional products are needed to complete an ongoing job or task; when products are purchased for 'over-the-counter' resale; when a particular product is needed or desired for experimental, developmental, or research work; or when equipment is already installed, connected, and in service under a lease or other agreement and the governing body of the hospital determines that the equipment should be purchased. The governing body of a hospital, municipality, county or other political subdivision of the State shall keep a record of all purchases made pursuant to this ~~exception.~~ subsection. These records are subject to public inspection."

Section 17. G.S. 143B-283(a)(8) reads as rewritten:

"(8) One who shall, at the time of appointment, be actively employed by, or recently retired from, an industrial manufacturing facility and knowledgeable in ~~in~~ the field of industrial air and water pollution control;".

Section 18. (a) G.S. 143B-289.52(e) reads as rewritten:

"(e) The Commission may adopt rules to implement or comply with a fisheries management plan adopted by the Atlantic States Marine Fisheries Commission or an interstate fisheries management council. Notwithstanding G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any time within six months of the adoption of a fisheries management plan by the Atlantic States Marine Fisheries ~~Council~~ Commission or an interstate fisheries management council."

(b) If House Bill 1448, 1997 Regular Session becomes law prior to the date this act becomes law and amends G.S. 143B-289.52(e), then this section shall not become effective. If House Bill 1448, 1997 Regular Session becomes law after the date this act becomes law and amends G.S. 143B-289.52(e), then this section of this act is repealed.

Section 19. G.S. 143B-433 reads as rewritten:

"**§ 143B-433. Department of Commerce -- organization.**

The Department of Commerce shall be organized to include:

~~(a)~~ (1) The following agencies:

~~(1)~~ a. The North Carolina Alcoholic Beverage Control ~~Commission,~~ Commission.

~~(2)~~ b. The North Carolina Utilities ~~Commission,~~ Commission.

~~(3)~~ c. The Employment Security ~~Commission,~~ Commission.

~~(4)~~ d. The North Carolina Industrial ~~Commission,~~ Commission.

~~(5)~~ e. State Banking ~~Commission,~~ Commission.

~~(6)~~ f. Savings and Loan Association ~~Division,~~ Division.

~~(7)~~ g. The State Savings Institutions ~~Commission,~~ Commission.

~~(8)~~ h. Credit Union ~~Commission,~~ Commission.

~~(9)~~ i. The North Carolina Milk ~~Commission,~~ Commission.

~~(10)~~ j. The North Carolina Mutual Burial Association ~~Commission,~~ Commission.

~~(11)~~ k. North Carolina Cemetery ~~Commission,~~ Commission.

~~(12)~~ l. The North Carolina Rural Electrification ~~Authority,~~ Authority.

~~(13)~~ m. Repealed by Session Laws 1985, c. 757, s. 179(d).

~~(14)~~ n. North Carolina Science and Technology Research ~~Center,~~ Center.

~~(15)~~ o. The North Carolina State Ports ~~Authority,~~ Authority.

~~(16)~~ p. North Carolina National Park, Parkway and Forests Development ~~Council,~~ Council.

~~(17)~~ q. Economic Development ~~Board,~~ Board.

~~(18)~~ r. Labor Force Development ~~Council,~~ Council.

~~(19)~~ s. Energy Policy ~~Council,~~ Council.

~~(20)~~ t. Energy ~~Division,~~ Division.

~~(21)~~ u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.

~~(22)~~ v. Repealed by Session Laws 1993, c. 321, s. 313(b).

~~(b)~~ (2) Those agencies which are transferred to the Department of Commerce including the:

~~(1)~~ a. Community Assistance ~~Division,~~ Division.

~~(2)~~ b. Community Development ~~Council,~~ Council.

~~(3)~~ c. Employment and Training ~~Division, and~~ Division.

~~(4)~~ d. Job Training Coordinating ~~Council; and~~ Council.

~~(c)~~ (3) Such divisions as may be established pursuant to Article 1 of this Chapter."

Section 20. G.S. 157-35 reads as rewritten:

"**§ 157-35. Creation of regional housing authority.**

If the board of county commissioners of each of two or more contiguous counties having an aggregate population of more than 60,000 by resolution declares that there is a need for one housing authority to be created for all of such counties to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties ~~to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties~~ shall (after the commissioners thereof file an application with the Secretary of State as hereinafter provided) thereupon exist for and exercise its powers and other functions in such counties; and thereupon any housing authority created for any of such counties shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided: Provided, that the board of county commissioners shall not adopt a resolution as aforesaid if there is a county housing authority created for such county which has any bonds or notes outstanding unless first, all holders of such bonds and notes consent in writing to the substitution of such regional housing authority in lieu of such county housing authority on all such bonds and notes; and second, the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided: Provided, further, that when the above conditions are complied with and such regional housing authority is created and authorized to exercise its powers and other functions, all rights, contracts, agreements, obligations, and property, real and personal, of such county housing authority shall be in the name of and vest in such regional housing authority, and all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they might have been asserted, enforced, and prosecuted against such county housing authority. When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed in the office provided for the filing of deeds: Provided, that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The board of county commissioners of each of two or more said contiguous counties shall by resolution declare that there is a need for one regional housing authority to be created for all of such counties to exercise powers and other functions

herein prescribed in such counties, if such board of county commissioners finds (and only if it finds)

(1) Insanitary or unsafe dwelling accommodations exist in the area of its respective county and/or there is a lack of safe or sanitary dwelling accommodations in the county available for all the inhabitants thereof and

(2) That a regional housing authority for the proposed region would be a more efficient or economical administrative unit than a housing authority for an area having a smaller population to carry out the purposes of the housing authorities law and any amendments thereto, in such county.

In determining whether dwelling accommodations are unsafe or insanitary, the board of county commissioners shall take into consideration the following: the physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

If it shall determine that both (1) and (2) of the above enumerated conditions exist, the board of county commissioners shall adopt a resolution so finding (which need not go into any detail other than the mere finding). After the appointment, as hereinafter provided, of the commissioners to act as the regional housing authority, said authority shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings:

The commissioners shall present to the Secretary of State an application signed by them, which shall set forth (without any detail other than the mere recital)

(1) That the boards of county commissioners made the aforesaid determination and that they have been appointed as commissioners;

(2) The name, and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this Article;

(3) The term of office of each of the commissioners;

(4) The name which is proposed for the corporation; and

(5) The location of the principal office of the proposed corporation.

The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the State to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical

with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners, a certificate of incorporation pursuant to this Article, under the seal of the State, and shall record the same with the application.

In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the regional housing authority, the regional housing authority shall be conclusively deemed to have been established in accordance with the provisions of this Article upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof."

Section 21. Effective July 1, 1997, subsection (d) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(d) This ~~act~~ section applies only to Columbus, Durham, and Rockingham Counties."

Section 22. Effective July 1, 1997, subsection (e) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(e) This ~~act~~ section becomes effective October 1, 1997, and expires June 30, 1998."

Section 23. The prefatory language of Section 6 of S.L. 1997-452 reads as rewritten:

"Section 6. Section 115.6(b) of the Charter of the City of Durham, being Chapter 671 of the ~~1995~~ 1975 Session Laws, as added by Chapter 476 of the 1989 Session Laws and rewritten by Chapter 992 of the 1991 Session Laws, reads as rewritten:".

Section 24. G.S. 75E-3 reads as rewritten:

"**§ 75E-3. Investigative and regulatory powers of the Attorney General.**

The Attorney General may conduct such investigations as the Attorney General deems necessary to determine compliance by all persons or entities with the provisions of Articles 9 and 9A of Chapter 55 of the General ~~Statutes.~~ Statutes; and the Attorney General may exempt from the provisions of Article 9 of Chapter 55 of the General Statutes any business combination that is solely an internal corporate restructuring which does not effect any material change in the ultimate ownership of the corporation and does not affect the ongoing applicability of that Article to the corporation or any other entity. In performing any such investigations, the Attorney General shall have all the powers given him by G.S. 75-10. The provisions of G.S. 75-11 and G.S. 75-12 shall apply to this Chapter."

Section 25. (a) G.S. 90-113.38(b) reads as rewritten:

"(b) The fee to obtain a certificate of certification for a clinical addictions specialist pursuant to ~~G.S. 90-113.41A~~ deemed status may not exceed one hundred dollars ($100.00). The fee to renew a certificate may not exceed fifty dollars ($50.00).

The fee to obtain a certificate of certification for a clinical addictions specialist ~~under G.S. 90-113.40~~ pursuant to all other procedures authorized by this Article may not exceed three hundred twenty-five dollars ($325.00). The fee to renew the certificate may not exceed one hundred dollars ($100.00)."

(b) Section 17 of S.L. 1997-492 reads as rewritten:

"Section 17. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the North Carolina Substance Abuse Professional Certification Board (Board) may certify a person as a 'Clinical Addictions Specialist' during a limited period of one year after the effective date of this act upon completion of any prescribed continuing education requirements that are required during the course of this year for renewal of the original certification, payment of the fee as required for renewal of the original certification, payment of the clinical addictions specialist certification fee, and the submission of proof of one of the following to the Board:

(1) Certification as a substance abuse counselor holding a master's degree with a clinical application in a human services field; the equivalent of two years of full-time post-graduate supervised substance abuse experience; and three letters of reference from certified substance abuse professionals who have master's degrees.

(2) Certification as a substance abuse counselor with a bachelors degree in a human services field; the equivalent of five years of full-time, post-graduate, supervised substance abuse experience; a passing score on a master's level written examination; and submission of three letters of reference from certified substance abuse professionals who have master's degrees.

(3) Certification as a clinical supervisor; a master's degree with a clinical application in a human services field; and three letters of reference from certified substance abuse professionals who have master's degrees.

(4) Certification as a substance abuse counselor; a master's degree with a clinical application in a human services field with a substance abuse specialty; and three letters of reference from certified substance abuse professionals who have master's degrees.

(5) Certification before July 1, 1994, as an alcohol counselor, a drug and alcohol counselor, or a substance abuse counselor; the equivalent of 10 years of documented full-time substance abuse work experience; and three letters of reference from certified substance abuse professionals who have master's degrees.

(6) Certification, licensure, or membership in good standing with a professional discipline that has been granted deemed status under G.S. 90-113.41A, as enacted by Section 11 of this act."

(c) Section 18 of S.L. 1997-492 reads as rewritten:

"Section 18. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the Board may certify an applicant as a 'Clinical Addictions Specialist' during a

limited period of three years beginning October 1, 1998, if the applicant completes any prescribed continuing education requirements that are required during the course of these years for renewal of the original certification, pays the fee as required for renewal of the original certification, pays the clinical addictions specialist certification fee, and submits proof to the Board that the applicant: (i) has been certified as a substance abuse counselor; (ii) has the equivalent of 10 years of supervised, full-time, substance abuse counseling experience; (iii) has passed a master's level oral and written examination and; (iv) submits three letters of reference from certified substance abuse professionals who hold master's degrees."

(d) This section is effective on and after October 1, 1997.

Section 26. G.S. 95-97 is repealed.

Section 27. G.S. 95-128(3) and (4) read as rewritten:

"(3) Employees whose safety and health are subject to protection under the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801) and the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 725), or ~~the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-41);~~ Subtitle V of Title 49 of the United States Code;

(4) Railroad employees whose safety and health are subject to protection under ~~the Federal Safety Appliance Act (45 U.S.C. 1-50), or the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-41);~~ Subtitle V of Title 49 of the United States Code;".

Section 28. G.S. 95-174(k) reads as rewritten:

"(k) 'Hazardous chemical' shall mean any element, chemical compound or mixture of elements and/or compounds which is a physical hazard or health hazard as defined in subsection (c) of the ~~NCOSHA~~ OSHNC Standard or a hazardous substance as defined in ~~subsection (d)(3) of the NCOSHA Standard.~~ standards adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7)."

Section 29. G.S. 95-174(p) reads as rewritten:

"(p) 'Material Safety Data Sheets' or 'MSDS' shall mean chemical information sheets drawn up in conformity to standards for material safety data sheets adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7). ~~in 13 North Carolina Administrative Code 7C .0101(a)(99) (hereinafter designated as 13 N.C.A.C. 7C .0101(a)(99).~~"

Section 30. G.S. 95-174(r) reads as rewritten:

"(r) '~~NCOSHA~~ OSHNC Standard' shall mean the ~~currently adopted~~ current Hazard Communication Standard adopted by the Occupational Safety and Health Division of North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7). ~~13 North Carolina Administrative Code 7C .0101(a)(99), as amended.~~"

Section 31. G.S. 95-198(b) reads as rewritten:

"(b) In nonemergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under this section, to a ~~health professional,~~ responsible party, as defined in ~~13 N.C.A.C. 7C .0101(a)(99),~~ the standards adopted in Title 13, Subchapter 7F of the North Carolina Administrative Code (13 NCAC 7F), providing medical or other occupational health services to exposed persons if the request is in writing and states the medical need for the information. The employer may require that the ~~health care provider~~ responsible party sign a confidentiality agreement prior to release of the information. The parties are not precluded from pursuing noncontractual remedies to the extent permitted by law."

Section 31.1. (a) Article 1 of Chapter 97 of the General Statutes is amended by adding a new section to read:

"**§ 97-101.1. Commission may issue writs of habeas corpus.**

The Industrial Commission may issue a writ of habeas corpus ad testificandum under Article 8 of Chapter 17 of the General Statutes although it is not a court of record."

(b) G.S. 143-296 reads as rewritten:

"**§ 143-296. Powers of Industrial Commission; deputies.**

The members of the Industrial Commission, or a deputy thereof, shall have power to issue subpoenas, administer oaths, conduct hearings, take evidence, enter orders, opinions, and awards based thereon, ~~and~~ punish for ~~contempt.~~ contempt, and issue writs of habeas corpus ad testificandum pursuant to G.S. 97-101.1. The Industrial Commission is authorized to appoint deputies and clerical assistants to carry out the purpose and intent of this Article, and such deputy or deputies are hereby vested with the same power and authority to hear and determine tort claims against State departments, institutions, and agencies as is by this Article vested in the members of the Industrial Commission. Such deputy or deputies shall also have and are hereby vested with the same power and authority to hear and determine cases arising under the Workers' Compensation Act when assigned to do so by the Industrial Commission. The Commission may order parties to participate in mediation, under rules substantially similar to those approved by the Supreme Court for use in the Superior Court division, except the Commission shall determine the manner in which payment of the costs of the mediated settlement conference is assessed."

Section 32. (a) G.S. 105-116(a), as amended by S.L. 1998-22, reads as rewritten:

"(a) Tax. -- An annual franchise or privilege tax is imposed on the following:

(1) An electric power company engaged in the business of furnishing electricity, electric lights, current, or power.

(2) Repealed by S.L. 1998-22, s.2.

(2a) Repealed by S.L. 1998-22, s.2.

(3) A water company engaged in owning or operating a water system subject to regulation by the North Carolina Utilities Commission.

(4) A public sewerage company engaged in owning or operating a public sewerage system.

The tax on an electric power company is three and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from the business of furnishing electricity, electric lights, current, or power. ~~The tax on a regional natural gas district is three and twenty-two hundredths percent (3.22%) of the district's taxable gross receipts from the furnishing of piped natural gas.~~ The tax on a water company is four percent (4%) of the company's taxable gross receipts from owning or operating a water system subject to regulation by the North Carolina Utilities Commission. The tax on a public sewerage company is six percent (6%) of the company's taxable gross receipts from owning or operating a public sewerage company. A company's taxable gross receipts are its gross receipts from business inside the State less the amount of gross receipts from sales reported under subdivision (b)(2). A company that engages in more than one business taxed under this section shall pay tax on each business. A company is allowed a credit against the tax imposed by this section for the company's investments in certain entities in accordance with Division V of Article 4 of this Chapter."

(b) G.S. 105-187.44(a), as enacted by S.L. 1998-22, reads as rewritten:

"(a) City Information. -- A monthly return filed under this Article must indicate the amount of tax attributable to the following: ~~if a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city:~~

(1) Piped natural gas delivered during the month to sales or transportation customers in each city in the State.

(2) Piped natural gas received during the month in each city in the State by persons who have direct access to an interstate gas pipeline and who receive the gas for their own consumption.

If a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city."

(c) This section becomes effective July 1, 1999.

Section 33. G.S. 130A-24(b) reads as rewritten:

"(b) Appeals concerning the enforcement of rules adopted by the local board of health and concerning the imposition of administrative penalties by a local health director shall be conducted in accordance with this subsection and subsections ~~(b),~~ (c) and (d) of this section. The aggrieved person shall give written notice of appeal to the local health director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect. Upon filing of the notice, the local health director shall, within five working days, transmit to the local board of health the notice of appeal and the papers and materials upon which the challenged action was taken."

Section 34. G.S. 143B-475.1 is rewritten by adding a new subsection to read:

"(f) The community service staff shall report to the court in which the community service was ordered, a significant violation of the terms of the probation, or deferred prosecution, related to community service. The community service staff shall give

notice of the hearing to determine if there is a willful failure to comply to the person who was ordered to perform the community service. This notice shall be given by either personal delivery to the person to be notified or by depositing the notice in the United States mail in an envelope with postage prepaid, addressed to the person at the address shown on the records of the community service staff. The notice shall be mailed at least 10 days prior to any hearing and shall state the basis of the alleged willful failure to comply. The court shall then conduct a hearing, even if the person ordered to perform the community service fails to appear, to determine if there is a willful failure to complete the work as ordered by the community service staff within the applicable time limits. If the court determines there is a willful failure to comply, it shall revoke any drivers license issued to the person and notify the Division of Motor Vehicles to revoke any drivers license issued to the person until the community service requirement has been met. In addition, if the person is present, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation."

Section 35. (a) G.S. 146-12(c) reads as rewritten:

"(c) Voluntary Easement Applications for Existing Structures. -- Riparian or littoral property owners of existing structures may voluntarily obtain an easement under subsection (b) of this section in accordance with the procedures set forth in this section. For purposes of this section, the term 'existing structures' means all presently existing piers, docks, marinas, wharves, and other structures located over or upon State-owned lands covered by navigable waters. Applications for voluntary easements shall be received by the State Property Office ~~within 36 months of the effective date of this section.~~ no later than 1 October 2001."

(b) G.S. 146-12(d) reads as rewritten:

"(d) Notification of Availability of Voluntary Easements. -- The State Property Office shall provide public notice of the availability of voluntary easements by placing an advertisement in one newspaper of general circulation in each of the coastal counties identified under G.S. 113A-103(2) at least once every six ~~months during the 36-month period.~~ months. The final notice shall be placed ~~at least 30 days prior to the expiration of the 36-month period.~~ no later than 1 September 2001."

(c) This section is effective retroactively to August 31, 1998, and applies to applications for voluntary easements received by the State Property Office on or after that date.

Section 36. (a) G.S. 163-323(e) reads as rewritten:

"(e) Candidacy for More Than One Office Prohibited. -- No person may file a notice of candidacy for more than one office or group of offices described in subsection (b) of this ~~section~~ section, or for an office or group of offices described in subsection (b) of this section and an office described in G.S. 163-106(c), for any one election. If a person has filed a notice of candidacy with a board of elections under this section or under G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not later be filed for any other office or group of offices under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (c) of this section."

(b) This section is effective on and after February 1, 1999.

Section 37. The prefatory language of Section 1 of S.L. 1998-37 reads as rewritten:

"Section 1. G.S. 153A-335, as it applies to Stanly County under Chapter 930 of the 1987 Session Laws, as amended by Chapter 504 of the 1991 Session Laws and Chapter 574 of the 1993 Session Laws, reads as rewritten:".

Section 38. Section 5.1 of the Charter of the Town of Forest Hills, being Section 1 of S.L. 1997-345, reads as rewritten:

"Section 5.1. **Mayor-Council Plan.** The Village of Forest Hills operates under the Mayor-Council Plan as provided by Part 3 of Article 7 of Chapter ~~160B~~ 160A of the General Statutes. The Mayor shall vote only in those cases necessary to break a tie."

Section 39. The prefatory language of Section 1 of S.L. 1998-72 reads as rewritten:

"Section 1. G.S. 115D-15 reads ~~are~~ as rewritten:".

Section 40. G.S. 40A-5(a) reads as rewritten:

"(a) A condemnor listed in G.S. 40A-3(a), (b) or (c) shall not possess the power of eminent domain with respect to property owned by the State of North Carolina or a railroad company in which the State is the owner of all the voting stock unless the State consents to the taking. The State's consent shall be given by the Council of State, or by the Secretary of Administration if the Council of State delegates this authority to him. In a condemnation proceeding against State property consented to by the State, the only issue shall be the compensation to be paid for the property."

Section 41. G.S. 89C-13(b)(1)d., as amended by S.L. 1998-118, reads as rewritten:

"d. Graduation from a high school or the completion of a high school equivalency certificate and a record satisfactory to the Board of seven years of progressive practical experience, six years of which shall have been under a practicing licensed land surveyor, and satisfactorily passing any oral and written examinations required by the Board, all of which shall determine and indicate that the candidate is competent to practice land surveying. The applicant may be qualified by the Board to take the first examination (Surveying Fundamentals) upon graduation from high school or the completion of a high school equivalency certificate and successfully completing ~~six~~ five years of progressive practice experience, ~~five~~ four of which shall have been under a practicing licensed land surveyor. ~~The applicant may apply to take the second examination (Principles and Practice of Land Surveying) upon passing the first examination and successfully completing four years of progressive practical experience, two of which shall have been under a practicing licensed land surveyor.~~"

Section 42. G.S. 105-130.17(f) is repealed.

Section 43. G.S. 105-122(a) reads as rewritten:

"(a) Every corporation, domestic and foreign, incorporated, or, by an act, domesticated under the laws of this State or doing business in this State, except as otherwise provided in this Article or schedule, shall, on or before the fifteenth day of the third month following the end of its income year, annually, make and deliver to the Secretary of Revenue in such form as he may prescribe a full, accurate and complete report and statement signed by either its president, vice-president, treasurer, assistant treasurer, secretary or assistant secretary, containing such facts and information as may be required by the Secretary of Revenue as shown by the books and records of the corporation at the close of such income year.

There shall be annexed to the return required by this subsection the affirmation of the officer signing the ~~return in the following form: "Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this return, including any accompanying schedules and statements, is true and complete. If prepared by a person other than taxpayer, his affirmation is based on all information of which he has any knowledge."~~ return."

Section 44. G.S. 105-155(c) is repealed.

Section 45. G.S. 120-123(55) and (65) are repealed.

Section 46. (a) G.S. 130A-335(f1), as enacted by Section 1 of S.L. 1998-126, is recodified as G.S. 130A-335(f2).

(b) This section is effective retroactively to August 28, 1998.

Section 47. G.S. 153A-15, as amended by S.L. 1998-110, reads as rewritten:

"**§ 153A-15. Consent of board of commissioners necessary in certain counties before land may be condemned or acquired by a unit of local government outside the county.**

(a) Notwithstanding the provisions of ~~G.S. 153A-159, Article 11 of Chapter 160A of the General Statutes, G.S. 130-130,~~ Chapter ~~40~~ 40A of the General ~~Statutes,~~ Statutes or any other general law or local act conferring the power of eminent domain, before final judgment may be entered in any action of condemnation initiated ~~(or in the case of Article 11 of Chapter 160A, before a final condemnation resolution is adopted)~~ by a county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county, whereby the condemnor seeks to acquire property located in the other county, the condemnor shall furnish proof that the county board of commissioners of the county where the land is located has consented to the taking.

(b) Notwithstanding the provisions of G.S. 153A-158, ~~Chapter 160A of the General Statutes~~ 160A-240.1, ~~Article 12 of Chapter 130 of the General Statutes,~~ 130A-55, or any other general law or local act conferring the power to acquire real property, before any county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county acquires any real property located in the other county by exchange, purchase or lease, it must have the approval of the county board of commissioners of the county where the land is located.

(c) This section applies to Alamance, Alleghany, Anson, Ashe, Bertie, Bladen, Brunswick, Burke, Buncombe, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Montgomery, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Union, Vance, Wake, Warren, Watauga, Wilkes, and Yancey ~~counties~~ Counties only.

(d) This section does not apply as to ~~any:~~

~~(1) Condemnation; or~~

~~(2) Acquisition~~

any condemnation or acquisition of real property or an interest in real property by a city where the property to be condemned or acquired is within the corporate limits of that city."

Section 48. G.S. 158-35(a) reads as rewritten:

"(a) Commission Membership. -- The governing body of the Zone is the Global TransPark Development Commission. The members of the Commission must be residents of the Zone and shall be appointed as follows:

(1) The board of commissioners of each county participating in the Zone shall appoint three voting members, one of whom shall be a minority person as defined in ~~G.S. 143-128(e)~~ G.S. 143-128(f)(2) and one of whom may be a member of the board of commissioners.

(2) The Authority shall appoint at least three but no more than seven voting members. By the appointment of these members, the Authority shall ensure that the voting membership of the Commission includes at least seven women and seven members of a racial minority described in ~~G.S. 143-128(e).~~ G.S. 143-128(f)(2). The Authority shall appoint the fewest number of members necessary to achieve these minimums.

(3) Four nonvoting members shall be appointed as follows:

a. One appointed by the Chancellor of East Carolina University to represent the University.

b. One appointed by a majority vote of the presidents of the community colleges located in the Zone, to represent the community colleges.

c. One appointed by the chair of the State Ports Authority, to represent the sea ports of the State.

d. One member of the board of directors of the Global TransPark Foundation, Inc., appointed by that board."

Section 49. The Revisor of Statutes shall codify the first paragraph of Section 4 of S.L. 1997-129, as amended by Section 10 of S.L. 1997-257, as G.S. 75A-14.1, "Lake Norman no-wake zone."

Section 50. Section 2 of S.L. 1998-113 is amended by deleting "1997-98", and substituting "1998-99".

Section 51. Section 2 of Chapter 214 of the 1991 Session Laws is repealed.

Section 52. If Senate Bill 801, 1997 Regular Session, becomes law, Section 2 of that act reads as rewritten:

"Section 2. The Revisor of Statutes shall cause to be printed with this act all relevant portions of the official comments to the ~~North Carolina~~ Uniform Planned Community Act and all explanatory comments of the drafters of this act, as the Revisor deems appropriate."

Section 53. (a) If Senate Bill 1287, 1997 Regular Session, becomes law, then:

(1) G.S. 122C-211(f), as enacted by Section 6 of that act, is recodified as G.S. 122C-211(f1).

(2) G.S. 122C-211(a), as amended by S.L. 1998-47, reads as rewritten:

"(a) Except as provided in subsections (b) through ~~(f)~~ (f1) of this section, any individual, including a parent in a family unit, in need of treatment for mental illness or substance abuse may seek voluntary admission at any facility by presenting himself for evaluation to the facility. No physician's statement is necessary, but a written application for evaluation or admission, signed by the individual seeking admission, is required. The application form shall be available at all times at all facilities. However, no one shall be denied admission because application forms are not available. An evaluation shall determine whether the individual is in need of care, treatment, habilitation or rehabilitation for mental illness or substance abuse or further evaluation by the facility. Information provided by family members regarding the individual's need for treatment shall be reviewed in the evaluation. An individual may not be accepted as a client if the facility determines that the individual does not need or cannot benefit from the care, treatment, habilitation, or rehabilitation available and that the individual is not in need of further evaluation by the facility. The facility shall give to an individual who is denied admission a referral to another facility or facilities that may be able to provide the treatment needed by the client."

(3) Section 7 of that act reads as rewritten:

"Section 7. This act becomes effective ~~October 1,~~ November 1, 1998."

(4) The prefatory language of Section 5 of that act reads as rewritten:

"Section 5. ~~G.S. 122C-57(d), (e), and (f) are amended as follows:~~ G.S. 122C-57(d) through (f) read as rewritten:".

(5) The Revisor of Statutes may delete from G.S. 122C-77, as rewritten by Section 2 of that act, any lines on the form to be filled in where it was clearly intended that those lines be deleted but which do not appear to be stricken through because of formatting.

(b) This section becomes effective September 30, 1998.

Section 54. Section 6 of S.L. 1998-135 reads as rewritten:

"Section 6. This act becomes effective August 15, 1998, and applies to State employee grievances arising on or after that date and to cases pending on that date in the Office of Administrative Hearings or before the State Personnel Commission or on appeal from a decision of the Commission. This act also applies to cases that were voluntarily dismissed without prejudice before the Office of Administrative Hearings before August 15, 1998, and that are refiled prior to December 1, 1998, provided that the case is not otherwise barred from being refiled."

Section 55. (a) Section 11(a) of S.L. 1998-55 reads as rewritten:

"Section 11(a). The Piedmont Triad ~~International~~ Airport Authority may contract for design and construction of an air freight distribution facility on Airport property without being subject to the requirements of Article 8 of Chapter 143 of the General Statutes."

(b) Section 11(b) of S.L. 1998-55 reads as rewritten:

"Section 11(b). The Piedmont Triad ~~International~~ Airport Authority may contract for supplies, materials, equipment, and contractual services of the Authority related to an air freight distribution facility on Airport property without being subject to the requirements of ~~Article 3~~ Articles 3 or 8 of Chapter 143 of the General Statutes."

Section 56. G.S. 58-65-133(d), as enacted by S.L. 1998-3, reads as rewritten:

"(d) Advisory Committee. -- An advisory committee shall be formed to (i) develop, subject to the approval of the Attorney General, the criteria for selection of the Foundation's initial board of directors and (ii) nominate candidates for the initial board of directors. The advisory committee shall be comprised of the following 11 members: three representatives of the business community selected by North Carolina Citizens for Business and Industry, three representatives of the public and private medical school community selected by The University of North Carolina Board of Governors, three representatives of private foundations and other nonprofit organizations selected by the North Carolina Center for Nonprofits, a representative of ~~the North Carolina Association of Hospitals and Health Care Networks,~~ NCHA, Inc., and a representative of the North Carolina Medical Society. After receiving a copy of the proposed plan of conversion, the Attorney General shall immediately notify these organizations, and the advisory committee shall be constituted within 45 days thereafter.

The advisory committee's criteria shall ensure an open recruitment process for the directors. The advisory committee shall nominate 22 residents of North Carolina for the 11 positions to be filled by the Attorney General. The Attorney General shall retain an independent executive recruiting firm or firms to assist the advisory committee in its work."

Section 57. If Senate Bill 1260 becomes law, then:

(1) G.S. 7B-2514(a), as enacted by that act, reads as rewritten:

"(a) In determining whether a juvenile should be released before the juvenile's 18th birthday, the Office shall consider the protection of the public and the likelihood that continued placement will lead to further rehabilitation. If the Office

does not intend to release the juvenile prior to the juvenile's eighteenth birthday, or if the Office determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2512(a), the Office shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance of the juvenile's eighteenth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Office, the basis for extending the commitment period, and the plan for future care or treatment."

(2) The prefatory language of Section 2(b) of that act reads as rewritten:

"(b) ~~G.S. 147-33.34(5),~~ G.S. 147-33.34(a)(5), as enacted by Section 1 of this act, reads as rewritten:".

(3) Section 2(f) of that act reads as rewritten:

"(f) Effective July 1, 1999, the Revisor of Statutes shall substitute the term 'post-release supervision' for the term ~~'aftercare' and~~ 'aftercare,' the term 'detention facility' for the terms 'detention home' and ~~'regional detention home'~~ 'regional detention home,' and the term 'detention facilities' for the term 'regional detention homes' everywhere those terms appear in Article 3C of Chapter 147 of the General Statutes, as enacted in Section 1 of this act.

Section 58. (a) Article 47 of Chapter 58 of the General Statutes is amended by adding the following new Part:

"Part 3. Third-Party Administrators for Groups.

"**§ 58-47-210. Definitions.**

As used in this Part:

(1) 'Board' means the board of trustees or other governing body of a group.

(2) 'Control' means 'control' as defined in G.S. 58-19-5(2).

(3) 'GAAP financial statement' means a financial statement as defined by generally accepted accounting principles.

(4) 'Group' means a group of employers that is licensed under Part 1 of this Article.

(5) 'Hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a person is insolvent or, although not yet financially impaired or insolvent, is unlikely to be able to meet obligations with respect to known and reasonably anticipated obligations in the normal course of business.

(6) 'Member' means an employer that participates in a group.

(7) 'Third-party administrator' or 'TPA' means a person engaged by a board to execute the policies established by the board and to provide day-to-day management of the group. 'Third-Party Administrator' and 'TPA' does not mean:

a. An employer acting on behalf of its employees or the employees of one or more of its affiliates.

b. An insurer that is licensed under this Chapter or that is acting as an insurer with respect to a policy lawfully issued and delivered by it and under the laws of a state in which the insurer is licensed to write insurance.

c. An agent or broker who is licensed by the Commissioner under Article 33 of this Chapter whose activities are limited exclusively to the sale of insurance.

d. An adjuster licensed by the Commissioner under Article 33 of this Chapter whose activities are limited to adjustment of claims.

e. An individual who is an officer, a member, or an employee of a board.

"**§ 58-47-215. TPA authority; license, qualification for approval.**

(a) No person shall act as, offer to act as, or hold himself or herself out as a TPA with respect to risks located in this State for a group unless that person is licensed by the Commissioner under this Part.

(b) An applicant for a license shall file with the Commissioner the information required by subsection (c) of this section on a form prescribed by the Commissioner at least 90 days before the proposed licensing date. No application is complete until the Commissioner has received all required information.

(c) The following information shall be included in the license application:

(1) All organizational documents of the TPA, including articles of incorporation, articles of association, a partnership agreement, a trade name certificate, or a trust agreement, any other applicable documents, and all amendments to these documents;

(2) The bylaws, rules, regulations, or similar documents regulating the internal affairs of the TPA;

(3) The names, addresses, official positions, and professional qualifications of the individuals who are responsible for the conduct of affairs of the TPA, including (i) all members of the board of directors, executive committee, or other governing board or committee, (ii) the principal officers in the case of a corporation or the partners or members in the case of a partnership or association, (iii) all shareholders holding directly or indirectly ten percent (10%) or more of the voting securities of the TPA, and (iv) any other person who exercises control or influence over the affairs of the TPA;

(4) The annual audited GAAP financial statements for the two most recent years that demonstrate the applicant is solvent and an ongoing concern and any other information the Commissioner may require in order to review the current financial condition of the applicant;

(5) A general description of the business operations, including information on staffing levels and activities proposed in this State

and nationwide. The description shall provide details setting forth the TPA's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, record keeping, and underwriting;

(6) The annual report of the manner and amount of all charges, fees, and direct and indirect compensation received from the group as specified in the service agreement;

(7) All written agreements or contracts with groups; and

(8) Any other pertinent information, including evidence of compliance with other provisions of this Article, as required by the Commissioner.

(d) The information required by subsection (c) of this section, including any trade secrets, shall be kept confidential; provided that the Commissioner may use that information in any judicial or administrative proceeding instituted against the TPA.

(e) TPA licenses shall be renewed annually and applications for renewals of licenses shall include or be accompanied by any changes in the information required by subsection (c) of this section.

(f) A TPA shall notify the Commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for a license in this State, 30 business days before the change. Failure of the Commissioner to disapprove any material changes within 30 days after the changes have been filed with the Commissioner constitutes the Commissioner's approval of the filed changes.

(g) After initial licensing, a TPA shall file with the Commissioner all contracts with a group 60 days before the effective date of the contract.

"**§ 58-47-220. TPA license; termination; revocation; restrictions.**

(a) The Commissioner may refuse to issue a license if the Commissioner determines that any of the provisions of this section apply to the TPA, or to any individual responsible for the conduct of affairs of the TPA.

(b) The Commissioner shall suspend or revoke automatically the license of a TPA and a request for a hearing shall not stay the effect of the revocation, suspension, or nonrenewal if the Commissioner finds that any of the following apply to the TPA:

(1) The TPA is using methods or practices in the conduct of its business that render its further transaction of business in this State hazardous or injurious to insured persons or the public;

(2) The TPA has failed to pay any judgment rendered against it in this State within 60 days after the judgment has become final;

(3) The TPA has refused to be examined or to produce its accounts, records, and files for examination, or any of its officers have refused to give information with respect to its affairs or have refused to perform any other legal obligation as to that examination, when required by the Commissioner;

(4) The TPA has, without just cause, refused to pay proper claims or perform services arising under its contract, has caused covered members to accept less than the amount due them, or has caused

covered members to employ attorneys or bring suit against the TPA to secure full payment or settlement of the claims;

(5) The TPA is an affiliate of or under the same general management, interlocking directorate, or ownership as another TPA or group that unlawfully transacts business in this State;

(6) The TPA, or any principal or affiliate of the TPA, has been convicted of or has entered a plea of guilty or nolo contendere to a felony without regard to whether judgment was withheld;

(7) The TPA or an affiliate is under revocation, suspension, or nonrenewal in another state;

(8) The TPA is in hazardous financial condition;

(9) The TPA has filed for protection under the United States Bankruptcy Code or any state receivership law;

(10) The financial condition or business practices of the TPA otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this State; or

(11) The TPA is found to be in violation of Article 63 of this Chapter.

(c) The Commissioner may, after notice and opportunity for hearing, suspend or revoke the license of a TPA if the Commissioner finds that any of the following apply to the TPA:

(1) The TPA has violated a rule or an order of the Commissioner or any provision of this Chapter or Chapter 97 of the General Statutes; or

(2) The TPA at any time fails to meet any qualification for which issuance of the license could have been refused had the failure then existed and been known to the Commissioner at the time of the application.

(d) If the Commissioner determines that a TPA or any other person has not materially complied with this Article or with any rule adopted or order issued under this Article, after notice and opportunity to be heard, the Commissioner may order:

(1) For each separate violation, a civil penalty pursuant to G.S. 58-2-70(d); or

(2) Revocation, suspension, or nonrenewal of the person's license.

(e) If the Commissioner finds that, because of a material noncompliance, a group has suffered any loss or damage, the Commissioner may maintain a civil action brought by or on behalf of the group and its policyholders and creditors for recovery of compensatory damages for the benefit of the group and its policyholders and creditors or for other appropriate relief.

(f) Nothing in this Article affects the Commissioner's right to impose any other penalties provided for in this Chapter. Nothing in this Article limits or restricts the rights of policyholders, claimants, and creditors.

(g) If an order of rehabilitation or liquidation of the group has been entered under Article 30 of this Chapter, and the receiver appointed under that order determines that the TPA or any other person has not materially complied with this section, or

any order or rule adopted thereunder, and the group suffered any loss or damage therefrom, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the group."

(b) This section becomes effective January 1, 2000.

Section 59. Section 2 of S.L. 1998-121 reads as rewritten:

"Section 2. ~~Part 2 of Division II of Article 5 of Chapter 105 of the General Statutes~~ G.S. 105-164.5 is repealed."

Section 60. If ratified Senate Bill 882, 1997 Regular Session, and House Bill 926, 1997 Regular Session both become law, then Section 90 of ratified Senate Bill 882, 1997 Regular Session is repealed.

Section 61. G.S. 1A-1, Rule 9(j), reads as rewritten:

"(j) Medical malpractice. -- Any complaint alleging medicalmalpractice by a health care provider as defined in G.S. 90-21.11 in failing to comply with the applicable standard of care under G.S. 90-21.12 shall be dismissed unless:

(1) The pleading specifically asserts that the medical care has been reviewed by a person who is reasonably expected to qualify as an expert witness under Rule 702 of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care;

(2) The pleading specifically asserts that the medical care has been reviewed by a person that the complainant will seek to have qualified as an expert witness by motion under Rule 702(e) of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care, and the motion is filed with the complaint; or

(3) The pleading alleges facts establishing negligence under the existing common-law doctrine of res ipsa loquitur.

Upon motion by the complainant prior to the expiration of the applicable statute of limitations, a resident judge of the superior court of the county in which the cause of action arose may allow a motion to extend the statute of limitations for a period not to exceed 120 days to file a complaint in a medical malpractice action in order to comply with this Rule, upon a determination that good cause exists for the granting of the motion and that the ends of justice would be served by an extension. Experts required by this Rule shall be subject to discovery pursuant to Rule 26(b)(4) to the same extent as experts designated for trial."

Section 62. Except as otherwise provided herein, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1279
Judiciary Committee Substitute Adopted 8/10/98
Third Edition Engrossed 8/12/98
House Committee Substitute Favorable 10/7/98
Proposed House Committee Substitute S1279-PCS3664-RN

Short Title: 1998 Technical Corrections. (Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO MAKE OTHER TECHNICAL CORRECTIONS, TO CLARIFY THAT THE ATTORNEY GENERAL MAY EXEMPT CERTAIN BUSINESS COMBINATIONS FROM THE SHAREHOLDER PROTECTION ACT, TO AUTHORIZE THE INDUSTRIAL COMMISSION TO ISSUE WRITS OF HABEAS CORPUS AD TESTIFICANDUM, TO RESTORE A PROVISION ON COMMUNITY SERVICE PASSED BUT NOT CODIFIED IN 1997, TO EXTEND THE TIME TO OBTAIN VOLUNTARY EASEMENTS FOR CERTAIN STRUCTURES OVER STATE-OWNED LANDS BY THREE YEARS, TO PROHIBIT CANDIDATES FOR SUPERIOR COURT FROM RUNNING FOR ANOTHER OFFICE AT THE SAME TIME, TO REVISE THE APPLICABILITY CLAUSE OF THE WORKPLACE HARASSMENT LAW CONCERNING CASES DISMISSED WITHOUT PREJUDICE PRIOR TO AUGUST 15, 1998, TO PROVIDE FOR THE LICENSING OF THIRD-PARTY ADMINISTRATORS SERVING WORKERS' COMPENSATION SELF-INSURED GROUPS, TO PROVIDE FOR DISCOVERY UNDER THE MEDICAL MALPRACTICE REVIEW RULE, TO CLARIFY THE LAW GOVERNING VEHICLE FORFEITURE TO SCHOOLS FOR DWI OFFENSES,

AND TO EXTEND THE DATE FOR THE RURAL TRANSPORTATION PLANNING ORGANIZATION STUDY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-34.6(a)(2) reads as rewritten:

"(2) ~~An~~ A medical responder."

Section 2. G.S. 14-399(c) reads as rewritten:

"(c) Any person who violates this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent offense within three years after the date of a prior offense is punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed."

Section 3. (a) G.S. 14-408 reads as rewritten:

"**§ 14-408. Violation of § 14-406 ~~or 14-407~~ a misdemeanor.**

Any person, firm, or corporation violating any of the provisions of G.S. 14-406 ~~or 14-407~~ shall be guilty of a Class 2 misdemeanor."

(b) This section becomes effective December 1, 1998. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

Section 4. (a) G.S. 14-74 reads as rewritten:

"**§ 14-74. Larceny by servants and other employees.**

If any servant or other employee, to whom any money, goods or other chattels, or any of the articles, securities or choses in action mentioned in ~~the following section,~~ G.S. 14-75, by his master shall be delivered safely to be kept to the use of his master, shall withdraw himself from his master and go away with such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, with intent to steal the same and defraud his master thereof, contrary to the trust and confidence in him reposed by his said master; or if any servant, being in the service of his master, without the assent of his master, shall embezzle such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal them, or to defraud his master thereof, the servant so offending shall be guilty of a felony: Provided, that nothing contained in this section shall extend to apprentices or servants within the age of 16 years. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is one hundred thousand dollars ($100,000)

or more, the person is guilty of a Class C felony. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is less than one hundred thousand dollars ($100,000), the person is guilty of a Class H felony."

(b) G.S. 25-7-502 reads as rewritten:

"**§ 25-7-502. Rights acquired by due negotiation.**

(1) Subject to ~~the following section~~ G.S. 25-7-503 and to the provisions of G.S. 25-7-205 on fungible goods, a holder to whom a negotiable document of title has been duly negotiated acquires thereby:

(a) title to the document;

(b) title to the goods;

(c) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(d) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by him except those arising under the terms of the document or under this article. In the case of a delivery order the bailee's obligation accrues only upon acceptance and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2) Subject to ~~the following section,~~ G.S. 25-7-503, title and rights so acquired are not defeated by any stoppage of the goods represented by the document or by surrender of such goods by the bailee, and are not impaired even though the negotiation or any prior negotiation constituted a breach of duty or even though any person has been deprived of possession of the document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion, or even though a previous sale or other transfer of the goods or document has been made to a third person."

(c) G.S. 25-7-507 reads as rewritten:

"**§ 25-7-507. Warranties on negotiation or transfer of receipt or bill.**

Where a person negotiates or transfers a document of title for value otherwise than as a mere intermediary under ~~the next following section,~~ G.S. 25-7-508, then unless otherwise agreed he warrants to his immediate purchaser only in addition to any warranty made in selling the goods

(a) that the document is genuine; and

(b) that he has no knowledge of any fact which would impair its validity or worth; and

(c) that his negotiation or transfer is rightful and fully effective with respect to the title to the document and the goods it represents."

(d) G.S. 44A-21 reads as rewritten:

"**§ 44A-21. Pro rata payments.**

In the event that the funds in the hands of the obligor and the obligor's personal liability, if any, under ~~the previous section~~ G.S. 44A-20 are less than the amount of

valid lien claims that have been filed with the obligor under this Article the parties entitled to liens shall share the funds on a pro rata basis."

Section 5. G.S. 25-8-103(a) reads as rewritten:

"(a) A share ~~of~~ or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security."

Section 6. G.S. 39-23.3(b) reads as rewritten:

"(b) For the purposes of G.S. 39-23.4(a)(2) and G.S. 39-23.5, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, ~~nonexclusive~~ noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement."

Section 7. (a) G.S. 50-11(e) reads as rewritten:

"(e) An absolute divorce obtained within this State shall destroy the right of a spouse to ~~an~~ equitable distribution ~~of the marital property~~ under G.S. 50-20 unless the right is asserted prior to judgment of absolute divorce; except, the defendant may bring an action or file a motion in the cause for equitable distribution within six months from the date of the judgment in such a case if service of process upon the defendant was by publication pursuant to G.S. 1A-1, Rule 4 and the defendant failed to appear in the action for divorce."

(b) G.S. 50-11(f) reads as rewritten:

"(f) An absolute divorce by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property shall not destroy the right of a spouse to ~~an~~ equitable distribution ~~of marital property~~ under G.S. 50-20 if an action or motion in the cause is filed within six months after the judgment of divorce is entered. The validity of such divorce may be attacked in the action for equitable distribution."

(c) G.S. 50-20 reads as rewritten:

"§ 50-20. Distribution by court of marital and divisible property upon divorce.

(a) Upon application of a party, the court shall determine what is the marital property and divisible property and shall provide for an equitable distribution of the marital property and divisible property between the parties in accordance with the provisions of this section.

(b) For purposes of this section:

(1) 'Marital property' means all real and personal property acquired by either spouse or both spouses during the course of the marriage and before the date of the separation of the parties, and presently owned, except property determined to be separate property or divisible property in accordance with subdivision (2) or (4) of this subsection. Marital property includes all vested and nonvested pension, retirement, and other deferred compensation rights, and vested and nonvested military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act. It is presumed that all property acquired after the date of marriage and before the date of separation is marital property except property

which is separate property under subdivision (2) of this subsection. This presumption may be rebutted by the greater weight of the evidence.

(2) 'Separate property' means all real and personal property acquired by a spouse before marriage or acquired by a spouse by bequest, devise, descent, or gift during the course of the marriage. However, property acquired by gift from the other spouse during the course of the marriage shall be considered separate property only if such an intention is stated in the conveyance. Property acquired in exchange for separate property shall remain separate property regardless of whether the title is in the name of the husband or wife or both and shall not be considered to be marital property unless a contrary intention is expressly stated in the conveyance. The increase in value of separate property and the income derived from separate property shall be considered separate property. All professional licenses and business licenses which would terminate on transfer shall be considered separate property.

(3) 'Distributive award' means payments that are payable either in a lump sum or over a period of time in fixed amounts, but shall not include alimony payments or other similar payments for support and maintenance which are treated as ordinary income to the recipient under the Internal Revenue Code.

(4) 'Divisible property' means all real and personal property as set forth below:

a. All appreciation and diminution in value of marital property and divisible property of the parties occurring after the date of separation and prior to the date of distribution, except that appreciation or diminution in value which is the result of postseparation actions or activities of a spouse shall not be treated as divisible property.

b. All property, property rights, or any portion thereof received after the date of separation but before the date of distribution that was acquired as a result of the efforts of either spouse during the marriage and before the date of separation, including, but not limited to, commissions, bonuses, and contractual rights.

c. Passive income from marital property received after the date of separation, including, but not limited to, interest and dividends.

d. Increases in marital debt and financing charges and interest related to marital debt.

(c) There shall be an equal division by using net value of marital property and not value of divisible property unless the court determines that an equal division is not equitable. If the court determines that an equal division is not equitable, the court

shall divide the marital property and divisible property equitably. Factors the court shall consider under this subsection are as follows:

(1) The income, property, and liabilities of each party at the time the division of property is to become effective;

(2) Any obligation for support arising out of a prior marriage;

(3) The duration of the marriage and the age and physical and mental health of both parties;

(4) The need of a parent with custody of a child or children of the marriage to occupy or own the marital residence and to use or own its household effects;

(5) The expectation of pension, retirement, or other deferred compensation rights that are not marital property;

(6) Any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of such marital property by the party not having title, including joint efforts or expenditures and contributions and services, or lack thereof, as a spouse, parent, wage earner or homemaker;

(7) Any direct or indirect contribution made by one spouse to help educate or develop the career potential of the other spouse;

(8) Any direct contribution to an increase in value of separate property which occurs during the course of the marriage;

(9) The liquid or nonliquid character of all marital ~~property;~~ property and divisible property;

(10) The difficulty of evaluating any component asset or any interest in a business, corporation or profession, and the economic desirability of retaining such asset or interest, intact and free from any claim or interference by the other party;

(11) The tax consequences to each party;

(11a) Acts of either party to maintain, preserve, develop, or expand; or to waste, neglect, devalue or convert ~~such~~ the marital ~~property,~~ property or divisible property, or both, during the period after separation of the parties and before the time of distribution; and

(12) Any other factor which the court finds to be just and proper.

(c1) Notwithstanding any other provision of law, a second or subsequent spouse acquires no interest in the marital property and divisible property of his or her spouse from a former marriage until a final determination of equitable distribution is made in the marital property and divisible property of the spouse's former marriage.

(d) Before, during or after marriage the parties may by written agreement, duly executed and acknowledged in accordance with the provisions of G.S. 52-10 and 52-10.1, or by a written agreement valid in the jurisdiction where executed, provide for distribution of the marital property or divisible property, or both, in a manner deemed by the parties to be equitable and the agreement shall be binding on the parties.

(e) Subject to the presumption of subsection (c) of this section that an equal division is equitable, it shall be presumed in every action that an in-kind distribution of marital or divisible property is equitable. This presumption may be rebutted by the greater weight of the evidence, or by evidence that the property is a closely held business entity or is otherwise not susceptible of division in-kind. In any action in which the presumption is rebutted, the court in lieu of in-kind distribution shall provide for a distributive award in order to achieve equity between the parties. The court may provide for a distributive award to facilitate, effectuate or supplement a distribution of marital or divisible property. The court may provide that any distributive award payable over a period of time be secured by a lien on specific property.

(f) The court shall provide for an equitable distribution without regard to alimony for either party or support of the children of both parties. After the determination of an equitable distribution, the court, upon request of either party, shall consider whether an order for alimony or child support should be modified or vacated pursuant to G.S. 50-16.9 or 50-13.7.

(g) If the court orders the transfer of real or personal property or an interest therein, the court may also enter an order which shall transfer title, as provided in G.S. 1A-1, Rule 70 and G.S. 1-228.

(h) If either party claims that any real property is marital ~~property,~~ property or divisible property, that party may cause a notice of lis pendens to be recorded pursuant to Article 11 of Chapter 1 of the General Statutes. Any person whose conveyance or encumbrance is recorded or whose interest is obtained by descent, prior to the filing of the lis pendens, shall take the real property free of any claim resulting from the equitable distribution proceeding. The court may cancel the notice of lis pendens upon substitution of a bond with surety in an amount determined by the court to be sufficient provided the court finds that the claim of the spouse against property subject to the notice of lis pendens can be satisfied by money damages.

(i) Upon filing an action or motion in the cause requesting an equitable distribution or alleging that an equitable distribution will be requested when it is timely to do so, a party may seek injunctive relief pursuant to G.S. 1A-1, Rule 65 and Chapter 1, Article 37, to prevent the disappearance, waste or conversion of property alleged to be marital ~~property~~ property, divisible property, or separate property of the party seeking relief. The court, in lieu of granting an injunction, may require a bond or other assurance of sufficient amount to protect the interest of the other spouse in the ~~marital or separate~~ property. Upon application by the owner of separate property which was removed from the marital home or possession of its owner by the other spouse, the court may enter an order for reasonable counsel fees and costs of court incurred to regain its possession, but such fees shall not exceed the fair market value of the separate property at the time it was removed.

(i1) Unless good cause is shown that there should not be an interim distribution, the court may, at any time after an action for equitable distribution has been filed and prior to the final judgment of equitable distribution, enter orders declaring what is separate property and may also enter orders dividing part of the marital property,

divisible property or debt, or marital debt between the parties. The partial distribution may provide for a distributive award and may also provide for a distribution of marital property, marital debt, divisible property, or divisible debt. Any such orders entered shall be taken into consideration at trial and proper credit given.

Hearings held pursuant to this subsection may be held at sessions arranged by the chief district court judge pursuant to G.S. 7A-146 and, if held at such sessions, shall not be subject to the reporting requirements of G.S. 7A-198.

(j) In any order for the distribution of property made pursuant to this section, the court shall make written findings of fact that support the determination that the marital property and divisible property has been equitably divided.

(k) The rights of the parties to an equitable distribution of marital property and divisible property are a species of common ownership, the rights of the respective parties vesting at the time of the parties' separation."

Section 8. G.S. 62-268 reads as rewritten:

"**§ 62-268. Security for protection of public; liability insurance.**

No certificate or broker's license shall be issued or remain in force until the applicant shall have procured and filed with the Division of Motor Vehicles such security bond, insurance or self-insurance for the protection of the public as the Commission shall by regulation require. The Commission shall require that every motor carrier for which a certificate or license is required by the ~~provision~~ provisions of this Chapter, shall maintain liability insurance or satisfactory surety of at least fifty thousand dollars ($50,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, one hundred thousand dollars ($100,000) because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars ($50,000) because of injury to or destruction of property of others in any one accident; and the Commission may require any greater amount of insurance as may be necessary for the protection of the public. Notwithstanding any rule or regulation to the contrary, the Commission shall not require that any insurance procured and filed be provided in any single policy of insurance or through a single insurer, if the insurers involved are otherwise qualified. A motor carrier may satisfy the requirements of the Commission by procuring insurance with coverage and limits of liability required by the Commission in one or more policies of insurance issued by one or more insurers.

Notwithstanding any other provisions of this section or Chapter, bus companies shall file with the Commission proof of financial responsibility in the form of bonds, policies of insurance, or shall qualify as a self insurer, with minimum levels of financial responsibility as prescribed for motor carriers of passengers pursuant to the provisions of 49 U.S.C. § ~~10927(a)(1).~~ 31138. Provided, further, that no bus company operating solely within the State of North Carolina and which is exempt from regulation under the provisions of G.S. 62-260(a)(7) shall be required to file with the Commission proof of the financial responsibility in excess of one million five hundred thousand dollars ($1,500,000)."

Section 9. G.S. 78C-16(b) reads as rewritten:

"(b) It is unlawful for any person required to be registered as an investment adviser under this Chapter to employ an investment adviser representative unless the investment adviser representative is registered under this Chapter. The registration of an investment adviser representative is not effective during any period when the investment adviser representative is not employed by (i) an investment adviser registered under this Chapter; or (ii) an investment adviser covered under federal law who has made a notice filing pursuant to the provisions of G.S. 78C-17(a1). When an investment adviser representative begins or terminates employment or association with an investment adviser who is registered under this Chapter, the investment adviser shall notify promptly the Administrator. When an investment adviser representative begins or terminates employment or association with an investment adviser covered under federal law, the investment adviser representative shall, and the investment adviser may, notify promptly the Administrator. ~~No investment adviser representative may be registered with more than one investment adviser unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control.~~ No investment adviser representative may be registered with more than one investment adviser or investment adviser covered under federal law unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control."

Section 10. G.S. 90-113.40(a)(8) reads as rewritten:

"(8) The applicant for substance abuse counselor has completed either a total of 6,000 hours of supervised experience in the field, whether paid or volunteer, or, if a graduate of a Board-approved master's degree program, a total of 3,000 hours of supervised experience in the field, whether paid or volunteer. The applicant for substance abuse prevention consultant has completed a total of 10,000 hours supervised experience in the field, whether paid or volunteer, or 4,000 hours if the applicant has at least a bachelors degree in a human services field."

Section 11. G.S. 110-91(10) reads as rewritten:

"(10) Each operator or staff member shall attend to any child in a nurturing and appropriate manner, and in keeping with the child's developmental needs.

Each ~~child~~ child care facility shall have a written policy on discipline, describing the methods and practices used to discipline children enrolled in that facility. This written policy shall be discussed with, and a copy given to, each child's parent prior to the first time the child attends the facility. Subsequently, any change in discipline methods or practices shall be communicated in writing to the parents prior to the effective date of the change.

The use of corporal punishment as a form of discipline is prohibited in ~~child~~ child care facilities and may not be used by any operator or staff member of any child care facility, except

that corporal punishment may be used in ~~religious-sponsored child~~ religious sponsored child care facilities as defined in G.S. 110-106, only if (i) the ~~religious-sponsored-child~~ religious sponsored child care facility files with the Department a notice stating that corporal punishment is part of the religious training of its program, and (ii) the ~~religious-sponsored-child~~ religious sponsored child care facility clearly states in its written policy of discipline that corporal punishment is part of the religious training of its program. The written policy on discipline of ~~nonreligious-sponsored-child~~ nonreligious sponsored child care facilities shall clearly state the prohibition on corporal punishment."

Section 12. G.S. 115C-404(a) reads as rewritten:

"(a) Written notifications received in accordance with ~~G.S. 7A-675.1~~ G.S. 7A-675.2 are confidential records, are not public records as defined under G.S.132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall maintain these documents until the principal receives notification that the judge dismissed the petition under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court under G.S. 7A-608, or the judge granted the student's petition for expunction of the records. At that time, the principal shall shred, burn, or otherwise destroy the documents to protect the confidentiality of this information. In no case shall the principal make a copy of these documents."

Section 13. G.S. 130A-233 reads as rewritten:

"**§ 130A-233. Definitions.**

The following definitions apply to this Part:

(1) Coastal fishing ~~waters, as defined~~ waters. -- Defined in G.S. 113-129(4).

(2) Inland fishing ~~waters, as defined~~ waters. -- Defined in G.S. 113-129(9)."

Section 14. (a) G.S. 139-3.1 is repealed.

(b) The repeal of this section shall not be construed to affect any language currently in the General Statutes.

Section 15. G.S. 143-53(a)(2) reads as rewritten:

"(2) Prescribing the routine, including consistent contract language, for securing bids on items that do not ~~not~~ exceed the bid value benchmark established under the provisions of G.S. 143-53.1 or G.S. 116-31.10.

The purchasing delegation for securing ~~offers,~~ offers (excluding the special responsibility constituent institutions of The University of North Carolina), for each State department, institution, agency, community college, and public school administrative unit shall be determined by the Director of the

Division of Purchase and Contract. For the State agencies this shall be done following the Director's consultation with the State Budget Officer and the State Auditor. The Director for the Division of Purchase and Contract may set or lower the delegation, or raise the delegation upon written request by the agency, after consideration of their overall capabilities, including staff resources, purchasing compliance reviews, and audit reports of the individual agency. The routine prescribed by the Secretary shall include contract award protest procedures and consistent requirements for advertising of solicitations for securing offers issued by State departments, institutions, universities (including the special responsibility constituent institutions of The University of North Carolina), agencies, community colleges, and the public school administrative units."

Section 16. G.S. 143-129(f) reads as rewritten:

"(f) The provisions of this Article shall not apply to purchases of apparatus, supplies, materials, or equipment when performance or price competition for a product are not available; when a needed product is available from only one source of supply; or when standardization or compatibility is the overriding consideration. Notwithstanding any other provision of this section, the governing board of a municipality, county, or other subdivision of the State shall approve ~~purchases made under this exception~~ the purchases listed in the preceding sentence prior to the award of the contract. In the case of purchases by hospitals, in addition to the other exceptions in this subsection, the provisions of this Article shall not apply when a particular medical item or prosthetic appliance is needed; when a particular product is ordered by an attending physician for his patients; when additional products are needed to complete an ongoing job or task; when products are purchased for 'over-the-counter' resale; when a particular product is needed or desired for experimental, developmental, or research work; or when equipment is already installed, connected, and in service under a lease or other agreement and the governing body of the hospital determines that the equipment should be purchased. The governing body of a hospital, municipality, county or other political subdivision of the State shall keep a record of all purchases made pursuant to this ~~exception.~~ subsection. These records are subject to public inspection."

Section 17. G.S. 143B-283(a)(8) reads as rewritten:

"(8) One who shall, at the time of appointment, be actively employed by, or recently retired from, an industrial manufacturing facility and knowledgeable in ~~in~~ the field of industrial air and water pollution control;".

Section 18. (a) G.S. 143B-289.52(e) reads as rewritten:

"(e) The Commission may adopt rules to implement or comply with a fisheries management plan adopted by the Atlantic States Marine Fisheries Commission or an interstate fisheries management council. Notwithstanding G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any time within six

months of the adoption of a fisheries management plan by the Atlantic States Marine Fisheries ~~Council~~ Commission or an interstate fisheries management council."

(b) If House Bill 1448, 1997 Regular Session becomes law prior to the date this act becomes law and amends G.S. 143B-289.52(e), then this section shall not become effective. If House Bill 1448, 1997 Regular Session becomes law after the date this act becomes law and amends G.S. 143B-289.52(e), then this section of this act is repealed.

Section 19. G.S. 143B-433 reads as rewritten:

"**§ 143B-433. Department of Commerce -- organization.**

The Department of Commerce shall be organized to include:

~~(a)~~ (1) The following agencies:

~~(1)~~ a. The North Carolina Alcoholic Beverage Control ~~Commission,~~ Commission.

~~(2)~~ b. The North Carolina Utilities ~~Commission,~~ Commission.

~~(3)~~ c. The Employment Security ~~Commission,~~ Commission.

~~(4)~~ d. The North Carolina Industrial ~~Commission,~~ Commission.

~~(5)~~ e. State Banking ~~Commission,~~ Commission.

~~(6)~~ f. Savings and Loan Association ~~Division,~~ Division.

~~(7)~~ g. The State Savings Institutions ~~Commission,~~ Commission.

~~(8)~~ h. Credit Union ~~Commission,~~ Commission.

~~(9)~~ i. The North Carolina Milk ~~Commission,~~ Commission.

~~(10)~~ j. The North Carolina Mutual Burial Association ~~Commission,~~ Commission.

~~(11)~~ k. North Carolina Cemetery ~~Commission,~~ Commission.

~~(12)~~ l. The North Carolina Rural Electrification ~~Authority,~~ Authority.

~~(13)~~ m. Repealed by Session Laws 1985, c. 757, s. 179(d).

~~(14)~~ n. North Carolina Science and Technology Research ~~Center,~~ Center.

~~(15)~~ o. The North Carolina State Ports ~~Authority,~~ Authority.

~~(16)~~ p. North Carolina National Park, Parkway and Forests Development ~~Council,~~ Council.

~~(17)~~ q. Economic Development ~~Board,~~ Board.

~~(18)~~ r. Labor Force Development ~~Council,~~ Council.

~~(19)~~ s. Energy Policy ~~Council,~~ Council.

~~(20)~~ t. Energy ~~Division,~~ Division.

~~(21)~~ u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.

~~(22)~~ v. Repealed by Session Laws 1993, c. 321, s. 313(b).

~~(b)~~ (2) Those agencies which are transferred to the Department of Commerce including the:

~~(1)~~ a. Community Assistance ~~Division,~~ Division.

~~(2)~~ b. Community Development ~~Council,~~ Council.

~~(3)~~ c. Employment and Training ~~Division, and~~ Division.

~~(4)~~ d. Job Training Coordinating ~~Council; and~~ Council.

~~(c)~~ (3) Such divisions as may be established pursuant to Article 1 of this Chapter."

Section 20. G.S. 157-35 reads as rewritten:

"**§ 157-35. Creation of regional housing authority.**

If the board of county commissioners of each of two or more contiguous counties having an aggregate population of more than 60,000 by resolution declares that there is a need for one housing authority to be created for all of such counties to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties ~~to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties~~ shall (after the commissioners thereof file an application with the Secretary of State as hereinafter provided) thereupon exist for and exercise its powers and other functions in such counties; and thereupon any housing authority created for any of such counties shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided: Provided, that the board of county commissioners shall not adopt a resolution as aforesaid if there is a county housing authority created for such county which has any bonds or notes outstanding unless first, all holders of such bonds and notes consent in writing to the substitution of such regional housing authority in lieu of such county housing authority on all such bonds and notes; and second, the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided: Provided, further, that when the above conditions are complied with and such regional housing authority is created and authorized to exercise its powers and other functions, all rights, contracts, agreements, obligations, and property, real and personal, of such county housing authority shall be in the name of and vest in such regional housing authority, and all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they might have been asserted, enforced, and prosecuted against such county housing authority. When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed in the office provided for the filing of deeds: Provided, that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The board of county commissioners of each of two or more said contiguous counties shall by resolution declare that there is a need for one regional housing authority to be created for all of such counties to exercise powers and other functions

herein prescribed in such counties, if such board of county commissioners finds (and only if it finds)

(1) Insanitary or unsafe dwelling accommodations exist in the area of its respective county and/or there is a lack of safe or sanitary dwelling accommodations in the county available for all the inhabitants thereof and

(2) That a regional housing authority for the proposed region would be a more efficient or economical administrative unit than a housing authority for an area having a smaller population to carry out the purposes of the housing authorities law and any amendments thereto, in such county.

In determining whether dwelling accommodations are unsafe or insanitary, the board of county commissioners shall take into consideration the following: the physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

If it shall determine that both (1) and (2) of the above enumerated conditions exist, the board of county commissioners shall adopt a resolution so finding (which need not go into any detail other than the mere finding). After the appointment, as hereinafter provided, of the commissioners to act as the regional housing authority, said authority shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings:

The commissioners shall present to the Secretary of State an application signed by them, which shall set forth (without any detail other than the mere recital)

(1) That the boards of county commissioners made the aforesaid determination and that they have been appointed as commissioners;

(2) The name, and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this Article;

(3) The term of office of each of the commissioners;

(4) The name which is proposed for the corporation; and

(5) The location of the principal office of the proposed corporation.

The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the State to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical

with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners, a certificate of incorporation pursuant to this Article, under the seal of the State, and shall record the same with the application.

In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the regional housing authority, the regional housing authority shall be conclusively deemed to have been established in accordance with the provisions of this Article upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof."

Section 21. Effective July 1, 1997, subsection (d) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(d) This ~~act~~ section applies only to Columbus, Durham, and Rockingham Counties."

Section 22. Effective July 1, 1997, subsection (e) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(e) This ~~act~~ section becomes effective October 1, 1997, and expires June 30, 1998."

Section 23. The prefatory language of Section 6 of S.L. 1997-452 reads as rewritten:

"Section 6. Section 115.6(b) of the Charter of the City of Durham, being Chapter 671 of the ~~1995~~ 1975 Session Laws, as added by Chapter 476 of the 1989 Session Laws and rewritten by Chapter 992 of the 1991 Session Laws, reads as rewritten:".

Section 24. G.S. 75E-3 reads as rewritten:

"**§ 75E-3. Investigative and regulatory powers of the Attorney General.**

The Attorney General may conduct such investigations as the Attorney General deems necessary to determine compliance by all persons or entities with the provisions of Articles 9 and 9A of Chapter 55 of the General ~~Statutes.~~ Statutes; and the Attorney General may exempt from the provisions of Article 9 of Chapter 55 of the General Statutes any business combination that is solely an internal corporate restructuring which does not effect any material change in the ultimate ownership of the corporation and does not affect the ongoing applicability of that Article to the corporation or any other entity. In performing any such investigations, the Attorney General shall have all the powers given him by G.S. 75-10. The provisions of G.S. 75-11 and G.S. 75-12 shall apply to this Chapter."

Section 25. (a) G.S. 90-113.38(b) reads as rewritten:

"(b) The fee to obtain a certificate of certification for a clinical addictions specialist pursuant to ~~G.S. 90-113.41A~~ deemed status may not exceed one hundred dollars ($100.00). The fee to renew a certificate may not exceed fifty dollars ($50.00).

The fee to obtain a certificate of certification for a clinical addictions specialist ~~under G.S. 90-113.40~~ pursuant to all other procedures authorized by this Article may not exceed three hundred twenty-five dollars ($325.00). The fee to renew the certificate may not exceed one hundred dollars ($100.00)."

(b) Section 17 of S.L. 1997-492 reads as rewritten:

"Section 17. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the North Carolina Substance Abuse Professional Certification Board (Board) may certify a person as a 'Clinical Addictions Specialist' during a limited period of one year after the effective date of this act upon completion of any prescribed continuing education requirements that are required during the course of this year for renewal of the original certification, payment of the fee as required for renewal of the original certification, payment of the clinical addictions specialist certification fee, and the submission of proof of one of the following to the Board:

(1) Certification as a substance abuse counselor holding a master's degree with a clinical application in a human services field; the equivalent of two years of full-time post-graduate supervised substance abuse experience; and three letters of reference from certified substance abuse professionals who have master's degrees.

(2) Certification as a substance abuse counselor with a bachelors degree in a human services field; the equivalent of five years of full-time, post-graduate, supervised substance abuse experience; a passing score on a master's level written examination; and submission of three letters of reference from certified substance abuse professionals who have master's degrees.

(3) Certification as a clinical supervisor; a master's degree with a clinical application in a human services field; and three letters of reference from certified substance abuse professionals who have master's degrees.

(4) Certification as a substance abuse counselor; a master's degree with a clinical application in a human services field with a substance abuse specialty; and three letters of reference from certified substance abuse professionals who have master's degrees.

(5) Certification before July 1, 1994, as an alcohol counselor, a drug and alcohol counselor, or a substance abuse counselor; the equivalent of 10 years of documented full-time substance abuse work experience; and three letters of reference from certified substance abuse professionals who have master's degrees.

(6) Certification, licensure, or membership in good standing with a professional discipline that has been granted deemed status under G.S. 90-113.41A, as enacted by Section 11 of this act."

(c) Section 18 of S.L. 1997-492 reads as rewritten:

"Section 18. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the Board may certify an applicant as a 'Clinical Addictions Specialist' during a

limited period of three years beginning October 1, 1998, if the applicant completes any prescribed continuing education requirements that are required during the course of these years for renewal of the original certification, pays the fee as required for renewal of the original certification, pays the clinical addictions specialist certification fee, and submits proof to the Board that the applicant: (i) has been certified as a substance abuse counselor; (ii) has the equivalent of 10 years of supervised, full-time, substance abuse counseling experience; (iii) has passed a master's level oral and written examination and; (iv) submits three letters of reference from certified substance abuse professionals who hold master's degrees."

(d) This section is effective on and after October 1, 1997.

Section 26. G.S. 95-97 is repealed.

Section 27. G.S. 95-128(3) and (4) read as rewritten:

"(3) Employees whose safety and health are subject to protection under the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801) and the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 725), or ~~the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-41);~~ Subtitle V of Title 49 of the United States Code;

(4) Railroad employees whose safety and health are subject to protection under ~~the Federal Safety Appliance Act (45 U.S.C. 1-50), or the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-41);~~ Subtitle V of Title 49 of the United States Code;".

Section 28. G.S. 95-174(k) reads as rewritten:

"(k) 'Hazardous chemical' shall mean any element, chemical compound or mixture of elements and/or compounds which is a physical hazard or health hazard as defined in subsection (c) of the ~~NCOSHA~~ OSHNC Standard or a hazardous substance as defined in ~~subsection (d)(3) of the NCOSHA Standard.~~ standards adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7)."

Section 29. G.S. 95-174(p) reads as rewritten:

"(p) 'Material Safety Data Sheets' or 'MSDS' shall mean chemical information sheets drawn up in conformity to standards for material safety data sheets adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7). ~~in 13 North Carolina Administrative Code 7C .0101(a)(99) (hereinafter designated as 13 N.C.A.C. 7C .0101(a)(99).~~"

Section 30. G.S. 95-174(r) reads as rewritten:

"(r) '~~NCOSHA~~ OSHNC Standard' shall mean the ~~currently adopted~~ current Hazard Communication Standard adopted by the Occupational Safety and Health Division of North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7). ~~13 North Carolina Administrative Code 7C .0101(a)(99), as amended.~~"

Section 31. G.S. 95-198(b) reads as rewritten:

"(b) In nonemergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under this section, to a ~~health professional,~~ responsible party, as defined in ~~13 N.C.A.C. 7C .0101(a)(99),~~ the standards adopted in Title 13, Subchapter 7F of the North Carolina Administrative Code (13 NCAC 7F), providing medical or other occupational health services to exposed persons if the request is in writing and states the medical need for the information. The employer may require that the ~~health care provider~~ responsible party sign a confidentiality agreement prior to release of the information. The parties are not precluded from pursuing noncontractual remedies to the extent permitted by law."

Section 31.1. (a) Article 1 of Chapter 97 of the General Statutes is amended by adding a new section to read:

"**§ 97-101.1. Commission may issue writs of habeas corpus.**

The Industrial Commission may issue a writ of habeas corpus ad testificandum under Article 8 of Chapter 17 of the General Statutes although it is not a court of record."

(b) G.S. 143-296 reads as rewritten:

"**§ 143-296. Powers of Industrial Commission; deputies.**

The members of the Industrial Commission, or a deputy thereof, shall have power to issue subpoenas, administer oaths, conduct hearings, take evidence, enter orders, opinions, and awards based thereon, ~~and~~ punish for ~~contempt.~~ contempt, and issue writs of habeas corpus ad testificandum pursuant to G.S. 97-101.1. The Industrial Commission is authorized to appoint deputies and clerical assistants to carry out the purpose and intent of this Article, and such deputy or deputies are hereby vested with the same power and authority to hear and determine tort claims against State departments, institutions, and agencies as is by this Article vested in the members of the Industrial Commission. Such deputy or deputies shall also have and are hereby vested with the same power and authority to hear and determine cases arising under the Workers' Compensation Act when assigned to do so by the Industrial Commission. The Commission may order parties to participate in mediation, under rules substantially similar to those approved by the Supreme Court for use in the Superior Court division, except the Commission shall determine the manner in which payment of the costs of the mediated settlement conference is assessed."

Section 32. (a) G.S. 105-116(a), as amended by S.L. 1998-22, reads as rewritten:

"(a) Tax. -- An annual franchise or privilege tax is imposed on the following:

(1) An electric power company engaged in the business of furnishing electricity, electric lights, current, or power.

(2) Repealed by S.L. 1998-22, s.2.

(2a) Repealed by S.L. 1998-22, s.2.

(3) A water company engaged in owning or operating a water system subject to regulation by the North Carolina Utilities Commission.

(4) A public sewerage company engaged in owning or operating a public sewerage system.

The tax on an electric power company is three and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from the business of furnishing electricity, electric lights, current, or power. ~~The tax on a regional natural gas district is three and twenty-two hundredths percent (3.22%) of the district's taxable gross receipts from the furnishing of piped natural gas.~~ The tax on a water company is four percent (4%) of the company's taxable gross receipts from owning or operating a water system subject to regulation by the North Carolina Utilities Commission. The tax on a public sewerage company is six percent (6%) of the company's taxable gross receipts from owning or operating a public sewerage company. A company's taxable gross receipts are its gross receipts from business inside the State less the amount of gross receipts from sales reported under subdivision (b)(2). A company that engages in more than one business taxed under this section shall pay tax on each business. A company is allowed a credit against the tax imposed by this section for the company's investments in certain entities in accordance with Division V of Article 4 of this Chapter."

(b) G.S. 105-187.44(a), as enacted by S.L. 1998-22, reads as rewritten:

"(a) City Information. -- A monthly return filed under this Article must indicate the amount of tax attributable to the following: ~~if a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city:~~

(1) Piped natural gas delivered during the month to sales or transportation customers in each city in the State.

(2) Piped natural gas received during the month in each city in the State by persons who have direct access to an interstate gas pipeline and who receive the gas for their own consumption.

If a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city."

(c) This section becomes effective July 1, 1999.

Section 33. G.S. 130A-24(b) reads as rewritten:

"(b) Appeals concerning the enforcement of rules adopted by the local board of health and concerning the imposition of administrative penalties by a local health director shall be conducted in accordance with this subsection and subsections ~~(b),~~ (c) and (d) of this section. The aggrieved person shall give written notice of appeal to the local health director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect. Upon filing of the notice, the local health director shall, within five working days, transmit to the local board of health the notice of appeal and the papers and materials upon which the challenged action was taken."

Section 34. G.S. 143B-475.1 is rewritten by adding a new subsection to read:

"(f) The community service staff shall report to the court in which the community service was ordered, a significant violation of the terms of the probation, or deferred prosecution, related to community service. The community service staff shall give

notice of the hearing to determine if there is a willful failure to comply to the person who was ordered to perform the community service. This notice shall be given by either personal delivery to the person to be notified or by depositing the notice in the United States mail in an envelope with postage prepaid, addressed to the person at the address shown on the records of the community service staff. The notice shall be mailed at least 10 days prior to any hearing and shall state the basis of the alleged willful failure to comply. The court shall then conduct a hearing, even if the person ordered to perform the community service fails to appear, to determine if there is a willful failure to complete the work as ordered by the community service staff within the applicable time limits. If the court determines there is a willful failure to comply, it shall revoke any drivers license issued to the person and notify the Division of Motor Vehicles to revoke any drivers license issued to the person until the community service requirement has been met. In addition, if the person is present, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation."

Section 35. (a) G.S. 146-12(c) reads as rewritten:

"(c) Voluntary Easement Applications for Existing Structures. -- Riparian or littoral property owners of existing structures may voluntarily obtain an easement under subsection (b) of this section in accordance with the procedures set forth in this section. For purposes of this section, the term 'existing structures' means all presently existing piers, docks, marinas, wharves, and other structures located over or upon State-owned lands covered by navigable waters. Applications for voluntary easements shall be received by the State Property Office ~~within 36 months of the effective date of this section.~~ no later than 1 October 2001."

(b) G.S. 146-12(d) reads as rewritten:

"(d) Notification of Availability of Voluntary Easements. -- The State Property Office shall provide public notice of the availability of voluntary easements by placing an advertisement in one newspaper of general circulation in each of the coastal counties identified under G.S. 113A-103(2) at least once every six ~~months during the 36-month period.~~ months. The final notice shall be placed ~~at least 30 days prior to the expiration of the 36-month period.~~ no later than 1 September 2001."

(c) This section is effective retroactively to August 31, 1998, and applies to applications for voluntary easements received by the State Property Office on or after that date.

Section 36. (a) G.S. 163-323(e) reads as rewritten:

"(e) Candidacy for More Than One Office Prohibited. -- No person may file a notice of candidacy for more than one office or group of offices described in subsection (b) of this ~~section~~ section, or for an office or group of offices described in subsection (b) of this section and an office described in G.S. 163-106(c), for any one election. If a person has filed a notice of candidacy with a board of elections under this section or under G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not later be filed for any other office or group of offices under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (c) of this section."

(b) This section is effective on and after February 1, 1999.

Section 37. The prefatory language of Section 1 of S.L. 1998-37 reads as rewritten:

"Section 1. G.S. 153A-335, as it applies to Stanly County under Chapter 930 of the 1987 Session Laws, as amended by Chapter 504 of the 1991 Session Laws and Chapter 574 of the 1993 Session Laws, reads as rewritten:".

Section 38. Section 5.1 of the Charter of the Town of Forest Hills, being Section 1 of S.L. 1997-345, reads as rewritten:

"Section 5.1. **Mayor-Council Plan.** The Village of Forest Hills operates under the Mayor-Council Plan as provided by Part 3 of Article 7 of Chapter ~~160B~~ 160A of the General Statutes. The Mayor shall vote only in those cases necessary to break a tie."

Section 39. The prefatory language of Section 1 of S.L. 1998-72 reads as rewritten:

"Section 1. G.S. 115D-15 reads ~~are~~ as rewritten:".

Section 40. Reserved.

Section 41. G.S. 89C-13(b)(1)d., as amended by S.L. 1998-118, reads as rewritten:

"d. Graduation from a high school or the completion of a high school equivalency certificate and a record satisfactory to the Board of seven years of progressive practical experience, six years of which shall have been under a practicing licensed land surveyor, and satisfactorily passing any oral and written examinations required by the Board, all of which shall determine and indicate that the candidate is competent to practice land surveying. The applicant may be qualified by the Board to take the first examination (Surveying Fundamentals) upon graduation from high school or the completion of a high school equivalency certificate and successfully completing ~~six~~ five years of progressive practice experience, ~~five~~ four of which shall have been under a practicing licensed land surveyor. ~~The applicant may apply to take the second examination (Principles and Practice of Land Surveying) upon passing the first examination and successfully completing four years of progressive practical experience, two of which shall have been under a practicing licensed land surveyor.~~"

Section 42. G.S. 105-130.17(f) is repealed.

Section 43. G.S. 105-122(a) reads as rewritten:

"(a) Every corporation, domestic and foreign, incorporated, or, by an act, domesticated under the laws of this State or doing business in this State, except as otherwise provided in this Article or schedule, shall, on or before the fifteenth day of the third month following the end of its income year, annually, make and deliver to the Secretary of Revenue in such form as he may prescribe a full, accurate and complete report and statement signed by either its president, vice-president, treasurer,

assistant treasurer, secretary or assistant secretary, containing such facts and information as may be required by the Secretary of Revenue as shown by the books and records of the corporation at the close of such income year.

There shall be annexed to the return required by this subsection the affirmation of the officer signing the ~~return in the following form: "Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this return, including any accompanying schedules and statements, is true and complete. If prepared by a person other than taxpayer, his affirmation is based on all information of which he has any knowledge."~~ return."

Section 44. G.S. 105-155(c) is repealed.

Section 45. G.S. 120-123(55) and (65) are repealed.

Section 46. (a) G.S. 130A-335(f1), as enacted by Section 1 of S.L. 1998-126, is recodified as G.S. 130A-335(f2).

(b) This section is effective retroactively to August 28, 1998.

Section 47. G.S. 153A-15, as amended by S.L. 1998-110, reads as rewritten:

"**§ 153A-15. Consent of board of commissioners necessary in certain counties before land may be condemned or acquired by a unit of local government outside the county.**

(a) Notwithstanding the provisions of ~~G.S. 153A-159, Article 11 of Chapter 160A of the General Statutes, G.S. 130-130,~~ Chapter ~~40~~ 40A of the General ~~Statutes,~~ Statutes or any other general law or local act conferring the power of eminent domain, before final judgment may be entered in any action of condemnation initiated ~~(or in the case of Article 11 of Chapter 160A, before a final condemnation resolution is adopted)~~ by a county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county, whereby the condemnor seeks to acquire property located in the other county, the condemnor shall furnish proof that the county board of commissioners of the county where the land is located has consented to the taking.

(b) Notwithstanding the provisions of G.S. 153A-158, ~~Chapter 160A of the General Statutes~~ 160A-240.1, ~~Article 12 of Chapter 130 of the General Statutes,~~ 130A-55, or any other general law or local act conferring the power to acquire real property, before any county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county acquires any real property located in the other county by exchange, purchase or lease, it must have the approval of the county board of commissioners of the county where the land is located.

(c) This section applies to Alamance, Alleghany, Anson, Ashe, Bertie, Bladen, Brunswick, Burke, Buncombe, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Montgomery, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Richmond, Robeson,

Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Union, Vance, Wake, Warren, Watauga, Wilkes, and Yancey ~~counties~~ Counties only.

(d) This section does not apply as to ~~any:~~

~~(1) Condemnation; or~~

~~(2) Acquisition~~

any condemnation or acquisition of real property or an interest in real property by a city where the property to be condemned or acquired is within the corporate limits of that city."

Section 48. G.S. 158-35(a) reads as rewritten:

"(a) Commission Membership. -- The governing body of the Zone is the Global TransPark Development Commission. The members of the Commission must be residents of the Zone and shall be appointed as follows:

(1) The board of commissioners of each county participating in the Zone shall appoint three voting members, one of whom shall be a minority person as defined in ~~G.S. 143-128(e)~~ G.S. 143-128(f)(2) and one of whom may be a member of the board of commissioners.

(2) The Authority shall appoint at least three but no more than seven voting members. By the appointment of these members, the Authority shall ensure that the voting membership of the Commission includes at least seven women and seven members of a racial minority described in ~~G.S. 143-128(e).~~ G.S. 143-128(f)(2). The Authority shall appoint the fewest number of members necessary to achieve these minimums.

(3) Four nonvoting members shall be appointed as follows:

a. One appointed by the Chancellor of East Carolina University to represent the University.

b. One appointed by a majority vote of the presidents of the community colleges located in the Zone, to represent the community colleges.

c. One appointed by the chair of the State Ports Authority, to represent the sea ports of the State.

d. One member of the board of directors of the Global TransPark Foundation, Inc., appointed by that board."

Section 49. The Revisor of Statutes shall codify the first paragraph of Section 4 of S.L. 1997-129, as amended by Section 10 of S.L. 1997-257, as G.S. 75A-14.1, "Lake Norman no-wake zone."

Section 50. Section 2 of S.L. 1998-113 is amended by deleting "1997-98", and substituting "1998-99".

Section 51. Section 2 of Chapter 214 of the 1991 Session Laws is repealed.

Section 52. If Senate Bill 801, 1997 Regular Session, becomes law, Section 2 of that act reads as rewritten:

"Section 2. The Revisor of Statutes shall cause to be printed with this act all relevant portions of the official comments to the ~~North Carolina~~ Uniform Planned Community Act and all explanatory comments of the drafters of this act, as the Revisor deems appropriate."

Section 53. (a) If Senate Bill 1287, 1997 Regular Session, becomes law, then:

(1) G.S. 122C-211(f), as enacted by Section 6 of that act, is recodified as G.S. 122C-211(f1).

(2) G.S. 122C-211(a), as amended by S.L. 1998-47, reads as rewritten:

"(a) Except as provided in subsections (b) through ~~(f)~~ (f1) of this section, any individual, including a parent in a family unit, in need of treatment for mental illness or substance abuse may seek voluntary admission at any facility by presenting himself for evaluation to the facility. No physician's statement is necessary, but a written application for evaluation or admission, signed by the individual seeking admission, is required. The application form shall be available at all times at all facilities. However, no one shall be denied admission because application forms are not available. An evaluation shall determine whether the individual is in need of care, treatment, habilitation or rehabilitation for mental illness or substance abuse or further evaluation by the facility. Information provided by family members regarding the individual's need for treatment shall be reviewed in the evaluation. An individual may not be accepted as a client if the facility determines that the individual does not need or cannot benefit from the care, treatment, habilitation, or rehabilitation available and that the individual is not in need of further evaluation by the facility. The facility shall give to an individual who is denied admission a referral to another facility or facilities that may be able to provide the treatment needed by the client."

(3) Section 7 of that act reads as rewritten:

"Section 7. This act becomes effective ~~October 1,~~ November 1, 1998."

(4) The prefatory language of Section 5 of that act reads as rewritten:

"Section 5. ~~G.S. 122C-57(d), (e), and (f) are amended as follows:~~ G.S. 122C-57(d) through (f) read as rewritten:".

(5) The Revisor of Statutes may delete from G.S. 122C-77, as rewritten by Section 2 of that act, any lines on the form to be filled in where it was clearly intended that those lines be deleted but which do not appear to be stricken through because of formatting.

(b) This section becomes effective September 30, 1998.

Section 54. Section 6 of S.L. 1998-135 reads as rewritten:

"Section 6. This act becomes effective August 15, 1998, and applies to State employee grievances arising on or after that date and to cases pending on that date in the Office of Administrative Hearings or before the State Personnel Commission or on appeal from a decision of the Commission. This act also applies to cases that were voluntarily dismissed without prejudice before the Office of Administrative Hearings before August 15, 1998, and that are refiled prior to December 1, 1998, provided that the case is not otherwise barred from being refiled."

Section 55. (a) Section 11(a) of S.L. 1998-55 reads as rewritten:

"Section 11(a). The Piedmont Triad ~~International~~ Airport Authority may contract for design and construction of an air freight distribution facility on Airport property without being subject to the requirements of Article 8 of Chapter 143 of the General Statutes."

(b) Section 11(b) of S.L. 1998-55 reads as rewritten:

"Section 11(b). The Piedmont Triad ~~International~~ Airport Authority may contract for supplies, materials, equipment, and contractual services of the Authority related to an air freight distribution facility on Airport property without being subject to the requirements of ~~Article 3~~ Articles 3 or 8 of Chapter 143 of the General Statutes."

Section 56. G.S. 58-65-133(d), as enacted by S.L. 1998-3, reads as rewritten:

"(d) Advisory Committee. -- An advisory committee shall be formed to (i) develop, subject to the approval of the Attorney General, the criteria for selection of the Foundation's initial board of directors and (ii) nominate candidates for the initial board of directors. The advisory committee shall be comprised of the following 11 members: three representatives of the business community selected by North Carolina Citizens for Business and Industry, three representatives of the public and private medical school community selected by The University of North Carolina Board of Governors, three representatives of private foundations and other nonprofit organizations selected by the North Carolina Center for Nonprofits, a representative of ~~the North Carolina Association of Hospitals and Health Care Networks,~~ NCHA, Inc., and a representative of the North Carolina Medical Society. After receiving a copy of the proposed plan of conversion, the Attorney General shall immediately notify these organizations, and the advisory committee shall be constituted within 45 days thereafter.

The advisory committee's criteria shall ensure an open recruitment process for the directors. The advisory committee shall nominate 22 residents of North Carolina for the 11 positions to be filled by the Attorney General. The Attorney General shall retain an independent executive recruiting firm or firms to assist the advisory committee in its work."

Section 57. If Senate Bill 1260, 1997-98 Regular Session, becomes law, then:

(1) G.S. 7B-2514(a), as enacted by that act, reads as rewritten:

"(a) In determining whether a juvenile should be released before the juvenile's 18th birthday, the Office shall consider the protection of the public and the likelihood that continued placement will lead to further rehabilitation. If the Office does not intend to release the juvenile prior to the juvenile's eighteenth birthday, or if the Office determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2512(a), the Office shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance of the juvenile's eighteenth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Office, the basis for extending the commitment period, and the plan for future care or treatment."

(2) The prefatory language of Section 2(b) of that act reads as rewritten:

"(b) ~~G.S. 147-33.34(5),~~ G.S. 147-33.34(a)(5), as enacted by Section 1 of this act, reads as rewritten:".

(3) Section 2(f) of that act reads as rewritten:

"(f) Effective July 1, 1999, the Revisor of Statutes shall substitute the term 'post-release supervision' for the term ~~'aftercare' and~~ 'aftercare,' the term 'detention facility' for the terms 'detention home' and ~~'regional detention home'~~ 'regional detention home,' and the term 'detention facilities' for the term 'regional detention homes' everywhere those terms appear in Article 3C of Chapter 147 of the General Statutes, as enacted in Section 1 of this act.

Section 58. (a) Article 47 of Chapter 58 of the General Statutes is amended by adding the following new Part:

"Part 3. Third-Party Administrators for Groups.

"§ 58-47-210. Definitions.

As used in this Part:

(1) 'Board' means the board of trustees or other governing body of a group.

(2) 'Control' means 'control' as defined in G.S. 58-19-5(2).

(3) 'GAAP financial statement' means a financial statement as defined by generally accepted accounting principles.

(4) 'Group' means a group of employers that is licensed under Part 1 of this Article.

(5) 'Hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a person is insolvent or, although not yet financially impaired or insolvent, is unlikely to be able to meet obligations with respect to known and reasonably anticipated obligations in the normal course of business.

(6) 'Member' means an employer that participates in a group.

(7) 'Third-party administrator' or 'TPA' means a person engaged by a board to execute the policies established by the board and to provide day-to-day management of the group. 'Third-Party Administrator' and 'TPA' does not mean:

a. An employer acting on behalf of its employees or the employees of one or more of its affiliates.

b. An insurer that is licensed under this Chapter or that is acting as an insurer with respect to a policy lawfully issued and delivered by it and under the laws of a state in which the insurer is licensed to write insurance.

c. An agent or broker who is licensed by the Commissioner under Article 33 of this Chapter whose activities are limited exclusively to the sale of insurance.

d. An adjuster licensed by the Commissioner under Article 33 of this Chapter whose activities are limited to adjustment of claims.

e. An individual who is an officer, a member, or an employee of a board.

"**§ 58-47-215. TPA authority; license, qualification for approval.**

(a) No person shall act as, offer to act as, or hold himself or herself out as a TPA with respect to risks located in this State for a group unless that person is licensed by the Commissioner under this Part.

(b) An applicant for a license shall file with the Commissioner the information required by subsection (c) of this section on a form prescribed by the Commissioner at least 90 days before the proposed licensing date. No application is complete until the Commissioner has received all required information.

(c) The following information shall be included in the license application:

(1) All organizational documents of the TPA, including articles of incorporation, articles of association, a partnership agreement, a trade name certificate, or a trust agreement, any other applicable documents, and all amendments to these documents;

(2) The bylaws, rules, regulations, or similar documents regulating the internal affairs of the TPA;

(3) The names, addresses, official positions, and professional qualifications of the individuals who are responsible for the conduct of affairs of the TPA, including (i) all members of the board of directors, executive committee, or other governing board or committee, (ii) the principal officers in the case of a corporation or the partners or members in the case of a partnership or association, (iii) all shareholders holding directly or indirectly ten percent (10%) or more of the voting securities of the TPA, and (iv) any other person who exercises control or influence over the affairs of the TPA;

(4) The annual audited GAAP financial statements for the two most recent years that demonstrate the applicant is solvent and an ongoing concern and any other information the Commissioner may require in order to review the current financial condition of the applicant;

(5) A general description of the business operations, including information on staffing levels and activities proposed in this State and nationwide. The description shall provide details setting forth the TPA's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, record keeping, and underwriting;

(6) The annual report of the manner and amount of all charges, fees, and direct and indirect compensation received from the group as specified in the service agreement;

(7) All written agreements or contracts with groups; and

(8) Any other pertinent information, including evidence of compliance with other provisions of this Article, as required by the Commissioner.

(d) The information required by subsection (c) of this section, including any trade secrets, shall be kept confidential; provided that the Commissioner may use that information in any judicial or administrative proceeding instituted against the TPA.

(e) TPA licenses shall be renewed annually and applications for renewals of licenses shall include or be accompanied by any changes in the information required by subsection (c) of this section.

(f) A TPA shall notify the Commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for a license in this State, 30 business days before the change. Failure of the Commissioner to disapprove any material changes within 30 days after the changes have been filed with the Commissioner constitutes the Commissioner's approval of the filed changes.

(g) After initial licensing, a TPA shall file with the Commissioner all contracts with a group 60 days before the effective date of the contract.

"§ 58-47-220. TPA license; termination; revocation; restrictions.

(a) The Commissioner may refuse to issue a license if the Commissioner determines that any of the provisions of this section apply to the TPA, or to any individual responsible for the conduct of affairs of the TPA.

(b) The Commissioner shall suspend or revoke automatically the license of a TPA and a request for a hearing shall not stay the effect of the revocation, suspension, or nonrenewal if the Commissioner finds that any of the following apply to the TPA:

(1) The TPA is using methods or practices in the conduct of its business that render its further transaction of business in this State hazardous or injurious to insured persons or the public;

(2) The TPA has failed to pay any judgment rendered against it in this State within 60 days after the judgment has become final;

(3) The TPA has refused to be examined or to produce its accounts, records, and files for examination, or any of its officers have refused to give information with respect to its affairs or have refused to perform any other legal obligation as to that examination, when required by the Commissioner;

(4) The TPA has, without just cause, refused to pay proper claims or perform services arising under its contract, has caused covered members to accept less than the amount due them, or has caused covered members to employ attorneys or bring suit against the TPA to secure full payment or settlement of the claims;

(5) The TPA is an affiliate of or under the same general management, interlocking directorate, or ownership as another TPA or group that unlawfully transacts business in this State;

(6) The TPA, or any principal or affiliate of the TPA, has been convicted of or has entered a plea of guilty or nolo contendere to a felony without regard to whether judgment was withheld;
(7) The TPA or an affiliate is under revocation, suspension, or nonrenewal in another state;
(8) The TPA is in hazardous financial condition;
(9) The TPA has filed for protection under the United States Bankruptcy Code or any state receivership law;
(10) The financial condition or business practices of the TPA otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this State; or
(11) The TPA is found to be in violation of Article 63 of this Chapter.

(c) The Commissioner may, after notice and opportunity for hearing, suspend or revoke the license of a TPA if the Commissioner finds that any of the following apply to the TPA:
(1) The TPA has violated a rule or an order of the Commissioner or any provision of this Chapter or Chapter 97 of the General Statutes; or
(2) The TPA at any time fails to meet any qualification for which issuance of the license could have been refused had the failure then existed and been known to the Commissioner at the time of the application.

(d) If the Commissioner determines that a TPA or any other person has not materially complied with this Article or with any rule adopted or order issued under this Article, after notice and opportunity to be heard, the Commissioner may order:
(1) For each separate violation, a civil penalty pursuant to G.S. 58-2-70(d); or
(2) Revocation, suspension, or nonrenewal of the person's license.

(e) If the Commissioner finds that, because of a material noncompliance, a group has suffered any loss or damage, the Commissioner may maintain a civil action brought by or on behalf of the group and its policyholders and creditors for recovery of compensatory damages for the benefit of the group and its policyholders and creditors or for other appropriate relief.

(f) Nothing in this Article affects the Commissioner's right to impose any other penalties provided for in this Chapter. Nothing in this Article limits or restricts the rights of policyholders, claimants, and creditors.

(g) If an order of rehabilitation or liquidation of the group has been entered under Article 30 of this Chapter, and the receiver appointed under that order determines that the TPA or any other person has not materially complied with this section, or any order or rule adopted thereunder, and the group suffered any loss or damage therefrom, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the group."

(b) This section becomes effective January 1, 2000.

Section 59. Section 2 of S.L. 1998-121 reads as rewritten:

"Section 2. ~~Part 2 of Division II of Article 5 of Chapter 105 of the General Statutes~~ G.S. 105-164.5 is repealed."

Section 60. If ratified Senate Bill 882, 1997 Regular Session, and House Bill 926, 1997 Regular Session both become law, then Section 90 of ratified Senate Bill 882, 1997 Regular Session is repealed.

Section 61. G.S. 1A-1, Rule 9(j), reads as rewritten:

"(j) Medical malpractice. -- Any complaint alleging medical malpractice by a health care provider as defined in G.S. 90-21.11 in failing to comply with the applicable standard of care under G.S. 90-21.12 shall be dismissed unless:

(1) The pleading specifically asserts that the medical care has been reviewed by a person who is reasonably expected to qualify as an expert witness under Rule 702 of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care;

(2) The pleading specifically asserts that the medical care has been reviewed by a person that the complainant will seek to have qualified as an expert witness by motion under Rule 702(e) of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care, and the motion is filed with the complaint; or

(3) The pleading alleges facts establishing negligence under the existing common-law doctrine of res ipsa loquitur.

Upon motion by the complainant prior to the expiration of the applicable statute of limitations, a resident judge of the superior court of the county in which the cause of action arose may allow a motion to extend the statute of limitations for a period not to exceed 120 days to file a complaint in a medical malpractice action in order to comply with this Rule, upon a determination that good cause exists for the granting of the motion and that the ends of justice would be served by an extension. Experts required by this Rule shall be subject to discovery pursuant to Rule 26(b)(4) to the same extent as experts designated for trial."

Section 62. (a) G.S. 20-28.3(h), as enacted in Section 3 of S.L. 1998-182, reads as rewritten:

"(h) Insurance Proceeds. -- In the event a motor vehicle is damaged incident to the conduct of the defendant which gave rise to the defendant's arrest and seizure of the motor vehicle pursuant to this section, the county board of education, or its authorized designee, is authorized to negotiate the county board of education's interest with the insurance company and to compromise and accept settlement of any claim for damages. Property insurance proceeds accruing to the defendant, or other owner of the seized motor vehicle, shall be paid by the responsible insurance company directly to the clerk of superior court in the county where the motor vehicle driver was charged. If the motor vehicle is declared a total loss by the insurance company ~~responsible for~~ liable for the damages to the motor vehicle, the clerk of superior court, upon application of the county board of education, shall enter an order that the motor vehicle be released to the insurance company upon payment

into the court of all insurance proceeds for damage to the motor vehicle after payment of towing and storage costs and all valid liens. The clerk of superior court shall provide the Division with a certified copy of the order entered pursuant to this subsection, and the Division shall transfer title to the insurance company or to such other person or entity as may be designated by the insurance company. Insurance proceeds paid to the clerk of court pursuant to this subsection shall be subject to forfeiture pursuant to G.S. 20-28.5 and shall be disbursed pursuant to further orders of the court. An affected motor vehicle owner or lienholder who objects to any agreed upon settlement under this subsection may file an independent claim with the insurance company for any additional monies believed owed. Notwithstanding any other provisions in this Chapter, nothing in this section or G.S. 20-28.2 shall require an insurance company to make payments in excess of those required pursuant to its policy of insurance on the seized motor vehicle."

(b) G.S. 20-28.3(i), as enacted in Section 3 of S.L. 1998-182, reads as rewritten:

"(i) Expedited Sale of Seized Motor Vehicles in Certain Cases. -- In order to avoid additional liability for towing and storage costs pending resolution of the criminal proceedings of the defendant, the county board of education may, after expiration of 90 days from the date of seizure, sell any motor vehicle having a fair market value of one thousand five hundred dollars ($1,500) or less. The county board of education may also sell a motor vehicle, regardless of the fair market value, any time the outstanding towing and storage costs exceed eighty-five percent (85%) of the fair market value of the vehicle, or with the consent of all the motor vehicle owners. Any sale conducted pursuant to this subsection shall ~~take place upon not less than 10 days' prior notice to the motor vehicle owners and lienholders;~~ be conducted in accordance with the provisions of G.S. 20-28.5(a), and the proceeds of the sale, after the payment of outstanding towing and storage ~~costs;~~ costs or reimbursement of towing and storage costs paid by a person other than the defendant, shall be deposited with the clerk of superior court. If an order of forfeiture is entered by the court, the court shall order the proceeds held by the clerk to be disbursed as provided in G.S. 20-28.5(b). If the court determines that the motor vehicle is not subject to forfeiture, the court shall order the proceeds held by the clerk to be disbursed first to pay the sale, towing, and storage costs, second to pay outstanding liens on the motor vehicle, and the balance to be paid to the motor vehicle owners."

(c) G.S. 20-28.3(m), as enacted in Section 3 of S.L. 1998-182, reads as rewritten:

"(m) Trial Priority. -- District court trials of impaired driving offenses involving forfeitures of motor vehicles pursuant to G.S. 20-28.2 shall be scheduled on the arresting officer's next court date or within 30 days of the offense, whichever comes first.

Once scheduled, the case shall not be continued unless all of the following conditions are met:

(1) A written motion for continuance is filed with notice given to the opposing party prior to the motion being heard.

(2) The judge makes a finding of a 'compelling reason' for the continuance.

(3) The motion and finding are attached to the court case record.

Upon a determination of guilt, the issue of vehicle forfeiture shall be heard by the judge immediately, or as soon thereafter as feasible, and the judge shall issue the appropriate orders pursuant to G.S. 20-28.2(d).

Should a defendant appeal the conviction to superior court, any party ~~may file a motion for review to consider whether the motor vehicle may be released pursuant to G.S. 20-28.2(e) or (f) or G.S. 20-28.3(e), (e1), or (e3).~~ who has not previously been heard on a petition for pretrial release under subsections (e1) or (e3) of this section or any party whose motor vehicle has not been the subject of a forfeiture hearing held pursuant to G.S. 20-28.2(d) may be heard on a petition for pretrial release pursuant to subsections (e1) or (e3) of this section. The provisions of subsection (e) of this section shall also apply to seized motor vehicles pending trial in superior court. Where a motor vehicle was released pursuant to subsection (e) of this section pending trial in district court, the release of the motor vehicle continues, and the terms and conditions of the original bond remain the same as those required for the initial release of the motor vehicle under subsection (e) of this section, pending the resolution of the underlying offense involving impaired driving in superior court."

(d) G.S. 20-28.5(a), as amended by Section 5 of S.L. 1998-182, reads as rewritten:

"(a) Sale. -- A motor vehicle ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i), shall be sold at a public sale conducted in accordance with the provisions of Article 12 of Chapter 160A of the General Statutes, applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or (4), subject to the notice requirements of this subsection, and shall be conducted by the county board of education or a person acting on its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of the vehicle to be ~~sold~~ sold, at the address shown by the records of the Division and at any other address of the motor vehicle owner as may be found in the criminal file in which the forfeiture was ordered. Written notice of sale shall also be given to all lienholders on file with the Division. Notice of sale shall be given to the Division in accordance with the procedures established by the Division. Notices required to be given under this subsection shall be mailed at least ~~14~~ 10 days prior to the date of sale. A lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien, if that should be the highest bid, without being required to tender any additional funds, other than the towing and storage fees. The county board of education, or its agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant, the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf."

(e) G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable Accident. -- An accident or collision involving a motor vehicle that results in either of the following:

a. Death or injury of a human being.
b. Total property damage of one thousand dollars ($1,000) or ~~more.~~ more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

(f) Subsections (a), (c), and (e) of this section become effective December 1, 1998. Subsections (b) and (d) of this section are effective on and after October 15, 1998.

Section 63. Section 6 of S.L. 1998-169 reads as rewritten:

"Section 6. The Board of Transportation, with the assistance of the Secretary and the Department of Transportation, shall develop a plan to establish Rural Transportation Planning Organizations (RPOs) as a counterpart to the existing Metropolitan Planning Organizations (MPOs). The Board or its designee shall report its plan to establish these organizations to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations on or before ~~December 31, 1998.~~ June 30, 1999."

Section 64. Except as otherwise provided herein, this act is effective when it becomes law.

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, OCT. ~~15~~ 26, 1998 @ 7:30 p.m.

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mike Carpenter	NCHBA
[illegible]	NCDOT
Ruth Sappie	NCDOT
Alan Wiles	Bailey & Dixon LLP
MICHAEL CROWELL	ATTY RALEIGH
Roz Savitt	NC child Care Coalition
David Simmons	ZOA, PA
Stephanie Mansur	NC Assoc. of REALTORS
[illegible]	[illegible]
Kenneth S. Southerland	Norfolk Southern
Nancy B. Thompson	NCCBD
Kim Smith	NCLM
Mark Smith	Smith & Assoc
Alan Mandelbaum	Poyner & Spruill
LaFaun Cole	FEE
Jean M Kilbride	Mon-Van Cable

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
October 27, 1998
1:00 P.M.

The Committee on Rules, Calendar, and Operations of the House met October 27, 1998, at 1:00 p.m. in the House Conference Room in the Legislative Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Culp, Dockham, Esposito, Gulley, McMahan, Mitchell, and Thompson.

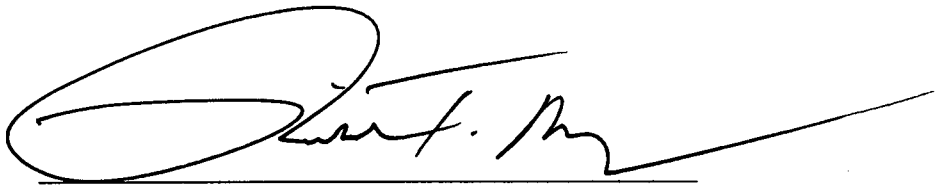
The first item on the agenda was S.B. 169 - A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO VARIOUS LAWS RELATING TO ENVIRONMENT, HEALTH, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION, introduced by Senator Albertson. Representative Bowie moved for adoption of a committee substitute for the purpose of discussion and the motion carried. Committee Counsel Linwood Jones was recognized and explained that the environmental technical corrections were taken care of in another bill. The committee substitute is the Speaker's appointments bill. Representative Bowie moved to amend the bill on page 2, line 3, by changing Forsyth to Guilford and moved for adoption of the amendment and the motion carried. Representative McMahan moved for a favorable report to the committee substitute as amended, unfavorable to the original bill. The motion carried.

H.J.R. 1498 - A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE GENERAL, introduced by Representative Morgan, was next before the Committee. Representative Esposito moved for adoption of a committee substitute for discussion and the motion carried. Committee Counsel Linwood Jones explained that the adjournment resolution provided for sine die the next day. Representative Thompson moved for a favorable report to the committee substitute, unfavorable to the original bill and the motion carried.

The Chair brought before the Committee a list of bills (see Attachment 1) and asked the members to review them. Representative Dockham asked if the subject matter listed in one of the bills, that is already in the budget bill, would damage the bill. The Chair stated that it would be the intention of the Chair to take committee action and hold the report until such time that the budget had its third reading, being careful not to run in conflict with the Rules. Representative Dockham moved that the bills listed be given a postponed indefinite report and the motion carried.

The Chair put the Committee on standby for further called meetings in the day, either in recess or after adjournment.

There being no further business, the meeting adjourned at 1:10 p.m.



Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Reports
Bills
Attachment 1
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ Senate Committee Substitute for
S.B. 169 A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO VARIOUS LAWS RELATING TO ENVIRONMENT, HEALTH, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☑ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 169*
Agriculture/Environment, Natural Resources Committee Substitute Adopted 4/22/97
Proposed House Committee Substitute S169-PCS9631-RN

Short Title: Appointments. (Public)

Sponsors:

Referred to:

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO APPOINT PERSONS TO PUBLIC OFFICE UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments upon the recommendation of the Speaker of the House of Representatives; and

Whereas, the Speaker of the House of Representatives has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Jack Welborn of Wilkes County, Paul Smith of Rowan County, and James Gary Hyatt of Mitchell County are appointed to the North Carolina Agricultural Finance Authority for terms expiring June 30, 2001.

Section 2. Phillip D. Matthews of Wake County is appointed to the Alarm Systems Licensing Board (public member) for a term expiring June 30, 2001.

Section 3. Morris L. McGough of Buncombe County is appointed to the North Carolina Arboretum Board of Directors for a term expiring June 30, 2002.

Section 4. Susan Hayes of Randolph County is appointed to the North Carolina Board of Dietetics and Nutrition to fill the unexpired term of Deborah Rosenquist, which expires June 30, 2000.

Section 5. Kermit Williamson of Sampson County and Lee Stevens, Jr., of Robeson County are appointed to the Southeastern North Carolina Farmers Market Commission for terms expiring June 30, 2002.

Section 6. Benny E. Scarbro of Yadkin County is appointed to the State Fire and Rescue Commission for a term expiring June 30, 2001.

Section 7. Michael W. Haley of Forsyth County and James R. Trotter of Wake County are appointed to the First Flight Centennial Commission for terms expiring June 30, 2000.

Section 8. Cliff Gentry of Wake County (insurance representative) is appointed to the North Carolina Manufactured Housing Board to fill the unexpired term of Bob Doepke, which expires September 30, 2000. Judy Ward of Alamance County (finance representative) is appointed to the North Carolina Manufactured Housing Board to fill the unexpired term of Don Fuquay, which expires September 30, 2000.

Section 9. Michael Holden of Moore County is appointed to the Board of Trustess of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring June 30, 2000.

Section 10. Barbara McCullough of Moore County is appointed to the board of directors of the North Carolina Center for Nursing for a term expiring June 30, 2001.

Section 11. Dr. G. Robert Horton of Moore County and Walt Israel of Gaston County are appointed to the North Carolina Parks and Recreation Authority for terms expiring June 30, 2000. Drane McCall of Forsyth County and Glenn Pope of Sampson County are appointed to the North Carolina Parks and Recreation Authority for terms expiring June 30, 1999.

Section 12. Russell Williams of Rowan County is appointed to the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors for a term expiring September 30, 2002.

Section 13. Patrick Joyce of Carteret County is appointed to the North Carolina State Ports Authority for a term expiring June 30, 2000.

Section 14. Gregg Scott of Forsyth County is appointed to the Private Protective Services Board for a term expiring June 30, 2001.

Section 15. Steven Stadelman of Franklin County (licensed soil scientist) is appointed to the Soil Scientists Licensing Board for a term expiring June 30, 2001.

Section 16. Dane Mastin of Wilkes County (sheriff position), David Keever of Mecklenburg County (CMRS provider), Frank Thomason of Rowan County (NC Chapter of Association of Public Safety Communications Officials), Pamela M. Tope of Wake County (CMRS provider), and Mike Watson of Wake County (CMRS provider) are appointed to the Wireless 911 Board for terms expiring June 30, 2002.

Section 17. This act is effective when it becomes law. Unless otherwise specified, all appointments made by this act are for terms to begin when this act becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 2

SENATE BILL 169*
Agriculture/Environment, Natural Resources Committee Substitute Adopted 4/22/97

Short Title: Env. Tech. Corrections. (Public)

Sponsors:

Referred to:

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO VARIOUS LAWS RELATING TO ENVIRONMENT, HEALTH, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 106-802(4) reads as rewritten:

"(4) 'Site evaluation' means an investigation to determine if a site meets all federal and State standards as evidenced by the Waste Management Facility Site Evaluation Report on file with the Soil and Water Conservation District office or a comparable report certified by a professional engineer or a comparable report certified by a technical specialist approved by the North Carolina Soil and Water Conservation Commission.

~~Department of Environment, Health and Natural Resources~~".

Section 2. G.S. 143-215.74(b)(3) reads as rewritten:

"(3) Subject to subdivision (7) of this subsection, priority designations for inclusions in the program shall be under the authority of the Soil and Water Conservation ~~Commission and the~~ Commission. The Soil and Water Conservation Commission shall retain the authority to allocate the cost share funds."

Section 3. G.S. 143B-282(a) reads as rewritten:

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.J.R. 1498 A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE GENERAL ASSEMBLY.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute ~~bill (#)~~ Joint Resolution, ☐ ~~which changes the title~~, unfavorable as to ~~original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on)~~ Joint Resolution.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H D

HOUSE JOINT RESOLUTION 1498
Proposed Committee Substitute H1498-PCS2425-RN

Sponsors:

Referred to:

May 26, 1998

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Senate and House of Representatives constituting the General Assembly of 1997 do adjourn sine die on Wednesday, October 28, 1998.

Section 2. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE JOINT RESOLUTION 1498

Sponsors: Representatives Morgan; and Goodwin.

Referred to: Rules, Calendar and Operations of the House.

May 26, 1998

A JOINT RESOLUTION PROVIDING FOR ADJOURNMENT SINE DIE OF THE GENERAL ASSEMBLY.

Be it resolved by the House of Representatives, the Senate concurring:

Section 1. The Senate and House of Representatives constituting the General Assembly of 1997 do adjourn sine die.

Section 2. This resolution is effective upon ratification.

Attachment 1

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

Reports the following bills

☒ With an indefinite postponement report.

NORTH CAROLINA GENERAL ASSEMBLY
PENDING HOUSE COMMITTEE ON
RULES, CALENDAR & OPERATIONS OF THE HOUSE
1997-98 Biennium

Date: 10/27/98
Time: 12:09 p.m.
Page: 1
Leg. day:H-221/S-222

BILL	SHORT TITLE		DATE	LATEST ACTION
H 13	SIMPLIFY AND REDUCE INHERITANCE T	*H	8-26-97	REF TO COM ON RULES
H 458	CHARTER SCHOOL AMENDMENTS	*H	5- 1-97	RE-REF COM ON RULES
H 546	LOBBYIST REFORM ACT OF 1997	H	3-19-97	REF TO COM ON RULES
H 626	CARTERET/NEW HANOVER NO-WAKE ZONE	*H	7-16-98	RE-REF COM ON RULES
H 893	MCDOWELL/BURKE AIRPORT AUTHORITY	H	8- 5-98	RE-REF COM ON RULES
H 925=	HEALTH CARE INFORMATION PRIVACY	H	5-21-97	RE-REF COM ON RULES
H 946=	AMEND NC APPRAISERS ACT	H	4-15-97	REF TO COM ON RULES
H1056	ESTHETICIAN REGISTRATION	H	4-21-97	REF TO COM ON RULES
H1279=	CIVIL PROCEDURE RULE CHANGES	H	5-14-98	REF TO COM ON RULES
H1391=	JUDICIAL APPT./VOTER RETENTION	*H	9-29-98	RE-REF COM ON RULES
H1434=	LAGOON CLOSURE STUDY	H	5-25-98	REF TO COM ON RULES
H1468	**STATE PERSONNEL SYSTEM STUDY**	**H**	**5-25-98**	**REF TO COM ON RULES**
~~H1498~~	~~ADJOURNMENT SINE DIE~~	H	5-26-98	REF TO COM ON RULES
H1499	**BLANK APPROPRIATIONS BILL-10**	**H**	**5-26-98**	**REF TO COM ON RULES**
H1514	MOORE COUNTY LOCAL ACT	H	5-26-98	REF TO COM ON RULES
H1539=	INCREASE COURT FEES	H	5-27-98	REF TO COM ON RULES
H1550	**BOATING SAFETY STUDY/FUNDS**	**H**	**5-27-98**	**REF TO COM ON RULES**
H1589	**DAVIDSON ROAD SQUAD UNIFORMS FUND**	**H**	**5-28-98**	**REF TO COM ON RULES**
H1630	RANDOLPH COUNTY LOCAL ACT	H	5-28-98	REF TO COM ON RULES
H1636	**ADVERTISING ON SCH. PROPERTY STUD**	**H**	**5-28-98**	**REF TO COM ON RULES**
H1668=	UNC SCHOOL ADMIN. PROGRAMS	H	5-28-98	REF TO COM ON RULES
H1696	CHARTER APPLICATIONS/PUBLIC SCHOO	H	6- 1-98	REF TO COM ON RULES
H1705	**BLANK APPROPRIATIONS BILL-15**	**H**	**6- 1-98**	**REF TO COM ON RULES**
H1728	**CHILD CARE STUDY/FUNDS**	**H**	**6- 1-98**	**REF TO COM ON RULES**
H1739	RETIREMENT/CHARTER SCHOOLS	*H	8-11-98	RE-REF COM ON RULES
H1757	DISAPPROVAL OF CERTAIN RULES	H	10-12-98	RE-REF COM ON RULES

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, OCT. 27, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Thad Davis	NCIAE
Kevin Howell	NCBA
David Simmons	ZDA, PA
Lucius Fuller	ATTY.
John Valentine	AT&T
David Ferrell	HMCC & C
Mac Pearson	Capitol Group
Linda Pope	Sec. of State
Harriet Reid	NCACS
Martha Blair	DOA
Katherine Davis	Electricities
LYNN HOLMES	BELLSOUTH
Cam Cowell	BPMHL
Leanne Winner	NCSBA
Susan Harrison	WCPSS
Henry Jones	Attorney - Raleigh
Mike Barnette	NCHCA

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
October 27, 1998
3:40 P.M.

The Committee on Rules, Calendar, and Operations of the House met October 27, 1998, at 3:40 p.m. in the House Conference Room in the Legislative Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Crawford, Culp, Dockham, Esposito, Gulley, Hill, McMahan, Mitchell, Neely, Thompson and Wilson.

Representative Bowie made a motion to reconsider the vote by which the bills were postponed indefinitely in a previous committee meeting. Chairman Morgan announced that H.B. 1499 - A BILL TO BE ENTITLED AN ACT TO MAKE APPROPRIATIONS, introduced by Representative Morgan, is removed from the postpone indefinite list. Representative Bowie moved to postpone all the bills on the list with exception of H.B. 1499 and the motion carried.

Representative Culp moved to put the contents of the Senate bill regarding the Speaker's appointments into H.B. 1499, give it a favorable report and unfavorable to the original bill. The motion carried.

Chairman Morgan stated that H.B. 1023 - A BILL TO BE ENTITLED AN ACT TO MODERNIZE THE PRETRIAL RELEASE AND BOND FORFEITURE PROCEDURE AND TO REQUIRE EACH CLERK OF COURT TO ENSURE THAT ALL RECORDS OF DISPOSITIONS IN CRIMINAL CASES CONTAIN CERTAIN INFORMATION, introduced by Representative Baddour was removed from the unfavorable calendar and returned to the Rules Committee. Representative Neely moved that the vote by which HB 1023 received a postponed indefinite report be reconsidered and the motion carried. The bill being properly before the Committee, Representative Baddour was recognized to explain the bill. Representative Baddour asked the Committee not to concur. Representative Neely moved that the Committee recommend to the House that it not concur and conferees be appointed. The motion carried.

H.B. 1279 - A BILL TO BE ENTITLED AN ACT TO AMEND THE RULES OF CIVIL PROCEDURE AND TO EXTEND THE CIVIL PROCEDURE STUDY COMMISSION, introduced by Representative Baddour was next before the committee. Representative Gully moved that the vote by which House Committee Substitute for H.B. 1279 as amended and rolled into a new committee substitute be reconsidered. Committee Counsel Linwood Jones was recognized and explained that a portion of the title would be rewritten because it originally referred to the medical malpractice rule. The end of the title would read, "to clarify that discovery applies to experts who are required to review records and are willing to testify under the medical malpractice expert witness

review rule, to clarify that hospital authorities are exempt from the construction laws governing other public bodies, to correct a reference to probationary teachers in the budget, and to resolve a conflict with the effective date of the legislation involving municipal and corporation procedures. He continued with the additions to the technical correction bill (1) a section clarifying that public hospital authorities are not subject to the construction laws that are applicable to public bodies generally; (2) correction of the misspelling of the word "publicly" in some piece of legislation from last year; (3) Senator Ballance's name had inadvertently shown up in the budget bill as requesting a particular item and he had not requested it so it is being removed; (4) Representative Starnes was involved in an earlier bill with conflicting dates because of an effective date and that is being corrected; (5) there was an error in the budget that referred to as probationary teacher and it should have been retired teacher; and (6) since the bill was prepared yesterday, the Governor has signed into law some things in the technical bill which means they now have chapter numbers, and if there is no objection, staff will go back and fix the references to the bill and put in the chapter numbers. The Chair stated that Representative McMahan had one of the amendments and he requested that it be removed. Linwood Jones explained that it was the amendment dealing with clarifying the applicability of the construction law to public hospital authorities. This amendment will not be included in the bill. Representative McMahan sent forward the amendments read by Counsel and moved for adoption of the amendments. The motion carried. Representative McMahan moved that the amendments be rolled into a new committee substitute and that committee substitute be given a favorable report, unfavorable to the original bill. The motion carried.

Chairman Morgan put the committee on standby for future meeting.

The meeting adjourned at 3:50 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:

Bills
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for
H.B. 1499 A BILL TO BE ENTITLED AN ACT TO MAKE APPROPRIATIONS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to original bill ~~(Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)~~

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE**.

☒ Senate Committee Substitute for
H.B. 1023 A BILL TO BE ENTITLED AN ACT TO MODERNIZE THE PRETRIAL RELEASE AND BOND FORFEITURE PROCEDURE AND TO REQUIRE EACH CLERK OF COURT TO ENSURE THAT ALL RECORDS OF DISPOSITIONS IN CRIMINAL CASES CONTAIN CERTAIN INFORMATION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☒ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 1

HOUSE BILL 1499

Short Title: Appropriations. (Public)

Sponsors: Representative Morgan.

Referred to: Rules, Calendar and Operations of the House.

May 26, 1998

A BILL TO BE ENTITLED

AN ACT TO MAKE APPROPRIATIONS.

The General Assembly of North Carolina enacts:

Section 1. This act makes appropriations from the General Fund for the 1998-99 fiscal year.

Section 2. This act becomes effective July 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 4

HOUSE BILL 1023
Committee Substitute Favorable 4/28/97
Senate Judiciary Committee Substitute Adopted 7/16/97
Fourth Edition Engrossed 7/23/97

Short Title: Pretrial Release & Bond Forfeiture. (Public)

Sponsors:

Referred to:

April 21, 1997

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE PRETRIAL RELEASE AND BOND FORFEITURE PROCEDURE AND TO REQUIRE EACH CLERK OF COURT TO ENSURE THAT ALL RECORDS OF DISPOSITIONS IN CRIMINAL CASES CONTAIN CERTAIN INFORMATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 15A-533 reads as rewritten:

"**§ 15A-533. Right to pretrial release in capital and noncapital cases.**

(a) A defendant charged with any crime, whether capital or noncapital, who is alleged to have committed this crime while still residing in or subsequent to his escape or during an unauthorized absence from involuntary commitment in a mental health facility designated or licensed by the Department of Human Resources, and whose commitment is determined to be still valid by the judge or judicial officer authorized to determine pretrial release to be valid, has no right to pretrial release. In lieu of pretrial release, however, the individual shall be returned to the treatment facility in which he was residing at the time of the alleged crime or from which he escaped or absented himself for continuation of his treatment pending the additional proceedings on the criminal offense.

(b) A defendant charged with a noncapital offense other than an offense that constitutes 'trafficking' in a controlled substance, as that term is defined by the

Controlled Substances Act, must have conditions of pretrial release determined, in accordance with G.S. 15A-534.

(c) Subject to rebuttal by the person, it shall be presumed that no condition of release will reasonably assure the appearance of the person as required and the safety of the community if a judicial official finds that there is probable cause to believe that the person committed ~~A judge may determine in his discretion whether a defendant charged with~~ a capital offense or an offense involving trafficking in a controlled substance. Such persons may only be released by a district or superior court judge upon a finding that there is a reasonable assurance that the person will appear and release does not pose an unreasonable risk of harm to the community. ~~may be released before trial.~~ If he determines release is warranted, the judge must authorize release of the defendant in accordance with G.S. 15A-534."

Section 2. G.S. 15A-534 reads as rewritten:

"**§ 15A-534. Procedure for determining conditions of pretrial release.**

(a) In determining conditions of pretrial release a judicial official must impose one of the following conditions:

(1) Release the defendant on his written promise to appear.

(2) Release the defendant upon his execution of an unsecured appearance bond in an amount specified by the judicial official.

(3) Place the defendant in the custody of a designated person or organization agreeing to supervise him.

(4) Require the execution of an appearance bond in a specified amount secured by a cash deposit of the full amount of the bond, by a mortgage pursuant to G.S. 58-74-5, or by at least one solvent surety.

If condition (3) is imposed, however, the defendant may elect to execute an appearance bond under subdivision (4). The judicial official may also place restrictions on the travel, associations, conduct, or place of abode of the defendant as conditions of pretrial release.

(b) The judicial official in granting pretrial release must impose condition (1), (2), or (3) in subsection (a) above unless he determines that such release will not reasonably assure the appearance of the defendant as required; will pose a danger of injury to any ~~person;~~ person or to the community; or is likely to result in destruction of evidence, subornation of perjury, or intimidation of potential witnesses. Upon making the determination, the judicial official must then impose condition (4) in subsection (a) above instead of condition (1), (2), or (3), and must record the reasons for so doing in writing ~~to the extent provided in the policies or requirements issued~~ in such form as may be required by the senior resident superior court judge pursuant to G.S. 15A-535(a).

(c) In determining which conditions of release to impose, the judicial official must, on the basis of available information, take into account the nature and circumstances of the offense charged; the weight of the evidence against the defendant; the defendant's family ties, employment, financial resources, character, and mental condition; whether the defendant is intoxicated to such a degree that he

would be endangered by being released without supervision; the length of his residence in the community; his record of convictions; his history of flight to avoid prosecution or failure to appear at court proceedings; and any other evidence relevant to the issue of pretrial release.

(c1) If a secured bond is required by a magistrate or clerk of superior court in a case in which the only charges against the defendant are misdemeanors, the defendant, unless sooner released, shall be entitled to have the conditions of pretrial release reviewed at the next regularly scheduled session of district court at which criminal matters may be heard. If no such session is scheduled within 96 hours after the time when the defendant is taken into custody, the conditions shall be reviewed within the 96 hours by a judicial official other than the one who required the secured bond.

(d) The judicial official authorizing pretrial release under this section must issue an appropriate order containing a statement of the conditions imposed, if any; inform the defendant in writing of the penalties applicable to violations of the conditions of his release; and advise him that his arrest will be ordered immediately upon any violation. The order of release must be filed with the clerk and a copy given the defendant.

(e) A magistrate or a clerk may modify his pretrial release order at any time prior to the first appearance before the district court judge. At or after such first appearance, except when the conditions of pretrial release have been reviewed by the superior court pursuant to G.S. 15A-539, a district court judge may modify a pretrial release order of the magistrate or clerk or any pretrial release order entered by him at any time prior to:

(1) In a misdemeanor case tried in the district court, the noting of an appeal; and

(2) In a case in the original trial jurisdiction of the superior court, the binding of the defendant over to superior court after the holding, or waiver, of a probable-cause hearing.

After a case is before the superior court, a superior court judge may modify the pretrial release order of a magistrate, clerk, or district court judge, or any such order entered by him, at any time prior to the time set out in G.S. 15A-536(a).

(f) For good cause shown any judge may at any time revoke an order of pretrial release. Upon application of any defendant whose order of pretrial release has been revoked, the judge must set new conditions of pretrial release in accordance with this Article.

(g) In imposing conditions of pretrial release and in modifying and revoking orders of release under this section, the judicial official must take into account all evidence available to him which he considers reliable and is not strictly bound by the rules of evidence applicable to criminal trials.

(h) A bail bond posted pursuant to this section is effective and binding upon the obligor throughout all stages of the proceeding in the trial division of the General Court of Justice until the entry of judgment in the district court from which no

appeal is taken or the entry of judgment in the superior court. The obligation of an obligor, however, is terminated at an earlier time if:

(1) A judge authorized to do so releases the obligor from his bond; or

(2) The principal is surrendered by a surety in accordance with G.S. 15A-540; or

(3) The proceeding is terminated by voluntary dismissal by the State before forfeiture is ordered under G.S. 15A-544(b); or

(4) Prayer for judgment has been continued indefinitely in the district court.

(i) In accordance with G.S. 15A-543, if the principal fails to appear in court as required, the court shall issue an order for arrest for the failure to appear and shall set a secured bond at an amount of at least twice the amount of the previous bond. Failure by the court to comply with this provision shall not affect the validity of any order or judgment."

Section 3. G.S. 15A-535(a) reads as rewritten:

"(a) Subject to the provisions of this Article, the senior resident superior court judge for each district or set of districts as defined in G.S. 7A-41.1(a) in consultation with the chief district court judge or judges of all the district court districts in which are located any of the counties in the senior resident superior court judge's district or set of districts, must devise and issue recommended policies to be followed within each of those counties in determining whether, and upon what conditions, a defendant may be released before trial, and ~~may~~ shall include in such policies, or issue separately, a requirement that each judicial official who imposes condition (4) in G.S. 15A-534(a) must record the reasons for doing so in writing."

Section 4. G.S. 15A-544 reads as rewritten:

"**§ 15A-544. Forfeiture.**

(a) By entering into a bail bond the obligor submits to the jurisdiction of the court and irrevocably appoints the clerk as the obligor's agent for any proceedings with reference to the bond. The obligor's liability may be enforced on motion without the necessity of an independent action. Each obligor, including the principal, bail agent, and the surety represented by the bail agent, shall enter on the bond the obligor's mailing address, street address, and telephone number for the service of any process required by this section or other provision of law. If the address or telephone number of the obligor changes during the pendency of any proceeding with reference to the bond, it shall be the duty of the obligor to notify the clerk of the obligor's new address and telephone number.

(b) If the principal does not comply with the conditions of the bail bond, the court having jurisdiction must enter an order declaring the bail to be forfeited. If forfeiture is ordered by the court, a copy of the order of forfeiture and notice that judgment will be entered upon the order after 60 days must be served on each obligor. ~~Service is to~~ Unless waived in writing by the obligor, service shall be made by ~~the clerk mailing by~~ certified mail, return receipt requested, on an accommodation bondsman as defined in G.S. 58-71-1, and by first-class mail on all other obligors. The clerk shall serve a copy of the order of forfeiture and notice ~~to~~ on each obligor

at each obligor's address as noted on the bond and shall note on the original the date of mailing. Service is complete three days after the mailing.

~~(c) Except as provided in subsection (c1) of this section, at~~ At any time within 60 days following the date of service, or on the first presentment of the forfeiture calendar more than 60 days after the date of service, the principal or surety may move the court having jurisdiction of the matter, orally or in writing, to strike the order of forfeiture and recall the notice of forfeiture. If the principal or surety appears and moves within the time allowed following the date of service and satisfies the court that the principal's failure to appear on the date set was ~~impossible or~~ impossible, that the principal's failure to appear was without the principal's fault, or that the principal was surrendered by the surety, the order of forfeiture must be set aside. However, if the principal's failure to appear was the result of the principal's being incarcerated elsewhere in North Carolina, the order of forfeiture shall be set aside only on a showing that the principal, while incarcerated, was served with an order for arrest for the failure to appear or placed under a detainer for the charge for which the order of forfeiture was issued. If the principal or surety does not satisfy the court that the principal's appearance on the date set was ~~impossible or~~ impossible, that the principal's failure to appear was without the principal's fault, or that the principal was surrendered by the surety, the court must then enter judgment for the State against the principal and surety for the amount of the bail and the cost of the proceeding.

~~(c1) If the principal does not appear before the court having jurisdiction because the principal is incarcerated in North Carolina and unable to appear before the court, but the surety appears within the time allowed following the date of service and satisfies the court that the principal's appearance on the date set was impossible because the principal was incarcerated in North Carolina, the order of forfeiture must be set aside.~~

(d) To facilitate the procedure under this section, the clerk in each county shall prepare for both the district and superior court a forfeiture calendar once each month when court is in session. The forfeiture calendar shall list the names of all principals and sureties to whom forfeiture has been ordered more than 60 days previously in the county and as to which judgments of forfeiture against the principal and surety have not been entered or, if entered, not yet satisfied by execution. The forfeiture calendar shall show the amount of the bond ordered forfeited in each case. In addition, the clerk shall place on the forfeiture calendar for hearing all written motions to strike an order of forfeiture filed since the previous forfeiture calendar. It shall be the duty of the district attorney to present the forfeiture calendar to the court, but the attorney for the county school board shall have the right to appear and be heard when the forfeiture calendar is presented. At the district attorney's discretion, the district attorney may appoint the county school board attorney as the district attorney's designee for the presentation of the forfeiture calendar.

(e) ~~At any time within 90 days after entry of the judgment against a principal or surety, the principal or surety, by verified written petition, may request that the judgment be remitted in whole or in part, upon such conditions as the court may~~

~~impose, if it appears that justice requires the remission of part or all of the judgment. A copy of the petition must be served upon the attorney for the county school board at least three working days prior to the hearing. The clerk shall place on the forfeiture calendar for hearing all petitions that have been filed during the previous month or since the last forfeiture calendar. The petitioner, the district attorney, and the school board attorney shall be notified of the date, time, and place of the hearing. The petitioner, the district attorney, and the county school board attorney shall be given an opportunity to appear and be heard.~~ If the principal is surrendered by the surety and incarcerated in the State ~~within 90 days of the entry of the judgment,~~ at any time between the date of the principal's failure to appear and the 90th day after entry of judgment, the forfeiture shall be stricken upon the payment of costs. If the principal is incarcerated or served an order for arrest for the failure to appear in North Carolina ~~within 90 days of the entry of the judgment~~ at any time between the date of the principal's failure to appear and the 90th day after the entry of judgment and the principal placed on a new bond or released by the court, or if extraordinary cause is shown, then the forfeiture ~~shall~~ may, in the discretion of the court, be stricken upon the payment of costs. Notwithstanding any other provision of this subsection, if the principal is released on bond after being charged with a failure to appear pursuant to G.S. 15A-543 and is surrendered by the surety or arrested by law enforcement and served an order for arrest for a subsequent failure to appear within 90 days after the entry of judgment, then the remission, if any, of the forfeiture shall be in the discretion of the judge. Relief under this subsection may be obtained only upon written petition filed with the court within 90 days after entry of the judgment. The clerk shall place on the forfeiture calendar for hearing all petitions that have been filed during the previous month or since the last forfeiture calendar. A copy of the petition, together with a notice of hearing shall be served by the petitioner on the attorney for the school board and on the district attorney at least three days prior to the hearing. The petitioner, the attorney for the school board, and the district attorney shall be given an opportunity to be heard.

(f) If a judgment has not been remitted within the period provided in subsection (e) above, the clerk must issue execution on the judgment within 30 days, and remit the clear proceeds to the county for use in maintaining free public schools. Any clerk who fails to perform his duty as required in this subsection is subject to a penalty of five hundred dollars ($500.00).

(g) If a levy of execution upon a judgment against an obligor remains unsatisfied for 10 days, the sheriff shall notify the clerks and magistrates in each county in the prosecutorial district and the obligor shall not become surety on any bail bond in the prosecutorial district so long as the judgment remains unsatisfied. Nothing in this subsection makes lawful any act made unlawful by Article 71 of Chapter 58 of the General Statutes.

(h) For extraordinary cause shown, the court which has entered judgment upon a forfeiture of a bond may, after execution, remit the judgment in whole or in part and order the clerk to refund such amounts as the court considers appropriate. Any person moving for remission of judgment must do so by verified petition, and a copy

of the petition must be served upon the attorney for the county school board at least three working days prior to the hearing on the motion. The moving party must notify the attorney for the school board of the time and place of the hearing, and such attorney, if he so desires, must be given an opportunity to appear and be heard. If money has been paid to the county pursuant to execution on a judgment of forfeiture, it must refund to the person entitled the amount of any remission granted under the terms of this subsection upon receipt of a certified copy of the judgment of remission from the clerk."

Section 5. Article 12 of Chapter 7A of the General Statutes is amended by adding a new section to read:

"**§ 7A-109.2. Records of dispositions in criminal cases.**

Each clerk of superior court shall ensure that all records of dispositions in criminal cases, including those records filed electronically, contain all the essential information about the case, including the identity of the presiding judge and the attorneys representing the State and the defendant."

Section 6. Section 5 of this act is effective upon ratification and applies to records compiled on or after that date. The remainder of this act becomes effective December 1, 1997. Sections 1, 2, and 3 apply to offenses committed on or after that date. Section 4 applies to forfeitures ordered on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 4

SENATE BILL 1279
Judiciary Committee Substitute Adopted 8/10/98
Third Edition Engrossed 8/12/98
House Committee Substitute Favorable 10/7/98

Short Title: 1998 Technical Corrections. (Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER TECHNICAL CORRECTIONS AND OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-34.6(a)(2) reads as rewritten:

"(2) ~~An~~ A medical responder."

Section 2. G.S. 14-399(c) reads as rewritten:

"(c) Any person who violates this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent offense within three years after the date of a prior offense is punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The

community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed."

Section 3. (a) G.S. 14-408 reads as rewritten:

"**§ 14-408. Violation of § 14-406 ~~or 14-407~~ a misdemeanor.**

Any person, firm, or corporation violating any of the provisions of G.S. 14-406 ~~or 14-407~~ shall be guilty of a Class 2 misdemeanor."

(b) This section becomes effective December 1, 1998. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

Section 4. (a) G.S. 14-74 reads as rewritten:

"**§ 14-74. Larceny by servants and other employees.**

If any servant or other employee, to whom any money, goods or other chattels, or any of the articles, securities or choses in action mentioned in ~~the following section,~~ G.S. 14-75, by his master shall be delivered safely to be kept to the use of his master, shall withdraw himself from his master and go away with such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, with intent to steal the same and defraud his master thereof, contrary to the trust and confidence in him reposed by his said master; or if any servant, being in the service of his master, without the assent of his master, shall embezzle such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal them, or to defraud his master thereof, the servant so offending shall be guilty of a felony: Provided, that nothing contained in this section shall extend to apprentices or servants within the age of 16 years. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is one hundred thousand dollars ($100,000) or more, the person is guilty of a Class C felony. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is less than one hundred thousand dollars ($100,000), the person is guilty of a Class H felony."

(b) G.S. 25-7-502 reads as rewritten:

"**§ 25-7-502. Rights acquired by due negotiation.**

(1) Subject to ~~the following section~~ G.S. 25-7-503 and to the provisions of G.S. 25-7-205 on fungible goods, a holder to whom a negotiable document of title has been duly negotiated acquires thereby:

(a) title to the document;

(b) title to the goods;

(c) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(d) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by him except those arising under the terms of the document

or under this article. In the case of a delivery order the bailee's obligation accrues only upon acceptance and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2) Subject to ~~the following section,~~ G.S. 25-7-503, title and rights so acquired are not defeated by any stoppage of the goods represented by the document or by surrender of such goods by the bailee, and are not impaired even though the negotiation or any prior negotiation constituted a breach of duty or even though any person has been deprived of possession of the document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion, or even though a previous sale or other transfer of the goods or document has been made to a third person."

(c) G.S. 25-7-507 reads as rewritten:

"§ 25-7-507. Warranties on negotiation or transfer of receipt or bill.

Where a person negotiates or transfers a document of title for value otherwise than as a mere intermediary under ~~the next following section,~~ G.S. 25-7-508, then unless otherwise agreed he warrants to his immediate purchaser only in addition to any warranty made in selling the goods

(a) that the document is genuine; and

(b) that he has no knowledge of any fact which would impair its validity or worth; and

(c) that his negotiation or transfer is rightful and fully effective with respect to the title to the document and the goods it represents."

(d) G.S. 44A-21 reads as rewritten:

"§ 44A-21. Pro rata payments.

In the event that the funds in the hands of the obligor and the obligor's personal liability, if any, under ~~the previous section~~ G.S. 44A-20 are less than the amount of valid lien claims that have been filed with the obligor under this Article the parties entitled to liens shall share the funds on a pro rata basis."

Section 5. G.S. 25-8-103(a) reads as rewritten:

"(a) A share ~~of~~ or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security."

Section 6. G.S. 39-23.3(b) reads as rewritten:

"(b) For the purposes of G.S. 39-23.4(a)(2) and G.S. 39-23.5, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, ~~nonexclusive~~ noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement."

Section 7. (a) G.S. 50-11(e) reads as rewritten:

"(e) An absolute divorce obtained within this State shall destroy the right of a spouse to ~~an~~ equitable distribution ~~of the marital property~~ under G.S. 50-20 unless the right is asserted prior to judgment of absolute divorce; except, the defendant may bring an action or file a motion in the cause for equitable distribution within six months from the date of the judgment in such a case if service of process upon the

defendant was by publication pursuant to G.S. 1A-1, Rule 4 and the defendant failed to appear in the action for divorce."

(b) G.S. 50-11(f) reads as rewritten:

"(f) An absolute divorce by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property shall not destroy the right of a spouse to ~~an~~ equitable distribution ~~of marital property~~ under G.S. 50-20 if an action or motion in the cause is filed within six months after the judgment of divorce is entered. The validity of such divorce may be attacked in the action for equitable distribution."

(c) G.S. 50-20 reads as rewritten:

"**§ 50-20. Distribution by court of marital and divisible property upon divorce.**

(a) Upon application of a party, the court shall determine what is the marital property and divisible property and shall provide for an equitable distribution of the marital property and divisible property between the parties in accordance with the provisions of this section.

(b) For purposes of this section:

(1) 'Marital property' means all real and personal property acquired by either spouse or both spouses during the course of the marriage and before the date of the separation of the parties, and presently owned, except property determined to be separate property or divisible property in accordance with subdivision (2) or (4) of this subsection. Marital property includes all vested and nonvested pension, retirement, and other deferred compensation rights, and vested and nonvested military pensions eligible under the federal Uniformed Services Former Spouses' Protection Act. It is presumed that all property acquired after the date of marriage and before the date of separation is marital property except property which is separate property under subdivision (2) of this subsection. This presumption may be rebutted by the greater weight of the evidence.

(2) 'Separate property' means all real and personal property acquired by a spouse before marriage or acquired by a spouse by bequest, devise, descent, or gift during the course of the marriage. However, property acquired by gift from the other spouse during the course of the marriage shall be considered separate property only if such an intention is stated in the conveyance. Property acquired in exchange for separate property shall remain separate property regardless of whether the title is in the name of the husband or wife or both and shall not be considered to be marital property unless a contrary intention is expressly stated in the conveyance. The increase in value of separate property and the income derived from separate property shall be considered separate property. All professional licenses and business licenses which would terminate on transfer shall be considered separate property.

(3) 'Distributive award' means payments that are payable either in a lump sum or over a period of time in fixed amounts, but shall not include alimony payments or other similar payments for support and maintenance which are treated as ordinary income to the recipient under the Internal Revenue Code.

(4) 'Divisible property' means all real and personal property as set forth below:

a. All appreciation and diminution in value of marital property and divisible property of the parties occurring after the date of separation and prior to the date of distribution, except that appreciation or diminution in value which is the result of postseparation actions or activities of a spouse shall not be treated as divisible property.

b. All property, property rights, or any portion thereof received after the date of separation but before the date of distribution that was acquired as a result of the efforts of either spouse during the marriage and before the date of separation, including, but not limited to, commissions, bonuses, and contractual rights.

c. Passive income from marital property received after the date of separation, including, but not limited to, interest and dividends.

d. Increases in marital debt and financing charges and interest related to marital debt.

(c) There shall be an equal division by using net value of marital property and not value of divisible property unless the court determines that an equal division is not equitable. If the court determines that an equal division is not equitable, the court shall divide the marital property and divisible property equitably. Factors the court shall consider under this subsection are as follows:

(1) The income, property, and liabilities of each party at the time the division of property is to become effective;

(2) Any obligation for support arising out of a prior marriage;

(3) The duration of the marriage and the age and physical and mental health of both parties;

(4) The need of a parent with custody of a child or children of the marriage to occupy or own the marital residence and to use or own its household effects;

(5) The expectation of pension, retirement, or other deferred compensation rights that are not marital property;

(6) Any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of such marital property by the party not having title, including joint efforts or expenditures and contributions and services, or lack thereof, as a spouse, parent, wage earner or homemaker;

(7) Any direct or indirect contribution made by one spouse to help educate or develop the career potential of the other spouse;

(8) Any direct contribution to an increase in value of separate property which occurs during the course of the marriage;

(9) The liquid or nonliquid character of all marital ~~property;~~ property and divisible property;

(10) The difficulty of evaluating any component asset or any interest in a business, corporation or profession, and the economic desirability of retaining such asset or interest, intact and free from any claim or interference by the other party;

(11) The tax consequences to each party;

(11a) Acts of either party to maintain, preserve, develop, or expand; or to waste, neglect, devalue or convert ~~such~~ the marital ~~property,~~ property or divisible property, or both, during the period after separation of the parties and before the time of distribution; and

(12) Any other factor which the court finds to be just and proper.

(c1) Notwithstanding any other provision of law, a second or subsequent spouse acquires no interest in the marital property and divisible property of his or her spouse from a former marriage until a final determination of equitable distribution is made in the marital property and divisible property of the spouse's former marriage.

(d) Before, during or after marriage the parties may by written agreement, duly executed and acknowledged in accordance with the provisions of G.S. 52-10 and 52-10.1, or by a written agreement valid in the jurisdiction where executed, provide for distribution of the marital property or divisible property, or both, in a manner deemed by the parties to be equitable and the agreement shall be binding on the parties.

(e) Subject to the presumption of subsection (c) of this section that an equal division is equitable, it shall be presumed in every action that an in-kind distribution of marital or divisible property is equitable. This presumption may be rebutted by the greater weight of the evidence, or by evidence that the property is a closely held business entity or is otherwise not susceptible of division in-kind. In any action in which the presumption is rebutted, the court in lieu of in-kind distribution shall provide for a distributive award in order to achieve equity between the parties. The court may provide for a distributive award to facilitate, effectuate or supplement a distribution of marital or divisible property. The court may provide that any distributive award payable over a period of time be secured by a lien on specific property.

(f) The court shall provide for an equitable distribution without regard to alimony for either party or support of the children of both parties. After the determination of an equitable distribution, the court, upon request of either party, shall consider whether an order for alimony or child support should be modified or vacated pursuant to G.S. 50-16.9 or 50-13.7.

(g) If the court orders the transfer of real or personal property or an interest therein, the court may also enter an order which shall transfer title, as provided in G.S. 1A-1, Rule 70 and G.S. 1-228.

(h) If either party claims that any real property is marital ~~property,~~ property or divisible property, that party may cause a notice of lis pendens to be recorded pursuant to Article 11 of Chapter 1 of the General Statutes. Any person whose conveyance or encumbrance is recorded or whose interest is obtained by descent, prior to the filing of the lis pendens, shall take the real property free of any claim resulting from the equitable distribution proceeding. The court may cancel the notice of lis pendens upon substitution of a bond with surety in an amount determined by the court to be sufficient provided the court finds that the claim of the spouse against property subject to the notice of lis pendens can be satisfied by money damages.

(i) Upon filing an action or motion in the cause requesting an equitable distribution or alleging that an equitable distribution will be requested when it is timely to do so, a party may seek injunctive relief pursuant to G.S. 1A-1, Rule 65 and Chapter 1, Article 37, to prevent the disappearance, waste or conversion of property alleged to be marital ~~property~~ property, divisible property, or separate property of the party seeking relief. The court, in lieu of granting an injunction, may require a bond or other assurance of sufficient amount to protect the interest of the other spouse in the ~~marital or separate~~ property. Upon application by the owner of separate property which was removed from the marital home or possession of its owner by the other spouse, the court may enter an order for reasonable counsel fees and costs of court incurred to regain its possession, but such fees shall not exceed the fair market value of the separate property at the time it was removed.

(i1) Unless good cause is shown that there should not be an interim distribution, the court may, at any time after an action for equitable distribution has been filed and prior to the final judgment of equitable distribution, enter orders declaring what is separate property and may also enter orders dividing part of the marital property, divisible property or debt, or marital debt between the parties. The partial distribution may provide for a distributive award and may also provide for a distribution of marital property, marital debt, divisible property, or divisible debt. Any such orders entered shall be taken into consideration at trial and proper credit given.

Hearings held pursuant to this subsection may be held at sessions arranged by the chief district court judge pursuant to G.S. 7A-146 and, if held at such sessions, shall not be subject to the reporting requirements of G.S. 7A-198.

(j) In any order for the distribution of property made pursuant to this section, the court shall make written findings of fact that support the determination that the marital property and divisible property has been equitably divided.

(k) The rights of the parties to an equitable distribution of marital property and divisible property are a species of common ownership, the rights of the respective parties vesting at the time of the parties' separation."

Section 8. G.S. 62-268 reads as rewritten:

"**§ 62-268. Security for protection of public; liability insurance.**

No certificate or broker's license shall be issued or remain in force until the applicant shall have procured and filed with the Division of Motor Vehicles such security bond, insurance or self-insurance for the protection of the public as the Commission shall by regulation require. The Commission shall require that every motor carrier for which a certificate or license is required by the ~~provision~~ provisions of this Chapter, shall maintain liability insurance or satisfactory surety of at least fifty thousand dollars ($50,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, one hundred thousand dollars ($100,000) because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars ($50,000) because of injury to or destruction of property of others in any one accident; and the Commission may require any greater amount of insurance as may be necessary for the protection of the public. Notwithstanding any rule or regulation to the contrary, the Commission shall not require that any insurance procured and filed be provided in any single policy of insurance or through a single insurer, if the insurers involved are otherwise qualified. A motor carrier may satisfy the requirements of the Commission by procuring insurance with coverage and limits of liability required by the Commission in one or more policies of insurance issued by one or more insurers.

Notwithstanding any other provisions of this section or Chapter, bus companies shall file with the Commission proof of financial responsibility in the form of bonds, policies of insurance, or shall qualify as a self insurer, with minimum levels of financial responsibility as prescribed for motor carriers of passengers pursuant to the provisions of 49 U.S.C. § ~~10927(a)(1).~~ 31138. Provided, further, that no bus company operating solely within the State of North Carolina and which is exempt from regulation under the provisions of G.S. 62-260(a)(7) shall be required to file with the Commission proof of the financial responsibility in excess of one million five hundred thousand dollars ($1,500,000)."

Section 9. G.S. 78C-16(b) reads as rewritten:

"(b) It is unlawful for any person required to be registered as an investment adviser under this Chapter to employ an investment adviser representative unless the investment adviser representative is registered under this Chapter. The registration of an investment adviser representative is not effective during any period when the investment adviser representative is not employed by (i) an investment adviser registered under this Chapter; or (ii) an investment adviser covered under federal law who has made a notice filing pursuant to the provisions of G.S. 78C-17(a1). When an investment adviser representative begins or terminates employment or association with an investment adviser who is registered under this Chapter, the investment adviser shall notify promptly the Administrator. When an investment adviser representative begins or terminates employment or association with an investment adviser covered under federal law, the investment adviser representative shall, and the investment adviser may, notify promptly the Administrator. ~~No investment adviser representative may be registered with more than one investment adviser unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control.~~ No investment adviser

representative may be registered with more than one investment adviser or investment adviser covered under federal law unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control."

Section 10. G.S. 90-113.40(a)(8) reads as rewritten:

"(8) The applicant for substance abuse counselor has completed either a total of 6,000 hours of supervised experience in the field, whether paid or volunteer, or, if a graduate of a Board-approved master's degree program, a total of 3,000 hours of supervised experience in the field, whether paid or volunteer. The applicant for substance abuse prevention consultant has completed a total of 10,000 hours supervised experience in the field, whether paid or volunteer, or 4,000 hours if the applicant has at least a bachelors degree in a human services field."

Section 11. G.S. 110-91(10) reads as rewritten:

"(10) Each operator or staff member shall attend to any child in a nurturing and appropriate manner, and in keeping with the child's developmental needs.

Each ~~child~~ child care facility shall have a written policy on discipline, describing the methods and practices used to discipline children enrolled in that facility. This written policy shall be discussed with, and a copy given to, each child's parent prior to the first time the child attends the facility. Subsequently, any change in discipline methods or practices shall be communicated in writing to the parents prior to the effective date of the change.

The use of corporal punishment as a form of discipline is prohibited in ~~child~~ child care facilities and may not be used by any operator or staff member of any child care facility, except that corporal punishment may be used in ~~religious-sponsored child~~ religious sponsored child care facilities as defined in G.S. 110-106, only if (i) the ~~religious-sponsored child~~ religious sponsored child care facility files with the Department a notice stating that corporal punishment is part of the religious training of its program, and (ii) the ~~religious-sponsored child~~ religious sponsored child care facility clearly states in its written policy of discipline that corporal punishment is part of the religious training of its program. The written policy on discipline of ~~nonreligious-sponsored child~~ nonreligious sponsored child care facilities shall clearly state the prohibition on corporal punishment."

Section 12. G.S. 115C-404(a) reads as rewritten:

"(a) Written notifications received in accordance with ~~G.S. 7A-675.1~~ G.S. 7A-675.2 are confidential records, are not public records as defined under G.S.132-1, and shall not be made part of the student's official record under G.S. 115C-402.

Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall maintain these documents until the principal receives notification that the judge dismissed the petition under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court under G.S. 7A-608, or the judge granted the student's petition for expunction of the records. At that time, the principal shall shred, burn, or otherwise destroy the documents to protect the confidentiality of this information. In no case shall the principal make a copy of these documents."

Section 13. G.S. 130A-233 reads as rewritten:

"**§ 130A-233. Definitions.**

The following definitions apply to this Part:

(1) Coastal fishing ~~waters, as defined~~ waters. -- Defined in G.S. 113-129(4).

(2) Inland fishing ~~waters, as defined~~ waters. -- Defined in G.S. 113-129(9)."

Section 14. (a) G.S. 139-3.1 is repealed.

(b) The repeal of this section shall not be construed to affect any language currently in the General Statutes.

Section 15. G.S. 143-53(a)(2) reads as rewritten:

"(2) Prescribing the routine, including consistent contract language, for securing bids on items that do not ~~not~~ exceed the bid value benchmark established under the provisions of G.S. 143-53.1 or G.S. 116-31.10.

The purchasing delegation for securing ~~offers,~~ offers (excluding the special responsibility constituent institutions of The University of North Carolina), for each State department, institution, agency, community college, and public school administrative unit shall be determined by the Director of the Division of Purchase and Contract. For the State agencies this shall be done following the Director's consultation with the State Budget Officer and the State Auditor. The Director for the Division of Purchase and Contract may set or lower the delegation, or raise the delegation upon written request by the agency, after consideration of their overall capabilities, including staff resources, purchasing compliance reviews, and audit reports of the individual agency. The routine prescribed by the Secretary shall include contract award protest procedures and consistent requirements for advertising of solicitations for securing offers issued by State departments, institutions, universities (including the special responsibility constituent institutions of The University of North Carolina), agencies, community colleges, and the public school administrative units."

Section 16. G.S. 143-129(f) reads as rewritten:

"(f) The provisions of this Article shall not apply to purchases of apparatus, supplies, materials, or equipment when performance or price competition for a product are not available; when a needed product is available from only one source of supply; or when standardization or compatibility is the overriding consideration. Notwithstanding any other provision of this section, the governing board of a municipality, county, or other subdivision of the State shall approve ~~purchases made under this exception~~ the purchases listed in the preceding sentence prior to the award of the contract. In the case of purchases by hospitals, in addition to the other exceptions in this subsection, the provisions of this Article shall not apply when a particular medical item or prosthetic appliance is needed; when a particular product is ordered by an attending physician for his patients; when additional products are needed to complete an ongoing job or task; when products are purchased for 'over-the-counter' resale; when a particular product is needed or desired for experimental, developmental, or research work; or when equipment is already installed, connected, and in service under a lease or other agreement and the governing body of the hospital determines that the equipment should be purchased. The governing body of a hospital, municipality, county or other political subdivision of the State shall keep a record of all purchases made pursuant to this ~~exception.~~ subsection. These records are subject to public inspection."

Section 17. G.S. 143B-283(a)(8) reads as rewritten:

"(8) One who shall, at the time of appointment, be actively employed by, or recently retired from, an industrial manufacturing facility and knowledgeable in ~~in~~ the field of industrial air and water pollution control;".

Section 18. (a) G.S. 143B-289.52(e) reads as rewritten:

"(e) The Commission may adopt rules to implement or comply with a fisheries management plan adopted by the Atlantic States Marine Fisheries Commission or an interstate fisheries management council. Notwithstanding G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any time within six months of the adoption of a fisheries management plan by the Atlantic States Marine Fisheries ~~Council~~ Commission or an interstate fisheries management council."

(b) If House Bill 1448, 1997 Regular Session becomes law prior to the date this act becomes law and amends G.S. 143B-289.52(e), then this section shall not become effective. If House Bill 1448, 1997 Regular Session becomes law after the date this act becomes law and amends G.S. 143B-289.52(e), then this section of this act is repealed.

Section 19. G.S. 143B-433 reads as rewritten:

"**§ 143B-433. Department of Commerce -- organization.**

The Department of Commerce shall be organized to include:

~~(a)~~ (1) The following agencies:

~~(1)~~ a. The North Carolina Alcoholic Beverage Control ~~Commission,~~ Commission.

~~(2)~~ b. The North Carolina Utilities ~~Commission,~~ Commission.

~~(3)~~ c. The Employment Security ~~Commission,~~ Commission.

~~(4)~~ d. The North Carolina Industrial ~~Commission,~~ Commission.
~~(5)~~ e. State Banking ~~Commission,~~ Commission.
~~(6)~~ f. Savings and Loan Association ~~Division,~~ Division.
~~(7)~~ g. The State Savings Institutions ~~Commission,~~ Commission.
~~(8)~~ h. Credit Union ~~Commission,~~ Commission.
~~(9)~~ i. The North Carolina Milk ~~Commission,~~ Commission.
~~(10)~~ j. The North Carolina Mutual Burial Association ~~Commission,~~ Commission.
~~(11)~~ k. North Carolina Cemetery ~~Commission,~~ Commission.
~~(12)~~ l. The North Carolina Rural Electrification ~~Authority,~~ Authority.
~~(13)~~ m. Repealed by Session Laws 1985, c. 757, s. 179(d).
~~(14)~~ n. North Carolina Science and Technology Research ~~Center,~~ Center.
~~(15)~~ o. The North Carolina State Ports ~~Authority;~~ Authority.
~~(16)~~ p. North Carolina National Park, Parkway and Forests Development ~~Council,~~ Council.
~~(17)~~ q. Economic Development ~~Board,~~ Board.
~~(18)~~ r. Labor Force Development ~~Council;~~ Council.
~~(19)~~ s. Energy Policy ~~Council;~~ Council.
~~(20)~~ t. Energy ~~Division,~~ Division.
~~(21)~~ u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.
~~(22)~~ v. Repealed by Session Laws 1993, c. 321, s. 313(b).

~~(b)~~ (2) Those agencies which are transferred to the Department of Commerce including the:
~~(1)~~ a. Community Assistance ~~Division,~~ Division.
~~(2)~~ b. Community Development ~~Council,~~ Council.
~~(3)~~ c. Employment and Training ~~Division, and~~ Division.
~~(4)~~ d. Job Training Coordinating ~~Council; and~~ Council.

~~(c)~~ (3) Such divisions as may be established pursuant to Article 1 of this Chapter."

Section 20. G.S. 157-35 reads as rewritten:

"**§ 157-35. Creation of regional housing authority.**

If the board of county commissioners of each of two or more contiguous counties having an aggregate population of more than 60,000 by resolution declares that there is a need for one housing authority to be created for all of such counties to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties ~~to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties~~ shall (after the commissioners thereof file an application with the Secretary of State as hereinafter provided) thereupon exist for and exercise its powers and other functions

in such counties; and thereupon any housing authority created for any of such counties shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided: Provided, that the board of county commissioners shall not adopt a resolution as aforesaid if there is a county housing authority created for such county which has any bonds or notes outstanding unless first, all holders of such bonds and notes consent in writing to the substitution of such regional housing authority in lieu of such county housing authority on all such bonds and notes; and second, the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided: Provided, further, that when the above conditions are complied with and such regional housing authority is created and authorized to exercise its powers and other functions, all rights, contracts, agreements, obligations, and property, real and personal, of such county housing authority shall be in the name of and vest in such regional housing authority, and all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they might have been asserted, enforced, and prosecuted against such county housing authority. When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed in the office provided for the filing of deeds: Provided, that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The board of county commissioners of each of two or more said contiguous counties shall by resolution declare that there is a need for one regional housing authority to be created for all of such counties to exercise powers and other functions herein prescribed in such counties, if such board of county commissioners finds (and only if it finds)

(1) Insanitary or unsafe dwelling accommodations exist in the area of its respective county and/or there is a lack of safe or sanitary dwelling accommodations in the county available for all the inhabitants thereof and

(2) That a regional housing authority for the proposed region would be a more efficient or economical administrative unit than a housing authority for an area having a smaller population to carry out the purposes of the housing authorities law and any amendments thereto, in such county.

In determining whether dwelling accommodations are unsafe or insanitary, the board of county commissioners shall take into consideration the following: the physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling

accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

If it shall determine that both (1) and (2) of the above enumerated conditions exist, the board of county commissioners shall adopt a resolution so finding (which need not go into any detail other than the mere finding). After the appointment, as hereinafter provided, of the commissioners to act as the regional housing authority, said authority shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings:

The commissioners shall present to the Secretary of State an application signed by them, which shall set forth (without any detail other than the mere recital)

(1) That the boards of county commissioners made the aforesaid determination and that they have been appointed as commissioners;

(2) The name, and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this Article;

(3) The term of office of each of the commissioners;

(4) The name which is proposed for the corporation; and

(5) The location of the principal office of the proposed corporation.

The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the State to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners, a certificate of incorporation pursuant to this Article, under the seal of the State, and shall record the same with the application.

In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the regional housing authority, the regional housing authority shall be conclusively deemed to have been established in accordance with the provisions of this Article upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof."

Section 21. Effective July 1, 1997, subsection (d) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(d) This ~~act~~ section applies only to Columbus, Durham, and Rockingham Counties."

Section 22. Effective July 1, 1997, subsection (e) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(e) This ~~act~~ section becomes effective October 1, 1997, and expires June 30, 1998."

Section 23. The prefatory language of Section 6 of S.L. 1997-452 reads as rewritten:

"Section 6. Section 115.6(b) of the Charter of the City of Durham, being Chapter 671 of the ~~1995~~ 1975 Session Laws, as added by Chapter 476 of the 1989 Session Laws and rewritten by Chapter 992 of the 1991 Session Laws, reads as rewritten:".

Section 24. G.S. 75E-3 reads as rewritten:

"**§ 75E-3. Investigative and regulatory powers of the Attorney General.**

The Attorney General may conduct such investigations as the Attorney General deems necessary to determine compliance by all persons or entities with the provisions of Articles 9 and 9A of Chapter 55 of the General ~~Statutes.~~ Statutes; and the Attorney General may exempt from the provisions of Article 9 of Chapter 55 of the General Statutes any business combination that is solely an internal corporate restructuring which does not effect any material change in the ultimate ownership of the corporation and does not affect the ongoing applicability of that Article to the corporation or any other entity. In performing any such investigations, the Attorney General shall have all the powers given him by G.S. 75-10. The provisions of G.S. 75-11 and G.S. 75-12 shall apply to this Chapter."

Section 25. (a) G.S. 90-113.38(b) reads as rewritten:

"(b) The fee to obtain a certificate of certification for a clinical addictions specialist pursuant to ~~G.S. 90-113.41A~~ deemed status may not exceed one hundred dollars ($100.00). The fee to renew a certificate may not exceed fifty dollars ($50.00). The fee to obtain a certificate of certification for a clinical addictions specialist ~~under G.S. 90-113.40~~ pursuant to all other procedures authorized by this Article may not exceed three hundred twenty-five dollars ($325.00). The fee to renew the certificate may not exceed one hundred dollars ($100.00)."

(b) Section 17 of S.L. 1997-492 reads as rewritten:

"Section 17. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the North Carolina Substance Abuse Professional Certification Board (Board) may certify a person as a 'Clinical Addictions Specialist' during a limited period of one year after the effective date of this act upon completion of any prescribed continuing education requirements that are required during the course of this year for renewal of the original certification, payment of the fee as required for renewal of the original certification, payment of the clinical addictions specialist certification fee, and the submission of proof of one of the following to the Board:

(1) Certification as a substance abuse counselor holding a master's degree with a clinical application in a human services field; the

equivalent of two years of full-time post-graduate supervised substance abuse experience; and three letters of reference from certified substance abuse professionals who have master's degrees.

(2) Certification as a substance abuse counselor with a bachelors degree in a human services field; the equivalent of five years of full-time, post-graduate, supervised substance abuse experience; a passing score on a master's level written examination; and submission of three letters of reference from certified substance abuse professionals who have master's degrees.

(3) Certification as a clinical supervisor; a master's degree with a clinical application in a human services field; and three letters of reference from certified substance abuse professionals who have master's degrees.

(4) Certification as a substance abuse counselor; a master's degree with a clinical application in a human services field with a substance abuse specialty; and three letters of reference from certified substance abuse professionals who have master's degrees.

(5) Certification before July 1, 1994, as an alcohol counselor, a drug and alcohol counselor, or a substance abuse counselor; the equivalent of 10 years of documented full-time substance abuse work experience; and three letters of reference from certified substance abuse professionals who have master's degrees.

(6) Certification, licensure, or membership in good standing with a professional discipline that has been granted deemed status under G.S. 90-113.41A, as enacted by Section 11 of this act."

(c) Section 18 of S.L. 1997-492 reads as rewritten:

"Section 18. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the Board may certify an applicant as a 'Clinical Addictions Specialist' during a limited period of three years beginning October 1, 1998, if the applicant completes any prescribed continuing education requirements that are required during the course of these years for renewal of the original certification, pays the fee as required for renewal of the original certification, pays the clinical addictions specialist certification fee, and submits proof to the Board that the applicant: (i) has been certified as a substance abuse counselor; (ii) has the equivalent of 10 years of supervised, full-time, substance abuse counseling experience; (iii) has passed a master's level oral and written examination and; (iv) submits three letters of reference from certified substance abuse professionals who hold master's degrees."

(d) This section is effective on and after October 1, 1997.

Section 26. G.S. 95-97 is repealed.

Section 27. G.S. 95-128(3) and (4) read as rewritten:

"(3) Employees whose safety and health are subject to protection under the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801) and the Federal Metal and Nonmetallic Mine Safety

Act (30 U.S.C. 725), or ~~the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-41);~~ Subtitle V of Title 49 of the United States Code;

(4) Railroad employees whose safety and health are subject to protection under ~~the Federal Safety Appliance Act (45 U.S.C. 1-50), or the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-41);~~ Subtitle V of Title 49 of the United States Code;".

Section 28. G.S. 95-174(k) reads as rewritten:

"(k) 'Hazardous chemical' shall mean any element, chemical compound or mixture of elements and/or compounds which is a physical hazard or health hazard as defined in subsection (c) of the ~~NCOSHA~~ OSHNC Standard or a hazardous substance as defined in ~~subsection (d)(3) of the NCOSHA Standard.~~ standards adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7)."

Section 29. G.S. 95-174(p) reads as rewritten:

"(p) 'Material Safety Data Sheets' or 'MSDS' shall mean chemical information sheets drawn up in conformity to standards for material safety data sheets adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7). ~~in 13 North Carolina Administrative Code 7C .0101(a)(99) (hereinafter designated as 13 N.C.A.C. 7C .0101(a)(99).~~"

Section 30. G.S. 95-174(r) reads as rewritten:

"(r) '~~NCOSHA~~ OSHNC Standard' shall mean the ~~currently adopted~~ current Hazard Communication Standard adopted by the Occupational Safety and Health Division of North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7). ~~13 North Carolina Administrative Code 7C .0101(a)(99), as amended.~~"

Section 31. G.S. 95-198(b) reads as rewritten:

"(b) In nonemergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under this section, to a ~~health professional,~~ responsible party, as defined in ~~13 N.C.A.C. 7C .0101(a)(99),~~ the standards adopted in Title 13, Subchapter 7F of the North Carolina Administrative Code (13 NCAC 7F), providing medical or other occupational health services to exposed persons if the request is in writing and states the medical need for the information. The employer may require that the ~~health care provider~~ responsible party sign a confidentiality agreement prior to release of the information. The parties are not precluded from pursuing noncontractual remedies to the extent permitted by law."

Section 31.5. (a) Article 1 of Chapter 97 of the General Statutes is amended by adding a new section to read:

"**§ 97-101.1. Commission may issue writs of habeas corpus.**

The Industrial Commission may issue a writ of habeas corpus ad testificandum under G.S. 17-41 although it is not a court of record."

(b) G.S. 143-296 reads as rewritten:

"**§ 143-296. Powers of Industrial Commission; deputies.**

The members of the Industrial Commission, or a deputy thereof, shall have power to issue subpoenas, administer oaths, conduct hearings, take evidence, enter orders, opinions, and awards based thereon, ~~and~~ punish for ~~contempt.~~ contempt, and issue writs of habeas corpus ad testificandum pursuant to G.S. 97-101.1. The Industrial Commission is authorized to appoint deputies and clerical assistants to carry out the purpose and intent of this Article, and such deputy or deputies are hereby vested with the same power and authority to hear and determine tort claims against State departments, institutions, and agencies as is by this Article vested in the members of the Industrial Commission. Such deputy or deputies shall also have and are hereby vested with the same power and authority to hear and determine cases arising under the Workers' Compensation Act when assigned to do so by the Industrial Commission. The Commission may order parties to participate in mediation, under rules substantially similar to those approved by the Supreme Court for use in the Superior Court division, except the Commission shall determine the manner in which payment of the costs of the mediated settlement conference is assessed."

Section 32. (a) G.S. 105-116(a), as amended by S.L. 1998-22, reads as rewritten:

"(a) Tax. -- An annual franchise or privilege tax is imposed on the following:

(1) An electric power company engaged in the business of furnishing electricity, electric lights, current, or power.

(2) Repealed by S.L. 1998-22, s.2.

(2a) Repealed by S.L. 1998-22, s.2.

(3) A water company engaged in owning or operating a water system subject to regulation by the North Carolina Utilities Commission.

(4) A public sewerage company engaged in owning or operating a public sewerage system.

The tax on an electric power company is three and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from the business of furnishing electricity, electric lights, current, or power. ~~The tax on a regional natural gas district is three and twenty-two hundredths percent (3.22%) of the district's taxable gross receipts from the furnishing of piped natural gas.~~ The tax on a water company is four percent (4%) of the company's taxable gross receipts from owning or operating a water system subject to regulation by the North Carolina Utilities Commission. The tax on a public sewerage company is six percent (6%) of the company's taxable gross receipts from owning or operating a public sewerage company. A company's taxable gross receipts are its gross receipts from business inside the State less the amount of gross receipts from sales reported under subdivision (b)(2). A company that engages in more than one business taxed under this section shall pay tax on each business. A company is allowed a credit against the tax imposed by this section for the company's investments in certain entities in accordance with Division V of Article 4 of this Chapter."

(b) G.S. 105-187.44(a), as enacted by S.L. 1998-22, reads as rewritten:

"(a) City Information. -- A monthly return filed under this Article must indicate the amount of tax attributable to the following: ~~if a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city:~~

(1) Piped natural gas delivered during the month to sales or transportation customers in each city in the State.

(2) Piped natural gas received during the month in each city in the State by persons who have direct access to an interstate gas pipeline and who receive the gas for their own consumption.

If a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city."

(c) This section becomes effective July 1, 1999.

Section 33. G.S. 130A-24(b) reads as rewritten:

"(b) Appeals concerning the enforcement of rules adopted by the local board of health and concerning the imposition of administrative penalties by a local health director shall be conducted in accordance with this subsection and subsections ~~(b),~~ (c) and (d) of this section. The aggrieved person shall give written notice of appeal to the local health director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged action and a statement of the reasons why the challenged action is incorrect. Upon filing of the notice, the local health director shall, within five working days, transmit to the local board of health the notice of appeal and the papers and materials upon which the challenged action was taken."

Section 34. G.S. 143B-475.1 is rewritten by adding a new subsection to read:

"(f) The community service staff shall report to the court in which the community service was ordered, a significant violation of the terms of the probation, or deferred prosecution, related to community service. The community service staff shall give notice of the hearing to determine if there is a willful failure to comply to the person who was ordered to perform the community service. This notice shall be given by either personal delivery to the person to be notified or by depositing the notice in the United States mail in an envelope with postage prepaid, addressed to the person at the address shown on the records of the community service staff. The notice shall be mailed at least 10 days prior to any hearing and shall state the basis of the alleged willful failure to comply. The court shall then conduct a hearing, even if the person ordered to perform the community service fails to appear, to determine if there is a willful failure to complete the work as ordered by the community service staff within the applicable time limits. If the court determines there is a willful failure to comply, it shall revoke any drivers license issued to the person and notify the Division of Motor Vehicles to revoke any drivers license issued to the person until the community service requirement has been met. In addition, if the person is present, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation."

Section 35. (a) G.S. 146-12(c) reads as rewritten:

"(c) Voluntary Easement Applications for Existing Structures. -- Riparian or littoral property owners of existing structures may voluntarily obtain an easement under subsection (b) of this section in accordance with the procedures set forth in this section. For purposes of this section, the term 'existing structures' means all presently existing piers, docks, marinas, wharves, and other structures located over or upon State-owned lands covered by navigable waters. Applications for voluntary easements shall be received by the State Property Office ~~within 36 months of the effective date of this section.~~ no later than 1 October 2001."

(b) This section is effective retroactively to October 1, 1998, and applies to applications for voluntary easements received by the State Property Office on or after that date.

Section 36. (a) G.S. 163-323(e) reads as rewritten:

"(e) Candidacy for More Than One Office Prohibited. -- No person may file a notice of candidacy for more than one office or group of offices described in subsection (b) of this ~~section~~ section, or for an office or group of offices described in subsection (b) of this section and an office described in G.S. 163-106(c), for any one election. If a person has filed a notice of candidacy with a board of elections under this section or under G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not later be filed for any other office or group of offices under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (c) of this section."

(b) This section is effective on and after February 1, 1999.

Section 37. The prefatory language of Section 1 of S.L. 1998-37 reads as rewritten:

"Section 1. G.S. 153A-335, as it applies to Stanly County under Chapter 930 of the 1987 Session Laws, as amended by Chapter 504 of the 1991 Session Laws and Chapter 574 of the 1993 Session Laws, reads as rewritten:".

Section 38. Section 5.1 of the Charter of the Town of Forest Hills, being Section 1 of S.L. 1997-345, reads as rewritten:

"Section 5.1. **Mayor-Council Plan.** The Village of Forest Hills operates under the Mayor-Council Plan as provided by Part 3 of Article 7 of Chapter ~~160B~~ 160A of the General Statutes. The Mayor shall vote only in those cases necessary to break a tie."

Section 39. The prefatory language of Section 1 of S.L. 1998-72 reads as rewritten:

"Section 1. G.S. 115D-15 reads ~~are~~ as rewritten:".

Section 40. G.S. 40A-5(a) reads as rewritten:

"(a) A condemnor listed in G.S. 40A-3(a), (b) or (c) shall not possess the power of eminent domain with respect to property owned by the State of North Carolina or a railroad company in which the State is the owner of all the voting stock unless the State consents to the taking. The State's consent shall be given by the Council of State, or by the Secretary of Administration if the Council of State delegates this authority to him. In a condemnation proceeding against State property consented to by the State, the only issue shall be the compensation to be paid for the property."

Section 41. G.S. 89C-13(b)(1)d., as amended by S.L. 1998-118, reads as rewritten:

"d. Graduation from a high school or the completion of a high school equivalency certificate and a record satisfactory to the Board of seven years of progressive practical experience, six years of which shall have been under a practicing licensed land surveyor, and satisfactorily passing any oral and written examinations required by the Board, all of which shall determine and indicate that the candidate is competent to practice land surveying. The applicant may be qualified by the Board to take the first examination (Surveying Fundamentals) upon graduation from high school or the completion of a high school equivalency certificate and successfully completing ~~six~~ five years of progressive practice experience, ~~five~~ four of which shall have been under a practicing licensed land surveyor. ~~The applicant may apply to take the second examination (Principles and Practice of Land Surveying) upon passing the first examination and successfully completing four years of progressive practical experience, two of which shall have been under a practicing licensed land surveyor.~~"

Section 42. G.S. 105-130.17(f) is repealed.

Section 43. G.S. 105-122(a) reads as rewritten:

"(a) Every corporation, domestic and foreign, incorporated, or, by an act, domesticated under the laws of this State or doing business in this State, except as otherwise provided in this Article or schedule, shall, on or before the fifteenth day of the third month following the end of its income year, annually, make and deliver to the Secretary of Revenue in such form as he may prescribe a full, accurate and complete report and statement signed by either its president, vice-president, treasurer, assistant treasurer, secretary or assistant secretary, containing such facts and information as may be required by the Secretary of Revenue as shown by the books and records of the corporation at the close of such income year.

There shall be annexed to the return required by this subsection the affirmation of the officer signing the ~~return in the following form: "Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this return, including any accompanying schedules and statements, is true and complete. If prepared by a person other than taxpayer, his affirmation is based on all information of which he has any knowledge."~~ return."

Section 44. G.S. 105-155(c) is repealed.

Section 45. G.S. 120-123(55) and (65) are repealed.

Section 46. (a) G.S. 130A-335(f1), as enacted by Section 1 of S.L. 1998-126, is recodified as G.S. 130A-335(f2).

(b) This section is effective retroactively to August 28, 1998.

Section 47. G.S. 153A-15, as amended by S.L. 1998-110, reads as rewritten:

"**§ 153A-15. Consent of board of commissioners necessary in certain counties before land may be condemned or acquired by a unit of local government outside the county.**

(a) Notwithstanding the provisions of ~~G.S. 153A-159, Article 11 of Chapter 160A of the General Statutes, G.S. 130-130,~~ Chapter ~~40~~ 40A of the General ~~Statutes,~~ Statutes or any other general law or local act conferring the power of eminent domain, before final judgment may be entered in any action of condemnation initiated ~~(or in the case of Article 11 of Chapter 160A, before a final condemnation resolution is adopted)~~ by a county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county, whereby the condemnor seeks to acquire property located in the other county, the condemnor shall furnish proof that the county board of commissioners of the county where the land is located has consented to the taking.

(b) Notwithstanding the provisions of G.S. 153A-158, ~~Chapter 160A of the General Statutes~~ 160A-240.1, ~~Article 12 of Chapter 130 of the General Statutes,~~ 130A-55, or any other general law or local act conferring the power to acquire real property, before any county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county acquires any real property located in the other county by exchange, purchase or lease, it must have the approval of the county board of commissioners of the county where the land is located.

(c) This section applies to Alamance, Alleghany, Anson, Ashe, Bertie, Bladen, Brunswick, Burke, Buncombe, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Montgomery, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Union, Vance, Wake, Warren, Watauga, Wilkes, and Yancey ~~counties~~ Counties only.

(d) This section does not apply as to ~~any:~~

~~(1) Condemnation; or~~

~~(2) Acquisition~~

any condemnation or acquisition of real property or an interest in real property by a city where the property to be condemned or acquired is within the corporate limits of that city."

Section 48. G.S. 158-35(a) reads as rewritten:

"(a) Commission Membership. -- The governing body of the Zone is the Global TransPark Development Commission. The members of the Commission must be residents of the Zone and shall be appointed as follows:

(1) The board of commissioners of each county participating in the Zone shall appoint three voting members, one of whom shall be a

minority person as defined in ~~G.S. 143-128(e)~~ G.S. 143-128(f)(2) and one of whom may be a member of the board of commissioners.

(2) The Authority shall appoint at least three but no more than seven voting members. By the appointment of these members, the Authority shall ensure that the voting membership of the Commission includes at least seven women and seven members of a racial minority described in ~~G.S. 143-128(e).~~ G.S. 143-128(f)(2). The Authority shall appoint the fewest number of members necessary to achieve these minimums.

(3) Four nonvoting members shall be appointed as follows:

a. One appointed by the Chancellor of East Carolina University to represent the University.

b. One appointed by a majority vote of the presidents of the community colleges located in the Zone, to represent the community colleges.

c. One appointed by the chair of the State Ports Authority, to represent the sea ports of the State.

d. One member of the board of directors of the Global TransPark Foundation, Inc., appointed by that board."

Section 49. The Revisor of Statutes shall codify the first paragraph of Section 4 of S.L. 1997-129, as amended by Section 10 of S.L. 1997-257, as G.S. 75A-14.1, "Lake Norman no-wake zone."

Section 50. Section 2 of S.L. 1998-113 is amended by deleting "1997-98", and substituting "1998-99".

Section 51. Section 2 of Chapter 214 of the 1991 Session Laws is repealed.

Section 52. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, OCT. 27, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Paul Wilms	NCMBA
David Simmons	ZDA, PA
Susan Vadeboncoeur	Nationwide
John Caldwell	NRCD
Gina Piera	Capitol Group
Patricia A. Yancey	SCSL/APPCNC
Don Beal	Ten Eyck Group
L Coe	fff
Ruth Sappie	NCDOT
Jenny Do Bain	Smith Anderson
Tommy Worthy	Carolina Electric Cooperatives
Bernard Allen	SOS
Kim Smith	NCLM
Katherine Davis	ElectriCities
Martha Glaze	DOA
Tonya Peters	APPDC

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
October 27, 1998
5:30 P.M.

The Committee on Rules, Calendar, and Operations of the House met October 27, 1998, at 5:30 a.m. in Room 421 of the Legislative Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Crawford, Dockham, Esposito, Hill, McMahan, Mitchell, Neely, and Thompson.

Back before the Committee was House committee substitute for S.B. 1279 - AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO MAKE OTHER TECHNICAL CORRECTIONS, TO CLARIFY THAT THE ATTORNEY GENERAL MAY EXEMPT CERTAIN BUSINESS COMBINATIONS FROM THE SHAREHOLDER PROTECTION ACT, TO AUTHORIZE THE INDUSTRIAL COMMISSION TO ISSUE WRITS OF HABEAS CORPUS AD TESTIFICANDUM, TO RESTORE A PROVISION ON COMMUNITY SERVICES PASSED BUT NOT CODIFIED IN 1997, TO EXTEND THE TIME TO OBTAIN VOLUNTARY EASEMENTS FOR CERTAIN STRUCTURES OVER STATE-OWNED LANDS BY THREE YEARS, TO PROHIBIT CANDIDATES FOR SUPERIOR COURT FROM RUNNING FOR ANOTHER OFFICE AT THE SAME TIME, TO REVISE THE APPLICABILITY CLAUSE OF THE WORKPLACE HARASSMENT LAW CONCERNING CASES DISMISSED WITHOUT PREJUDICE PRIOR TO AUGUST 15, 1998, TO PROVIDE FOR THE LICENSING OF THIRD-PARTY ADMINISTRATORS SERVING WORKERS' COMPENSATION SELF-INSURED GROUPS, TO CLARIFY THE LAW GOVERNING VEHICLE FORFEITURE TO SCHOOLS FOR DWI OFFENSES, TO EXTEND THE DATE FOR THE RURAL TRANSPORTATION PLANNING ORGANIZATION STUDY, TO PROVIDE FOR PROOF OF COMPLIANCE WITH THE MEDICAL MALPRACTICE EXPERT WITNESS RULE THROUGH LIMITED INTERROGATORIES VERIFIED BY THE EXPERT, TO CORRECT A REFERENCE TO PROBATIONARY TEACHERS IN THE BUDGET, TO RESOLVE A CONFLICT WITH THE EFFECTIVE DATE OF LEGISLATION INVOLVING MUNICIPAL INCORPORATION PROCEDURES, AND TO CORRECT AN INADVERTENT OMISSION IN THE BUDGET CONCERNING RECEIPT-SUPPORTED POSITIONS IN THE STATE TREASURER'S OFFICE.

Representative Crawford moved that the vote by which the House committee substitute, as amended for Senate Bill 1279 be reconsidered. Motion carried.

With the substitute back before the Committee, Representative Dockham sent forth an amendment to amend the bill on page 35, line 19. Committee Counsel Linwood Jones was recognized and explained that the amendment will change a provision that is in the conference report to the budget, assuming that it becomes law. There is a provision in the State Employee COLA Resolve Disciplinary Action section that says changes become effective July 1, 1998 and apply to employees involved in the final written stage of a disciplinary procedure on or after January 1, 1997. That original July 1, 1998 date should have been July 1, 1997. Representative Dockham moved for adoption of the amendment and the motion carried. Representative Crawford moved that the amendment be rolled into a new committee substitute and that it be given a favorable report, unfavorable to the original bill. The motion carried.

There being no further business, the meeting adjourned at 5:35 p.m.

Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Amendment
Bill

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 1279 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) Dockham
Sen.)

moves to amend the bill on page ~~SB~~ 35, line 19

( ) WHICH CHANGES THE TITLE

by adding the following between lines 19 and 20

Section 67.1. Section 28.16B(c) of Senate Bill 1366, if it becomes law, is amended by deleting "1998" and substituting "1997".

SIGNED Jerry C. Dockham

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 1279
Judiciary Committee Substitute Adopted 8/10/98
Third Edition Engrossed 8/12/98
House Committee Substitute Favorable 10/7/98
Proposed House Committee Substitute S1279-PCS6897-RN

Short Title: 1998 Technical Corrections. (Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO MAKE OTHER TECHNICAL CORRECTIONS, TO CLARIFY THAT THE ATTORNEY GENERAL MAY EXEMPT CERTAIN BUSINESS COMBINATIONS FROM THE SHAREHOLDER PROTECTION ACT, TO AUTHORIZE THE INDUSTRIAL COMMISSION TO ISSUE WRITS OF HABEAS CORPUS AD TESTIFICANDUM, TO RESTORE A PROVISION ON COMMUNITY SERVICE PASSED BUT NOT CODIFIED IN 1997, TO EXTEND THE TIME TO OBTAIN VOLUNTARY EASEMENTS FOR CERTAIN STRUCTURES OVER STATE-OWNED LANDS BY THREE YEARS, TO PROHIBIT CANDIDATES FOR SUPERIOR COURT FROM RUNNING FOR ANOTHER OFFICE AT THE SAME TIME, TO REVISE THE APPLICABILITY CLAUSE OF THE WORKPLACE HARASSMENT LAW CONCERNING CASES DISMISSED WITHOUT PREJUDICE PRIOR TO AUGUST 15, 1998, TO PROVIDE FOR THE LICENSING OF THIRD-PARTY ADMINISTRATORS SERVING WORKERS' COMPENSATION SELF-INSURED GROUPS, TO CLARIFY THE LAW GOVERNING VEHICLE FORFEITURE TO SCHOOLS FOR DWI OFFENSES, TO EXTEND THE DATE FOR THE RURAL TRANSPORTATION PLANNING ORGANIZATION STUDY, TO CLARIFY THAT DISCOVERY APPLIES TO EXPERTS WHO

ARE REQUIRED TO REVIEW RECORDS AND ARE WILLING TO TESTIFY UNDER THE MEDICAL MALPRACTICE EXPERT WITNESS REVIEW RULE, TO CORRECT A REFERENCE TO PROBATIONARY TEACHERS IN THE BUDGET, AND TO RESOLVE A CONFLICT WITH THE EFFECTIVE DATE OF LEGISLATION INVOLVING MUNICIPAL INCORPORATION PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-34.6(a)(2) reads as rewritten:

"(2) ~~An~~ A medical responder."

Section 2. G.S. 14-399(c) reads as rewritten:

"(c) Any person who violates this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent offense within three years after the date of a prior offense is punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed."

Section 3. (a) G.S. 14-408 reads as rewritten:

"**§ 14-408. Violation of § 14-406 ~~or 14-407~~ a misdemeanor.**

Any person, firm, or corporation violating any of the provisions of G.S. 14-406 ~~or 14-407~~ shall be guilty of a Class 2 misdemeanor."

(b) This section becomes effective December 1, 1998. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

Section 4. (a) G.S. 14-74 reads as rewritten:

"**§ 14-74. Larceny by servants and other employees.**

If any servant or other employee, to whom any money, goods or other chattels, or any of the articles, securities or choses in action mentioned in ~~the following section,~~ G.S. 14-75, by his master shall be delivered safely to be kept to the use of his master, shall withdraw himself from his master and go away with such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, with intent to steal the same and defraud his master thereof, contrary to the trust and confidence in him reposed by his said master; or if any servant, being in the service of his master, without the assent of his master, shall embezzle such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal them, or to defraud his master thereof,

the servant so offending shall be guilty of a felony: Provided, that nothing contained in this section shall extend to apprentices or servants within the age of 16 years. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is one hundred thousand dollars ($100,000) or more, the person is guilty of a Class C felony. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is less than one hundred thousand dollars ($100,000), the person is guilty of a Class H felony."

(b) G.S. 25-7-502 reads as rewritten:

"**§ 25-7-502. Rights acquired by due negotiation.**

(1) Subject to ~~the following section~~ G.S. 25-7-503 and to the provisions of G.S. 25-7-205 on fungible goods, a holder to whom a negotiable document of title has been duly negotiated acquires thereby:

(a) title to the document;

(b) title to the goods;

(c) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(d) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by him except those arising under the terms of the document or under this article. In the case of a delivery order the bailee's obligation accrues only upon acceptance and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2) Subject to ~~the following section,~~ G.S. 25-7-503, title and rights so acquired are not defeated by any stoppage of the goods represented by the document or by surrender of such goods by the bailee, and are not impaired even though the negotiation or any prior negotiation constituted a breach of duty or even though any person has been deprived of possession of the document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion, or even though a previous sale or other transfer of the goods or document has been made to a third person."

(c) G.S. 25-7-507 reads as rewritten:

"**§ 25-7-507. Warranties on negotiation or transfer of receipt or bill.**

Where a person negotiates or transfers a document of title for value otherwise than as a mere intermediary under ~~the next following section,~~ G.S. 25-7-508, then unless otherwise agreed he warrants to his immediate purchaser only in addition to any warranty made in selling the goods

(a) that the document is genuine; and

(b) that he has no knowledge of any fact which would impair its validity or worth; and

(c) that his negotiation or transfer is rightful and fully effective with respect to the title to the document and the goods it represents."

(d) G.S. 44A-21 reads as rewritten:

"**§ 44A-21. Pro rata payments.**

In the event that the funds in the hands of the obligor and the obligor's personal liability, if any, under ~~the previous section~~ G.S. 44A-20 are less than the amount of valid lien claims that have been filed with the obligor under this Article the parties entitled to liens shall share the funds on a pro rata basis."

Section 5. G.S. 25-8-103(a) reads as rewritten:

"(a) A share ~~of~~ or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security."

Section 6. G.S. 39-23.3(b) reads as rewritten:

"(b) For the purposes of G.S. 39-23.4(a)(2) and G.S. 39-23.5, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, ~~nonexclusive~~ noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement."

Section 7. (a) G.S. 50-11(e) reads as rewritten:

"(e) An absolute divorce obtained within this State shall destroy the right of a spouse to ~~an~~ equitable distribution ~~of the marital property~~ under G.S. 50-20 unless the right is asserted prior to judgment of absolute divorce; except, the defendant may bring an action or file a motion in the cause for equitable distribution within six months from the date of the judgment in such a case if service of process upon the defendant was by publication pursuant to G.S. 1A-1, Rule 4 and the defendant failed to appear in the action for divorce."

(b) G.S. 50-11(f) reads as rewritten:

"(f) An absolute divorce by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property shall not destroy the right of a spouse to ~~an~~ equitable distribution ~~of marital property~~ under G.S. 50-20 if an action or motion in the cause is filed within six months after the judgment of divorce is entered. The validity of such divorce may be attacked in the action for equitable distribution."

(c) G.S. 50-20 reads as rewritten:

"**§ 50-20. Distribution by court of marital and divisible property upon divorce.**

(a) Upon application of a party, the court shall determine what is the marital property and divisible property and shall provide for an equitable distribution of the marital property and divisible property between the parties in accordance with the provisions of this section.

(b) For purposes of this section:

(1) 'Marital property' means all real and personal property acquired by either spouse or both spouses during the course of the marriage and before the date of the separation of the parties, and presently owned, except property determined to be separate property or divisible property in accordance with subdivision (2) or (4) of this subsection. Marital property includes all vested and nonvested pension, retirement, and other deferred compensation rights, and vested and nonvested military pensions eligible under the federal

Uniformed Services Former Spouses' Protection Act. It is presumed that all property acquired after the date of marriage and before the date of separation is marital property except property which is separate property under subdivision (2) of this subsection. This presumption may be rebutted by the greater weight of the evidence.

(2) 'Separate property' means all real and personal property acquired by a spouse before marriage or acquired by a spouse by bequest, devise, descent, or gift during the course of the marriage. However, property acquired by gift from the other spouse during the course of the marriage shall be considered separate property only if such an intention is stated in the conveyance. Property acquired in exchange for separate property shall remain separate property regardless of whether the title is in the name of the husband or wife or both and shall not be considered to be marital property unless a contrary intention is expressly stated in the conveyance. The increase in value of separate property and the income derived from separate property shall be considered separate property. All professional licenses and business licenses which would terminate on transfer shall be considered separate property.

(3) 'Distributive award' means payments that are payable either in a lump sum or over a period of time in fixed amounts, but shall not include alimony payments or other similar payments for support and maintenance which are treated as ordinary income to the recipient under the Internal Revenue Code.

(4) 'Divisible property' means all real and personal property as set forth below:

a. All appreciation and diminution in value of marital property and divisible property of the parties occurring after the date of separation and prior to the date of distribution, except that appreciation or diminution in value which is the result of postseparation actions or activities of a spouse shall not be treated as divisible property.

b. All property, property rights, or any portion thereof received after the date of separation but before the date of distribution that was acquired as a result of the efforts of either spouse during the marriage and before the date of separation, including, but not limited to, commissions, bonuses, and contractual rights.

c. Passive income from marital property received after the date of separation, including, but not limited to, interest and dividends.

d. Increases in marital debt and financing charges and interest related to marital debt.

(c) There shall be an equal division by using net value of marital property and not value of divisible property unless the court determines that an equal division is not equitable. If the court determines that an equal division is not equitable, the court shall divide the marital property and divisible property equitably. Factors the court shall consider under this subsection are as follows:

(1) The income, property, and liabilities of each party at the time the division of property is to become effective;

(2) Any obligation for support arising out of a prior marriage;

(3) The duration of the marriage and the age and physical and mental health of both parties;

(4) The need of a parent with custody of a child or children of the marriage to occupy or own the marital residence and to use or own its household effects;

(5) The expectation of pension, retirement, or other deferred compensation rights that are not marital property;

(6) Any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of such marital property by the party not having title, including joint efforts or expenditures and contributions and services, or lack thereof, as a spouse, parent, wage earner or homemaker;

(7) Any direct or indirect contribution made by one spouse to help educate or develop the career potential of the other spouse;

(8) Any direct contribution to an increase in value of separate property which occurs during the course of the marriage;

(9) The liquid or nonliquid character of all marital ~~property;~~ property and divisible property;

(10) The difficulty of evaluating any component asset or any interest in a business, corporation or profession, and the economic desirability of retaining such asset or interest, intact and free from any claim or interference by the other party;

(11) The tax consequences to each party;

(11a) Acts of either party to maintain, preserve, develop, or expand; or to waste, neglect, devalue or convert ~~such~~ the marital ~~property,~~ property or divisible property, or both, during the period after separation of the parties and before the time of distribution; and

(12) Any other factor which the court finds to be just and proper.

(c1) Notwithstanding any other provision of law, a second or subsequent spouse acquires no interest in the marital property and divisible property of his or her spouse from a former marriage until a final determination of equitable distribution is made in the marital property and divisible property of the spouse's former marriage.

(d) Before, during or after marriage the parties may by written agreement, duly executed and acknowledged in accordance with the provisions of G.S. 52-10 and 52-10.1, or by a written agreement valid in the jurisdiction where executed, provide for distribution of the marital property or divisible property, or both, in a manner

deemed by the parties to be equitable and the agreement shall be binding on the parties.

(e) Subject to the presumption of subsection (c) of this section that an equal division is equitable, it shall be presumed in every action that an in-kind distribution of marital or divisible property is equitable. This presumption may be rebutted by the greater weight of the evidence, or by evidence that the property is a closely held business entity or is otherwise not susceptible of division in-kind. In any action in which the presumption is rebutted, the court in lieu of in-kind distribution shall provide for a distributive award in order to achieve equity between the parties. The court may provide for a distributive award to facilitate, effectuate or supplement a distribution of marital or divisible property. The court may provide that any distributive award payable over a period of time be secured by a lien on specific property.

(f) The court shall provide for an equitable distribution without regard to alimony for either party or support of the children of both parties. After the determination of an equitable distribution, the court, upon request of either party, shall consider whether an order for alimony or child support should be modified or vacated pursuant to G.S. 50-16.9 or 50-13.7.

(g) If the court orders the transfer of real or personal property or an interest therein, the court may also enter an order which shall transfer title, as provided in G.S. 1A-1, Rule 70 and G.S. 1-228.

(h) If either party claims that any real property is marital ~~property,~~ property or divisible property, that party may cause a notice of lis pendens to be recorded pursuant to Article 11 of Chapter 1 of the General Statutes. Any person whose conveyance or encumbrance is recorded or whose interest is obtained by descent, prior to the filing of the lis pendens, shall take the real property free of any claim resulting from the equitable distribution proceeding. The court may cancel the notice of lis pendens upon substitution of a bond with surety in an amount determined by the court to be sufficient provided the court finds that the claim of the spouse against property subject to the notice of lis pendens can be satisfied by money damages.

(i) Upon filing an action or motion in the cause requesting an equitable distribution or alleging that an equitable distribution will be requested when it is timely to do so, a party may seek injunctive relief pursuant to G.S. 1A-1, Rule 65 and Chapter 1, Article 37, to prevent the disappearance, waste or conversion of property alleged to be marital ~~property~~ property, divisible property, or separate property of the party seeking relief. The court, in lieu of granting an injunction, may require a bond or other assurance of sufficient amount to protect the interest of the other spouse in the ~~marital or separate~~ property. Upon application by the owner of separate property which was removed from the marital home or possession of its owner by the other spouse, the court may enter an order for reasonable counsel fees and costs of court incurred to regain its possession, but such fees shall not exceed the fair market value of the separate property at the time it was removed.

(i1) Unless good cause is shown that there should not be an interim distribution, the court may, at any time after an action for equitable distribution has been filed

and prior to the final judgment of equitable distribution, enter orders declaring what is separate property and may also enter orders dividing part of the marital property, divisible property or debt, or marital debt between the parties. The partial distribution may provide for a distributive award and may also provide for a distribution of marital property, marital debt, divisible property, or divisible debt. Any such orders entered shall be taken into consideration at trial and proper credit given.

Hearings held pursuant to this subsection may be held at sessions arranged by the chief district court judge pursuant to G.S. 7A-146 and, if held at such sessions, shall not be subject to the reporting requirements of G.S. 7A-198.

(j) In any order for the distribution of property made pursuant to this section, the court shall make written findings of fact that support the determination that the marital property and divisible property has been equitably divided.

(k) The rights of the parties to an equitable distribution of marital property and divisible property are a species of common ownership, the rights of the respective parties vesting at the time of the parties' separation."

Section 8. G.S. 62-268 reads as rewritten:

"**§ 62-268. Security for protection of public; liability insurance.**

No certificate or broker's license shall be issued or remain in force until the applicant shall have procured and filed with the Division of Motor Vehicles such security bond, insurance or self-insurance for the protection of the public as the Commission shall by regulation require. The Commission shall require that every motor carrier for which a certificate or license is required by the ~~provision~~ provisions of this Chapter, shall maintain liability insurance or satisfactory surety of at least fifty thousand dollars ($50,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, one hundred thousand dollars ($100,000) because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars ($50,000) because of injury to or destruction of property of others in any one accident; and the Commission may require any greater amount of insurance as may be necessary for the protection of the public. Notwithstanding any rule or regulation to the contrary, the Commission shall not require that any insurance procured and filed be provided in any single policy of insurance or through a single insurer, if the insurers involved are otherwise qualified. A motor carrier may satisfy the requirements of the Commission by procuring insurance with coverage and limits of liability required by the Commission in one or more policies of insurance issued by one or more insurers.

Notwithstanding any other provisions of this section or Chapter, bus companies shall file with the Commission proof of financial responsibility in the form of bonds, policies of insurance, or shall qualify as a self insurer, with minimum levels of financial responsibility as prescribed for motor carriers of passengers pursuant to the provisions of 49 U.S.C. § ~~10927(a)(1).~~ 31138. Provided, further, that no bus company operating solely within the State of North Carolina and which is exempt from regulation under the provisions of G.S. 62-260(a)(7) shall be required to file with the

Commission proof of the financial responsibility in excess of one million five hundred thousand dollars ($1,500,000)."

Section 9. G.S. 78C-16(b) reads as rewritten:

"(b) It is unlawful for any person required to be registered as an investment adviser under this Chapter to employ an investment adviser representative unless the investment adviser representative is registered under this Chapter. The registration of an investment adviser representative is not effective during any period when the investment adviser representative is not employed by (i) an investment adviser registered under this Chapter; or (ii) an investment adviser covered under federal law who has made a notice filing pursuant to the provisions of G.S. 78C-17(a1). When an investment adviser representative begins or terminates employment or association with an investment adviser who is registered under this Chapter, the investment adviser shall notify promptly the Administrator. When an investment adviser representative begins or terminates employment or association with an investment adviser covered under federal law, the investment adviser representative shall, and the investment adviser may, notify promptly the Administrator. ~~No investment adviser representative may be registered with more than one investment adviser unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control.~~ No investment adviser representative may be registered with more than one investment adviser or investment adviser covered under federal law unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control."

Section 10. G.S. 90-113.40(a)(8) reads as rewritten:

"(8) The applicant <u>for</u> substance abuse counselor has completed either a total of 6,000 hours of supervised experience in the field, whether paid or volunteer, or, if a graduate of a Board-approved master's degree program, a total of 3,000 hours of supervised experience in the field, whether paid or volunteer. The applicant for substance abuse prevention consultant has completed a total of 10,000 hours supervised experience in the field, whether paid or volunteer, or 4,000 hours if the applicant has at least a bachelors degree in a human services field."

Section 11. G.S. 110-91(10) reads as rewritten:

"(10) Each operator or staff member shall attend to any child in a nurturing and appropriate manner, and in keeping with the child's developmental needs.

Each ~~child~~ child care facility shall have a written policy on discipline, describing the methods and practices used to discipline children enrolled in that facility. This written policy shall be discussed with, and a copy given to, each child's parent prior to the first time the child attends the facility. Subsequently, any change in discipline methods or practices shall be communicated in writing to the parents prior to the effective date of the change.

The use of corporal punishment as a form of discipline is prohibited in ~~child~~ child care facilities and may not be used by any operator or staff member of any child care facility, except that corporal punishment may be used in ~~religious-sponsored child~~ religious sponsored child care facilities as defined in G.S. 110-106, only if (i) the ~~religious-sponsored child~~ religious sponsored child care facility files with the Department a notice stating that corporal punishment is part of the religious training of its program, and (ii) the ~~religious-sponsored child~~ religious sponsored child care facility clearly states in its written policy of discipline that corporal punishment is part of the religious training of its program. The written policy on discipline of ~~nonreligious-sponsored child~~ nonreligious sponsored child care facilities shall clearly state the prohibition on corporal punishment."

Section 12. G.S. 115C-404(a) reads as rewritten:

"(a) Written notifications received in accordance with ~~G.S. 7A-675.1~~ G.S. 7A-675.2 are confidential records, are not public records as defined under G.S.132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall maintain these documents until the principal receives notification that the judge dismissed the petition under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court under G.S. 7A-608, or the judge granted the student's petition for expunction of the records. At that time, the principal shall shred, burn, or otherwise destroy the documents to protect the confidentiality of this information. In no case shall the principal make a copy of these documents."

Section 13. G.S. 130A-233 reads as rewritten:

"**§ 130A-233. Definitions.**

The following definitions apply to this Part:

(1) Coastal fishing ~~waters, as defined~~ waters. -- Defined in G.S. 113-129(4).

(2) Inland fishing ~~waters, as defined~~ waters. -- Defined in G.S. 113-129(9)."

Section 14. (a) G.S. 139-3.1 is repealed.

(b) The repeal of this section shall not be construed to affect any language currently in the General Statutes.

Section 15. G.S. 143-53(a)(2) reads as rewritten:

"(2) Prescribing the routine, including consistent contract language, for securing bids on items that do not ~~not~~ exceed the bid value benchmark established under the provisions of G.S. 143-53.1 or G.S. 116-31.10.

The purchasing delegation for securing ~~offers,~~ offers (excluding the special responsibility constituent institutions of The

University of North Carolina), for each State department, institution, agency, community college, and public school administrative unit shall be determined by the Director of the Division of Purchase and Contract. For the State agencies this shall be done following the Director's consultation with the State Budget Officer and the State Auditor. The Director for the Division of Purchase and Contract may set or lower the delegation, or raise the delegation upon written request by the agency, after consideration of their overall capabilities, including staff resources, purchasing compliance reviews, and audit reports of the individual agency. The routine prescribed by the Secretary shall include contract award protest procedures and consistent requirements for advertising of solicitations for securing offers issued by State departments, institutions, universities (including the special responsibility constituent institutions of The University of North Carolina), agencies, community colleges, and the public school administrative units."

Section 16. G.S. 143-129(f) reads as rewritten:

"(f) The provisions of this Article shall not apply to purchases of apparatus, supplies, materials, or equipment when performance or price competition for a product are not available; when a needed product is available from only one source of supply; or when standardization or compatibility is the overriding consideration. Notwithstanding any other provision of this section, the governing board of a municipality, county, or other subdivision of the State shall approve ~~purchases made under this exception~~ the purchases listed in the preceding sentence prior to the award of the contract. In the case of purchases by hospitals, in addition to the other exceptions in this subsection, the provisions of this Article shall not apply when a particular medical item or prosthetic appliance is needed; when a particular product is ordered by an attending physician for his patients; when additional products are needed to complete an ongoing job or task; when products are purchased for 'over-the-counter' resale; when a particular product is needed or desired for experimental, developmental, or research work; or when equipment is already installed, connected, and in service under a lease or other agreement and the governing body of the hospital determines that the equipment should be purchased. The governing body of a hospital, municipality, county or other political subdivision of the State shall keep a record of all purchases made pursuant to this ~~exception.~~ subsection. These records are subject to public inspection."

Section 17. G.S. 143B-283(a)(8) reads as rewritten:

"(8) One who shall, at the time of appointment, be actively employed by, or recently retired from, an industrial manufacturing facility and knowledgeable in ~~in~~ the field of industrial air and water pollution control;".

Section 18. (a) G.S. 143B-289.52(e) reads as rewritten:

"(e) The Commission may adopt rules to implement or comply with a fisheries management plan adopted by the Atlantic States Marine Fisheries Commission or an interstate fisheries management council. Notwithstanding G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any time within six months of the adoption of a fisheries management plan by the Atlantic States Marine Fisheries ~~Council~~ Commission or an interstate fisheries management council."

(b) If House Bill 1448, 1997 Regular Session becomes law prior to the date this act becomes law and amends G.S. 143B-289.52(e), then this section shall not become effective. If House Bill 1448, 1997 Regular Session becomes law after the date this act becomes law and amends G.S. 143B-289.52(e), then this section of this act is repealed.

Section 19. G.S. 143B-433 reads as rewritten:

"**§ 143B-433. Department of Commerce -- organization.**

The Department of Commerce shall be organized to include:

~~(a)~~ (1) The following agencies:

~~(1)~~ a. The North Carolina Alcoholic Beverage Control ~~Commission,~~ Commission.

~~(2)~~ b. The North Carolina Utilities ~~Commission,~~ Commission.

~~(3)~~ c. The Employment Security ~~Commission,~~ Commission.

~~(4)~~ d. The North Carolina Industrial ~~Commission,~~ Commission.

~~(5)~~ e. State Banking ~~Commission,~~ Commission.

~~(6)~~ f. Savings and Loan Association ~~Division,~~ Division.

~~(7)~~ g. The State Savings Institutions ~~Commission,~~ Commission.

~~(8)~~ h. Credit Union ~~Commission,~~ Commission.

~~(9)~~ i. The North Carolina Milk ~~Commission,~~ Commission.

~~(10)~~ j. The North Carolina Mutual Burial Association ~~Commission,~~ Commission.

~~(11)~~ k. North Carolina Cemetery ~~Commission,~~ Commission.

~~(12)~~ l. The North Carolina Rural Electrification ~~Authority,~~ Authority.

~~(13)~~ m. Repealed by Session Laws 1985, c. 757, s. 179(d).

~~(14)~~ n. North Carolina Science and Technology Research ~~Center,~~ Center.

~~(15)~~ o. The North Carolina State Ports ~~Authority,~~ Authority.

~~(16)~~ p. North Carolina National Park, Parkway and Forests Development ~~Council,~~ Council.

~~(17)~~ q. Economic Development ~~Board,~~ Board.

~~(18)~~ r. Labor Force Development ~~Council,~~ Council.

~~(19)~~ s. Energy Policy ~~Council,~~ Council.

~~(20)~~ t. Energy ~~Division,~~ Division.

~~(21)~~ u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.

~~(22)~~ v. Repealed by Session Laws 1993, c. 321, s. 313(b).

~~(b)~~ (2) Those agencies which are transferred to the Department of Commerce including the:

~~(1)~~ a. Community Assistance ~~Division,~~ Division.

~~(2)~~ b. Community Development ~~Council,~~ Council.

~~(3)~~ c. Employment and Training ~~Division, and~~ Division.

~~(4)~~ d. Job Training Coordinating ~~Council; and~~ Council.

~~(c)~~ (3) Such divisions as may be established pursuant to Article 1 of this Chapter."

Section 20. G.S. 157-35 reads as rewritten:

"**§ 157-35. Creation of regional housing authority.**

If the board of county commissioners of each of two or more contiguous counties having an aggregate population of more than 60,000 by resolution declares that there is a need for one housing authority to be created for all of such counties to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties ~~to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties~~ shall (after the commissioners thereof file an application with the Secretary of State as hereinafter provided) thereupon exist for and exercise its powers and other functions in such counties; and thereupon any housing authority created for any of such counties shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided: Provided, that the board of county commissioners shall not adopt a resolution as aforesaid if there is a county housing authority created for such county which has any bonds or notes outstanding unless first, all holders of such bonds and notes consent in writing to the substitution of such regional housing authority in lieu of such county housing authority on all such bonds and notes; and second, the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided: Provided, further, that when the above conditions are complied with and such regional housing authority is created and authorized to exercise its powers and other functions, all rights, contracts, agreements, obligations, and property, real and personal, of such county housing authority shall be in the name of and vest in such regional housing authority, and all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they might have been asserted, enforced, and prosecuted against such county housing authority. When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed in the office provided for the filing of deeds: Provided, that nothing contained in this sentence

shall affect the vesting of property in the regional housing authority as provided above.

The board of county commissioners of each of two or more said contiguous counties shall by resolution declare that there is a need for one regional housing authority to be created for all of such counties to exercise powers and other functions herein prescribed in such counties, if such board of county commissioners finds (and only if it finds)

(1) Insanitary or unsafe dwelling accommodations exist in the area of its respective county and/or there is a lack of safe or sanitary dwelling accommodations in the county available for all the inhabitants thereof and

(2) That a regional housing authority for the proposed region would be a more efficient or economical administrative unit than a housing authority for an area having a smaller population to carry out the purposes of the housing authorities law and any amendments thereto, in such county.

In determining whether dwelling accommodations are unsafe or insanitary, the board of county commissioners shall take into consideration the following: the physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

If it shall determine that both (1) and (2) of the above enumerated conditions exist, the board of county commissioners shall adopt a resolution so finding (which need not go into any detail other than the mere finding). After the appointment, as hereinafter provided, of the commissioners to act as the regional housing authority, said authority shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings:

The commissioners shall present to the Secretary of State an application signed by them, which shall set forth (without any detail other than the mere recital)

(1) That the boards of county commissioners made the aforesaid determination and that they have been appointed as commissioners;

(2) The name, and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this Article;

(3) The term of office of each of the commissioners;

(4) The name which is proposed for the corporation; and

(5) The location of the principal office of the proposed corporation.

The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the State to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners, a certificate of incorporation pursuant to this Article, under the seal of the State, and shall record the same with the application.

In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the regional housing authority, the regional housing authority shall be conclusively deemed to have been established in accordance with the provisions of this Article upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof."

Section 21. Effective July 1, 1997, subsection (d) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(d) This ~~act~~ section applies only to Columbus, Durham, and Rockingham Counties."

Section 22. Effective July 1, 1997, subsection (e) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(e) This ~~act~~ section becomes effective October 1, 1997, and expires June 30, 1998."

Section 23. The prefatory language of Section 6 of S.L. 1997-452 reads as rewritten:

"Section 6. Section 115.6(b) of the Charter of the City of Durham, being Chapter 671 of the ~~1995~~ 1975 Session Laws, as added by Chapter 476 of the 1989 Session Laws and rewritten by Chapter 992 of the 1991 Session Laws, reads as rewritten:".

Section 24. G.S. 75E-3 reads as rewritten:

"**§ 75E-3. Investigative and regulatory powers of the Attorney General.**

The Attorney General may conduct such investigations as the Attorney General deems necessary to determine compliance by all persons or entities with the provisions of Articles 9 and 9A of Chapter 55 of the General ~~Statutes.~~ Statutes; and the Attorney General may exempt from the provisions of Article 9 of Chapter 55 of the General Statutes any business combination that is solely an internal corporate restructuring which does not effect any material change in the ultimate ownership of the corporation and does not affect the ongoing applicability of that Article to the

corporation or any other entity. In performing any such investigations, the Attorney General shall have all the powers given him by G.S. 75-10. The provisions of G.S. 75-11 and G.S. 75-12 shall apply to this Chapter."

Section 25. (a) G.S. 90-113.38(b) reads as rewritten:

"(b) The fee to obtain a certificate of certification for a clinical addictions specialist pursuant to ~~G.S. 90-113.41A~~ deemed status may not exceed one hundred dollars ($100.00). The fee to renew a certificate may not exceed fifty dollars ($50.00). The fee to obtain a certificate of certification for a clinical addictions specialist ~~under G.S. 90-113.40~~ pursuant to all other procedures authorized by this Article may not exceed three hundred twenty-five dollars ($325.00). The fee to renew the certificate may not exceed one hundred dollars ($100.00)."

(b) Section 17 of S.L. 1997-492 reads as rewritten:

"Section 17. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the North Carolina Substance Abuse Professional Certification Board (Board) may certify a person as a 'Clinical Addictions Specialist' during a limited period of one year after the effective date of this act upon completion of any prescribed continuing education requirements that are required during the course of this year for renewal of the original certification, payment of the fee as required for renewal of the original certification, payment of the clinical addictions specialist certification fee, and the submission of proof of one of the following to the Board:

(1) Certification as a substance abuse counselor holding a master's degree with a clinical application in a human services field; the equivalent of two years of full-time post-graduate supervised substance abuse experience; and three letters of reference from certified substance abuse professionals who have master's degrees.

(2) Certification as a substance abuse counselor with a bachelors degree in a human services field; the equivalent of five years of full-time, post-graduate, supervised substance abuse experience; a passing score on a master's level written examination; and submission of three letters of reference from certified substance abuse professionals who have master's degrees.

(3) Certification as a clinical supervisor; a master's degree with a clinical application in a human services field; and three letters of reference from certified substance abuse professionals who have master's degrees.

(4) Certification as a substance abuse counselor; a master's degree with a clinical application in a human services field with a substance abuse specialty; and three letters of reference from certified substance abuse professionals who have master's degrees.

(5) Certification before July 1, 1994, as an alcohol counselor, a drug and alcohol counselor, or a substance abuse counselor; the equivalent of 10 years of documented full-time substance abuse

work experience; and three letters of reference from certified substance abuse professionals who have master's degrees.

(6) Certification, licensure, or membership in good standing with a professional discipline that has been granted deemed status under G.S. 90-113.41A, as enacted by Section 11 of this act."

(c) Section 18 of S.L. 1997-492 reads as rewritten:

"Section 18. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the Board may certify an applicant as a 'Clinical Addictions Specialist' during a limited period of three years beginning October 1, 1998, if the applicant completes any prescribed continuing education requirements that are required during the course of these years for renewal of the original certification, pays the fee as required for renewal of the original certification, pays the clinical addictions specialist certification fee, and submits proof to the Board that the applicant: (i) has been certified as a substance abuse counselor; (ii) has the equivalent of 10 years of supervised, full-time, substance abuse counseling experience; (iii) has passed a master's level oral and written examination and; (iv) submits three letters of reference from certified substance abuse professionals who hold master's degrees."

(d) This section is effective on and after October 1, 1997.

Section 26. G.S. 95-97 is repealed.

Section 27. G.S. 95-128(3) and (4) read as rewritten:

"(3) Employees whose safety and health are subject to protection under the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801) and the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 725), or ~~the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-41);~~ Subtitle V of Title 49 of the United States Code;

(4) Railroad employees whose safety and health are subject to protection under ~~the Federal Safety Appliance Act (45 U.S.C. 1-50), or the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-41);~~ Subtitle V of Title 49 of the United States Code;".

Section 28. G.S. 95-174(k) reads as rewritten:

"(k) 'Hazardous chemical' shall mean any element, chemical compound or mixture of elements and/or compounds which is a physical hazard or health hazard as defined in subsection (c) of the ~~NCOSHA~~ OSHNC Standard or a hazardous substance as defined in ~~subsection (d)(3) of the NCOSHA Standard.~~ standards adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7)."

Section 29. G.S. 95-174(p) reads as rewritten:

"(p) 'Material Safety Data Sheets' or 'MSDS' shall mean chemical information sheets drawn up in conformity to standards for material safety data sheets adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC

7). ~~in 13 North Carolina Administrative Code 7C .0101(a)(99) (hereinafter designated as 13 N.C.A.C. 7C .0101(a)(99).~~"

Section 30. G.S. 95-174(r) reads as rewritten:

"(r) '~~NCOSHA~~ OSHNC Standard' shall mean the ~~currently adopted~~ current Hazard Communication Standard adopted by the Occupational Safety and Health Division of North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7). ~~13 North Carolina Administrative Code 7C .0101(a)(99), as amended.~~"

Section 31. G.S. 95-198(b) reads as rewritten:

"(b) In nonemergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under this section, to a ~~health professional,~~ responsible party, as defined in ~~13 N.C.A.C. 7C .0101(a)(99),~~ the standards adopted in Title 13, Subchapter 7F of the North Carolina Administrative Code (13 NCAC 7F), providing medical or other occupational health services to exposed persons if the request is in writing and states the medical need for the information. The employer may require that the ~~health care provider~~ responsible party sign a confidentiality agreement prior to release of the information. The parties are not precluded from pursuing noncontractual remedies to the extent permitted by law."

Section 31.1. (a) Article 1 of Chapter 97 of the General Statutes is amended by adding a new section to read:

"**§ 97-101.1. Commission may issue writs of habeas corpus.**

The Industrial Commission may issue a writ of habeas corpus ad testificandum under Article 8 of Chapter 17 of the General Statutes although it is not a court of record."

(b) G.S. 143-296 reads as rewritten:

"**§ 143-296. Powers of Industrial Commission; deputies.**

The members of the Industrial Commission, or a deputy thereof, shall have power to issue subpoenas, administer oaths, conduct hearings, take evidence, enter orders, opinions, and awards based thereon, ~~and~~ punish for ~~contempt.~~ contempt, and issue writs of habeas corpus ad testificandum pursuant to G.S. 97-101.1. The Industrial Commission is authorized to appoint deputies and clerical assistants to carry out the purpose and intent of this Article, and such deputy or deputies are hereby vested with the same power and authority to hear and determine tort claims against State departments, institutions, and agencies as is by this Article vested in the members of the Industrial Commission. Such deputy or deputies shall also have and are hereby vested with the same power and authority to hear and determine cases arising under the Workers' Compensation Act when assigned to do so by the Industrial Commission. The Commission may order parties to participate in mediation, under rules substantially similar to those approved by the Supreme Court for use in the Superior Court division, except the Commission shall determine the manner in which payment of the costs of the mediated settlement conference is assessed."

Section 32. (a) G.S. 105-116(a), as amended by S.L. 1998-22, reads as rewritten:

"(a) Tax. -- An annual franchise or privilege tax is imposed on the following:

(1) An electric power company engaged in the business of furnishing electricity, electric lights, current, or power.

(2) Repealed by S.L. 1998-22, s.2.

(2a) Repealed by S.L. 1998-22, s.2.

(3) A water company engaged in owning or operating a water system subject to regulation by the North Carolina Utilities Commission.

(4) A public sewerage company engaged in owning or operating a public sewerage system.

The tax on an electric power company is three and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from the business of furnishing electricity, electric lights, current, or power. ~~The tax on a regional natural gas district is three and twenty-two hundredths percent (3.22%) of the district's taxable gross receipts from the furnishing of piped natural gas.~~ The tax on a water company is four percent (4%) of the company's taxable gross receipts from owning or operating a water system subject to regulation by the North Carolina Utilities Commission. The tax on a public sewerage company is six percent (6%) of the company's taxable gross receipts from owning or operating a public sewerage company. A company's taxable gross receipts are its gross receipts from business inside the State less the amount of gross receipts from sales reported under subdivision (b)(2). A company that engages in more than one business taxed under this section shall pay tax on each business. A company is allowed a credit against the tax imposed by this section for the company's investments in certain entities in accordance with Division V of Article 4 of this Chapter."

(b) G.S. 105-187.44(a), as enacted by S.L. 1998-22, reads as rewritten:

"(a) City Information. -- A monthly return filed under this Article must indicate the amount of tax attributable to the following: ~~if a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city:~~

(1) Piped natural gas delivered during the month to sales or transportation customers in each city in the State.

(2) Piped natural gas received during the month in each city in the State by persons who have direct access to an interstate gas pipeline and who receive the gas for their own consumption.

If a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city."

(c) This section becomes effective July 1, 1999.

Section 33. G.S. 130A-24(b) reads as rewritten:

"(b) Appeals concerning the enforcement of rules adopted by the local board of health and concerning the imposition of administrative penalties by a local health director shall be conducted in accordance with this subsection and subsections ~~(b),~~ (c) and (d) of this section. The aggrieved person shall give written notice of appeal to the local health director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged

action and a statement of the reasons why the challenged action is incorrect. Upon filing of the notice, the local health director shall, within five working days, transmit to the local board of health the notice of appeal and the papers and materials upon which the challenged action was taken."

Section 34. G.S. 143B-475.1 is rewritten by adding a new subsection to read:

"(f) The community service staff shall report to the court in which the community service was ordered, a significant violation of the terms of the probation, or deferred prosecution, related to community service. The community service staff shall give notice of the hearing to determine if there is a willful failure to comply to the person who was ordered to perform the community service. This notice shall be given by either personal delivery to the person to be notified or by depositing the notice in the United States mail in an envelope with postage prepaid, addressed to the person at the address shown on the records of the community service staff. The notice shall be mailed at least 10 days prior to any hearing and shall state the basis of the alleged willful failure to comply. The court shall then conduct a hearing, even if the person ordered to perform the community service fails to appear, to determine if there is a willful failure to complete the work as ordered by the community service staff within the applicable time limits. If the court determines there is a willful failure to comply, it shall revoke any drivers license issued to the person and notify the Division of Motor Vehicles to revoke any drivers license issued to the person until the community service requirement has been met. In addition, if the person is present, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation."

Section 35. (a) G.S. 146-12(c) reads as rewritten:

"(c) Voluntary Easement Applications for Existing Structures. -- Riparian or littoral property owners of existing structures may voluntarily obtain an easement under subsection (b) of this section in accordance with the procedures set forth in this section. For purposes of this section, the term 'existing structures' means all presently existing piers, docks, marinas, wharves, and other structures located over or upon State-owned lands covered by navigable waters. Applications for voluntary easements shall be received by the State Property Office ~~within 36 months of the effective date of this section.~~ no later than 1 October 2001."

(b) G.S. 146-12(d) reads as rewritten:

"(d) Notification of Availability of Voluntary Easements. -- The State Property Office shall provide public notice of the availability of voluntary easements by placing an advertisement in one newspaper of general circulation in each of the coastal counties identified under G.S. 113A-103(2) at least once every six ~~months during the 36-month period.~~ months. The final notice shall be placed ~~at least 30 days prior to the expiration of the 36-month period.~~ no later than 1 September 2001."

(c) This section is effective retroactively to August 31, 1998, and applies to applications for voluntary easements received by the State Property Office on or after that date.

Section 36. (a) G.S. 163-323(e) reads as rewritten:

"(e) Candidacy for More Than One Office Prohibited. -- No person may file a notice of candidacy for more than one office or group of offices described in subsection (b) of this ~~section~~ section, or for an office or group of offices described in subsection (b) of this section and an office described in G.S. 163-106(c), for any one election. If a person has filed a notice of candidacy with a board of elections under this section or under G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not later be filed for any other office or group of offices under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (c) of this section."

(b) This section is effective on and after February 1, 1999.

Section 37. The prefatory language of Section 1 of S.L. 1998-37 reads as rewritten:

"Section 1. G.S. 153A-335, as it applies to Stanly County under Chapter 930 of the 1987 Session Laws, as amended by Chapter 504 of the 1991 Session Laws and Chapter 574 of the 1993 Session Laws, reads as rewritten:".

Section 38. Section 5.1 of the Charter of the Town of Forest Hills, being Section 1 of S.L. 1997-345, reads as rewritten:

"Section 5.1. **Mayor-Council Plan.** The Village of Forest Hills operates under the Mayor-Council Plan as provided by Part 3 of Article 7 of Chapter ~~160B~~ 160A of the General Statutes. The Mayor shall vote only in those cases necessary to break a tie."

Section 39. The prefatory language of Section 1 of S.L. 1998-72 reads as rewritten:

"Section 1. G.S. 115D-15 reads ~~are~~ as rewritten:".

Section 40. Reserved.

Section 41. G.S. 89C-13(b)(1)d., as amended by S.L. 1998-118, reads as rewritten:

"d. Graduation from a high school or the completion of a high school equivalency certificate and a record satisfactory to the Board of seven years of progressive practical experience, six years of which shall have been under a practicing licensed land surveyor, and satisfactorily passing any oral and written examinations required by the Board, all of which shall determine and indicate that the candidate is competent to practice land surveying. The applicant may be qualified by the Board to take the first examination (Surveying Fundamentals) upon graduation from high school or the completion of a high school equivalency certificate and successfully completing ~~six~~ five years of progressive practice experience, ~~five~~ four of which shall have been under a practicing licensed land surveyor. ~~The applicant may apply to take the second examination (Principles and Practice of Land Surveying) upon passing the first examination and successfully completing four years~~

~~of progressive practical experience, two of which shall have been under a practicing licensed land surveyor.~~"

Section 42. G.S. 105-130.17(f) is repealed.

Section 43. G.S. 105-122(a) reads as rewritten:

"(a) Every corporation, domestic and foreign, incorporated, or, by an act, domesticated under the laws of this State or doing business in this State, except as otherwise provided in this Article or schedule, shall, on or before the fifteenth day of the third month following the end of its income year, annually, make and deliver to the Secretary of Revenue in such form as he may prescribe a full, accurate and complete report and statement signed by either its president, vice-president, treasurer, assistant treasurer, secretary or assistant secretary, containing such facts and information as may be required by the Secretary of Revenue as shown by the books and records of the corporation at the close of such income year.

There shall be annexed to the return required by this subsection the affirmation of the officer signing the ~~return in the following form: "Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this return, including any accompanying schedules and statements, is true and complete. If prepared by a person other than taxpayer, his affirmation is based on all information of which he has any knowledge."~~ return."

Section 44. G.S. 105-155(c) is repealed.

Section 45. G.S. 120-123(55) and (65) are repealed.

Section 46. (a) G.S. 130A-335(f1), as enacted by Section 1 of S.L. 1998-126, is recodified as G.S. 130A-335(f2).

(b) This section is effective retroactively to August 28, 1998.

Section 47. G.S. 153A-15, as amended by S.L. 1998-110, reads as rewritten:

"**§ 153A-15. Consent of board of commissioners necessary in certain counties before land may be condemned or acquired by a unit of local government outside the county.**

(a) Notwithstanding the provisions of ~~G.S. 153A-159, Article 11 of Chapter 160A of the General Statutes, G.S. 130-130,~~ Chapter ~~40~~ 40A of the General ~~Statutes,~~ Statutes or any other general law or local act conferring the power of eminent domain, before final judgment may be entered in any action of condemnation initiated ~~(or in the case of Article 11 of Chapter 160A, before a final condemnation resolution is adopted)~~ by a county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county, whereby the condemnor seeks to acquire property located in the other county, the condemnor shall furnish proof that the county board of commissioners of the county where the land is located has consented to the taking.

(b) Notwithstanding the provisions of G.S. 153A-158, ~~Chapter 160A of the General Statutes~~ 160A-240.1, ~~Article 12 of Chapter 130 of the General Statutes,~~ 130A-55, or any other general law or local act conferring the power to acquire real property, before any county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county acquires any real property located in the other county by exchange, purchase or lease, it must have

the approval of the county board of commissioners of the county where the land is located.

(c) This section applies to Alamance, Alleghany, Anson, Ashe, Bertie, Bladen, Brunswick, Burke, Buncombe, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Montgomery, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Union, Vance, Wake, Warren, Watauga, Wilkes, and Yancey ~~counties~~ Counties only.

(d) This section does not apply as to ~~any:~~

~~(1) Condemnation; or~~

~~(2) Acquisition~~

any condemnation or acquisition of real property or an interest in real property by a city where the property to be condemned or acquired is within the corporate limits of that city."

Section 48. G.S. 158-35(a) reads as rewritten:

"(a) Commission Membership. -- The governing body of the Zone is the Global TransPark Development Commission. The members of the Commission must be residents of the Zone and shall be appointed as follows:

(1) The board of commissioners of each county participating in the Zone shall appoint three voting members, one of whom shall be a minority person as defined in ~~G.S. 143-128(e)~~ G.S. 143-128(f)(2) and one of whom may be a member of the board of commissioners.

(2) The Authority shall appoint at least three but no more than seven voting members. By the appointment of these members, the Authority shall ensure that the voting membership of the Commission includes at least seven women and seven members of a racial minority described in ~~G.S. 143-128(e).~~ G.S. 143-128(f)(2). The Authority shall appoint the fewest number of members necessary to achieve these minimums.

(3) Four nonvoting members shall be appointed as follows:

a. One appointed by the Chancellor of East Carolina University to represent the University.

b. One appointed by a majority vote of the presidents of the community colleges located in the Zone, to represent the community colleges.

c. One appointed by the chair of the State Ports Authority, to represent the sea ports of the State.

d. One member of the board of directors of the Global TransPark Foundation, Inc., appointed by that board."

Section 49. The Revisor of Statutes shall codify the first paragraph of Section 4 of S.L. 1997-129, as amended by Section 10 of S.L. 1997-257, as G.S. 75A-14.1, "Lake Norman no-wake zone."

Section 50. Section 2 of S.L. 1998-113 is amended by deleting "1997-98", and substituting "1998-99".

Section 51. Section 2 of Chapter 214 of the 1991 Session Laws is repealed.

Section 52. Section 2 of S.L. 1998-199 reads as rewritten:

"Section 2. The Revisor of Statutes shall cause to be printed with this act all relevant portions of the official comments to the ~~North Carolina~~ Uniform Planned Community Act and all explanatory comments of the drafters of this act, as the Revisor deems appropriate."

Section 53. (a) The following changes are made to S.L. 1998-198:

(1) G.S. 122C-211(f), as enacted by Section 6 of that act, is recodified as G.S. 122C-211(f1).

(2) G.S. 122C-211(a), as amended by S.L. 1998-47, reads as rewritten:

"(a) Except as provided in subsections (b) through ~~(f)~~ (f1) of this section, any individual, including a parent in a family unit, in need of treatment for mental illness or substance abuse may seek voluntary admission at any facility by presenting himself for evaluation to the facility. No physician's statement is necessary, but a written application for evaluation or admission, signed by the individual seeking admission, is required. The application form shall be available at all times at all facilities. However, no one shall be denied admission because application forms are not available. An evaluation shall determine whether the individual is in need of care, treatment, habilitation or rehabilitation for mental illness or substance abuse or further evaluation by the facility. Information provided by family members regarding the individual's need for treatment shall be reviewed in the evaluation. An individual may not be accepted as a client if the facility determines that the individual does not need or cannot benefit from the care, treatment, habilitation, or rehabilitation available and that the individual is not in need of further evaluation by the facility. The facility shall give to an individual who is denied admission a referral to another facility or facilities that may be able to provide the treatment needed by the client."

(3) Section 7 of that act reads as rewritten:

"Section 7. This act becomes effective ~~October 1,~~ November 1, 1998."

(4) The prefatory language of Section 5 of that act reads as rewritten:

"Section 5. ~~G.S. 122C-57(d), (e), and (f) are amended as follows:~~ G.S. 122C-57(d) through (f) read as rewritten:".

(5) The Revisor of Statutes may delete from G.S. 122C-77, as rewritten by Section 2 of that act, any lines on the form to be filled in where it was clearly intended that those lines be deleted but which do not appear to be stricken through because of formatting.

(b) This section becomes effective September 30, 1998.

Section 54. Section 6 of S.L. 1998-135 reads as rewritten:

"Section 6. This act becomes effective August 15, 1998, and applies to State employee grievances arising on or after that date and to cases pending on that date in the Office of Administrative Hearings or before the State Personnel Commission or on appeal from a decision of the Commission. This act also applies to cases that were voluntarily dismissed without prejudice before the Office of Administrative Hearings before August 15, 1998, and that are refiled prior to December 1, 1998, provided that the case is not otherwise barred from being refiled."

Section 55. (a) Section 11(a) of S.L. 1998-55 reads as rewritten:

"Section 11(a). The Piedmont Triad ~~International~~ Airport Authority may contract for design and construction of an air freight distribution facility on Airport property without being subject to the requirements of Article 8 of Chapter 143 of the General Statutes."

(b) Section 11(b) of S.L. 1998-55 reads as rewritten:

"Section 11(b). The Piedmont Triad ~~International~~ Airport Authority may contract for supplies, materials, equipment, and contractual services of the Authority related to an air freight distribution facility on Airport property without being subject to the requirements of ~~Article 3~~ Articles 3 or 8 of Chapter 143 of the General Statutes."

Section 56. G.S. 58-65-133(d), as enacted by S.L. 1998-3, reads as rewritten:

"(d) Advisory Committee. -- An advisory committee shall be formed to (i) develop, subject to the approval of the Attorney General, the criteria for selection of the Foundation's initial board of directors and (ii) nominate candidates for the initial board of directors. The advisory committee shall be comprised of the following 11 members: three representatives of the business community selected by North Carolina Citizens for Business and Industry, three representatives of the public and private medical school community selected by The University of North Carolina Board of Governors, three representatives of private foundations and other nonprofit organizations selected by the North Carolina Center for Nonprofits, a representative of ~~the North Carolina Association of Hospitals and Health Care Networks,~~ NCHA, Inc., and a representative of the North Carolina Medical Society. After receiving a copy of the proposed plan of conversion, the Attorney General shall immediately notify these organizations, and the advisory committee shall be constituted within 45 days thereafter.

The advisory committee's criteria shall ensure an open recruitment process for the directors. The advisory committee shall nominate 22 residents of North Carolina for the 11 positions to be filled by the Attorney General. The Attorney General shall retain an independent executive recruiting firm or firms to assist the advisory committee in its work."

Section 57. The following changes are made to S.L. 1998-202:

(1) G.S. 7B-2514(a), as enacted by that act, reads as rewritten:

"(a) In determining whether a juvenile should be released before the juvenile's 18th birthday, the Office shall consider the protection of the public and the likelihood that continued placement will lead to further rehabilitation. If the Office does not intend to release the juvenile prior to the juvenile's eighteenth birthday, or

if the Office determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2512(a), the Office shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance of the juvenile's eighteenth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Office, the basis for extending the commitment period, and the plan for future care or treatment."

(2) The prefatory language of Section 2(b) of that act reads as rewritten:

"(b) ~~G.S. 147-33.34(5),~~ G.S. 147-33.34(a)(5), as enacted by Section 1 of this act, reads as rewritten:".

(3) Section 2(f) of that act reads as rewritten:

"(f) Effective July 1, 1999, the Revisor of Statutes shall substitute the term 'post-release supervision' for the term ~~'aftercare' and~~ 'aftercare,' the term 'detention facility' for the terms 'detention home' and ~~'regional detention home'~~ 'regional detention home,' and the term 'detention facilities' for the term 'regional detention homes' everywhere those terms appear in Article 3C of Chapter 147 of the General Statutes, as enacted in Section 1 of this act.

Section 58. (a) Article 47 of Chapter 58 of the General Statutes is amended by adding the following new Part:

"Part 3. Third-Party Administrators for Groups.

"**§ 58-47-210. Definitions.**

As used in this Part:

(1) 'Board' means the board of trustees or other governing body of a group.

(2) 'Control' means 'control' as defined in G.S. 58-19-5(2).

(3) 'GAAP financial statement' means a financial statement as defined by generally accepted accounting principles.

(4) 'Group' means a group of employers that is licensed under Part 1 of this Article.

(5) 'Hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a person is insolvent or, although not yet financially impaired or insolvent, is unlikely to be able to meet obligations with respect to known and reasonably anticipated obligations in the normal course of business.

(6) 'Member' means an employer that participates in a group.

(7) 'Third-party administrator' or 'TPA' means a person engaged by a board to execute the policies established by the board and to provide day-to-day management of the group. 'Third-Party Administrator' and 'TPA' does not mean:

a. An employer acting on behalf of its employees or the employees of one or more of its affiliates.

b. An insurer that is licensed under this Chapter or that is acting as an insurer with respect to a policy lawfully issued

and delivered by it and under the laws of a state in which the insurer is licensed to write insurance.

c. An agent or broker who is licensed by the Commissioner under Article 33 of this Chapter whose activities are limited exclusively to the sale of insurance.

d. An adjuster licensed by the Commissioner under Article 33 of this Chapter whose activities are limited to adjustment of claims.

e. An individual who is an officer, a member, or an employee of a board.

"**§ 58-47-215. TPA authority; license, qualification for approval.**

(a) No person shall act as, offer to act as, or hold himself or herself out as a TPA with respect to risks located in this State for a group unless that person is licensed by the Commissioner under this Part.

(b) An applicant for a license shall file with the Commissioner the information required by subsection (c) of this section on a form prescribed by the Commissioner at least 90 days before the proposed licensing date. No application is complete until the Commissioner has received all required information.

(c) The following information shall be included in the license application:

(1) All organizational documents of the TPA, including articles of incorporation, articles of association, a partnership agreement, a trade name certificate, or a trust agreement, any other applicable documents, and all amendments to these documents;

(2) The bylaws, rules, regulations, or similar documents regulating the internal affairs of the TPA;

(3) The names, addresses, official positions, and professional qualifications of the individuals who are responsible for the conduct of affairs of the TPA, including (i) all members of the board of directors, executive committee, or other governing board or committee, (ii) the principal officers in the case of a corporation or the partners or members in the case of a partnership or association, (iii) all shareholders holding directly or indirectly ten percent (10%) or more of the voting securities of the TPA, and (iv) any other person who exercises control or influence over the affairs of the TPA;

(4) The annual audited GAAP financial statements for the two most recent years that demonstrate the applicant is solvent and an ongoing concern and any other information the Commissioner may require in order to review the current financial condition of the applicant;

(5) A general description of the business operations, including information on staffing levels and activities proposed in this State and nationwide. The description shall provide details setting forth the TPA's capability for providing a sufficient number of

experienced and qualified personnel in the areas of claims processing, record keeping, and underwriting;

(6) The annual report of the manner and amount of all charges, fees, and direct and indirect compensation received from the group as specified in the service agreement;

(7) All written agreements or contracts with groups; and

(8) Any other pertinent information, including evidence of compliance with other provisions of this Article, as required by the Commissioner.

(d) The information required by subsection (c) of this section, including any trade secrets, shall be kept confidential; provided that the Commissioner may use that information in any judicial or administrative proceeding instituted against the TPA.

(e) TPA licenses shall be renewed annually and applications for renewals of licenses shall include or be accompanied by any changes in the information required by subsection (c) of this section.

(f) A TPA shall notify the Commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for a license in this State, 30 business days before the change. Failure of the Commissioner to disapprove any material changes within 30 days after the changes have been filed with the Commissioner constitutes the Commissioner's approval of the filed changes.

(g) After initial licensing, a TPA shall file with the Commissioner all contracts with a group 60 days before the effective date of the contract.

"**§ 58-47-220. TPA license; termination; revocation; restrictions.**

(a) The Commissioner may refuse to issue a license if the Commissioner determines that any of the provisions of this section apply to the TPA, or to any individual responsible for the conduct of affairs of the TPA.

(b) The Commissioner shall suspend or revoke automatically the license of a TPA and a request for a hearing shall not stay the effect of the revocation, suspension, or nonrenewal if the Commissioner finds that any of the following apply to the TPA:

(1) The TPA is using methods or practices in the conduct of its business that render its further transaction of business in this State hazardous or injurious to insured persons or the public;

(2) The TPA has failed to pay any judgment rendered against it in this State within 60 days after the judgment has become final;

(3) The TPA has refused to be examined or to produce its accounts, records, and files for examination, or any of its officers have refused to give information with respect to its affairs or have refused to perform any other legal obligation as to that examination, when required by the Commissioner;

(4) The TPA has, without just cause, refused to pay proper claims or perform services arising under its contract, has caused covered members to accept less than the amount due them, or has caused covered members to employ attorneys or bring suit against the TPA to secure full payment or settlement of the claims;

(5) The TPA is an affiliate of or under the same general management, interlocking directorate, or ownership as another TPA or group that unlawfully transacts business in this State;

(6) The TPA, or any principal or affiliate of the TPA, has been convicted of or has entered a plea of guilty or nolo contendere to a felony without regard to whether judgment was withheld;

(7) The TPA or an affiliate is under revocation, suspension, or nonrenewal in another state;

(8) The TPA is in hazardous financial condition;

(9) The TPA has filed for protection under the United States Bankruptcy Code or any state receivership law;

(10) The financial condition or business practices of the TPA otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this State; or

(11) The TPA is found to be in violation of Article 63 of this Chapter.

(c) The Commissioner may, after notice and opportunity for hearing, suspend or revoke the license of a TPA if the Commissioner finds that any of the following apply to the TPA:

(1) The TPA has violated a rule or an order of the Commissioner or any provision of this Chapter or Chapter 97 of the General Statutes; or

(2) The TPA at any time fails to meet any qualification for which issuance of the license could have been refused had the failure then existed and been known to the Commissioner at the time of the application.

(d) If the Commissioner determines that a TPA or any other person has not materially complied with this Article or with any rule adopted or order issued under this Article, after notice and opportunity to be heard, the Commissioner may order:

(1) For each separate violation, a civil penalty pursuant to G.S. 58-2-70(d); or

(2) Revocation, suspension, or nonrenewal of the person's license.

(e) If the Commissioner finds that, because of a material noncompliance, a group has suffered any loss or damage, the Commissioner may maintain a civil action brought by or on behalf of the group and its policyholders and creditors for recovery of compensatory damages for the benefit of the group and its policyholders and creditors or for other appropriate relief.

(f) Nothing in this Article affects the Commissioner's right to impose any other penalties provided for in this Chapter. Nothing in this Article limits or restricts the rights of policyholders, claimants, and creditors.

(g) If an order of rehabilitation or liquidation of the group has been entered under Article 30 of this Chapter, and the receiver appointed under that order determines that the TPA or any other person has not materially complied with this section, or any order or rule adopted thereunder, and the group suffered any loss or damage

therefrom, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the group."

(b) This section becomes effective January 1, 2000.

Section 59. Section 2 of S.L. 1998-121 reads as rewritten:

"Section 2. ~~Part 2 of Division II of Article 5 of Chapter 105 of the General Statutes~~ G.S. 105-164.5 is repealed."

Section 60. If ratified Senate Bill 882, 1997 Regular Session, and House Bill 926, 1997 Regular Session both become law, then Section 90 of ratified Senate Bill 882, 1997 Regular Session is repealed.

Section 61. G.S. 1A-1, Rule 9(j), reads as rewritten:

"(j) Medical malpractice. -- Any complaint alleging medical malpractice by a health care provider as defined in G.S. 90-21.11 in failing to comply with the applicable standard of care under G.S. 90-21.12 shall be dismissed unless:

(1) The pleading specifically asserts that the medical care has been reviewed by a person who is reasonably expected to qualify as an expert witness under Rule 702 of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care;

(2) The pleading specifically asserts that the medical care has been reviewed by a person that the complainant will seek to have qualified as an expert witness by motion under Rule 702(e) of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care, and the motion is filed with the complaint; or

(3) The pleading alleges facts establishing negligence under the existing common-law doctrine of res ipsa loquitur.

Upon motion by the complainant prior to the expiration of the applicable statute of limitations, a resident judge of the superior court of the county in which the cause of action arose may allow a motion to extend the statute of limitations for a period not to exceed 120 days to file a complaint in a medical malpractice action in order to comply with this Rule, upon a determination that good cause exists for the granting of the motion and that the ends of justice would be served by an extension. Experts required by this Rule shall be subject to discovery pursuant to Rule 26(b)(4) to the same extent as experts designated for trial."

Section 62. (a) G.S. 20-28.3(h), as enacted in Section 3 of S.L. 1998-182, reads as rewritten:

"(h) Insurance Proceeds. -- In the event a motor vehicle is damaged incident to the conduct of the defendant which gave rise to the defendant's arrest and seizure of the motor vehicle pursuant to this section, the county board of education, or its authorized designee, is authorized to negotiate the county board of education's interest with the insurance company and to compromise and accept settlement of any claim for damages. Property insurance proceeds accruing to the defendant, or other owner of the seized motor vehicle, shall be paid by the responsible insurance company directly to the clerk of superior court in the county where the motor vehicle

driver was charged. If the motor vehicle is declared a total loss by the insurance company ~~responsible for~~ liable for the damages to the motor vehicle, the clerk of superior court, upon application of the county board of education, shall enter an order that the motor vehicle be released to the insurance company upon payment into the court of all insurance proceeds for damage to the motor vehicle after payment of towing and storage costs and all valid liens. The clerk of superior court shall provide the Division with a certified copy of the order entered pursuant to this subsection, and the Division shall transfer title to the insurance company or to such other person or entity as may be designated by the insurance company. Insurance proceeds paid to the clerk of court pursuant to this subsection shall be subject to forfeiture pursuant to G.S. 20-28.5 and shall be disbursed pursuant to further orders of the court. An affected motor vehicle owner or lienholder who objects to any agreed upon settlement under this subsection may file an independent claim with the insurance company for any additional monies believed owed. Notwithstanding any other provisions in this Chapter, nothing in this section or G.S. 20-28.2 shall require an insurance company to make payments in excess of those required pursuant to its policy of insurance on the seized motor vehicle."

(b) G.S. 20-28.3(i), as enacted in Section 3 of S.L. 1998-182, reads as rewritten:

"(i) Expedited Sale of Seized Motor Vehicles in Certain Cases. -- In order to avoid additional liability for towing and storage costs pending resolution of the criminal proceedings of the defendant, the county board of education may, after expiration of 90 days from the date of seizure, sell any motor vehicle having a fair market value of one thousand five hundred dollars ($1,500) or less. The county board of education may also sell a motor vehicle, regardless of the fair market value, any time the outstanding towing and storage costs exceed eighty-five percent (85%) of the fair market value of the vehicle, or with the consent of all the motor vehicle owners. Any sale conducted pursuant to this subsection shall ~~take place upon not less than 10 days' prior notice to the motor vehicle owners and lienholders,~~ be conducted in accordance with the provisions of G.S. 20-28.5(a), and the proceeds of the sale, after the payment of outstanding towing and storage ~~costs,~~ costs or reimbursement of towing and storage costs paid by a person other than the defendant, shall be deposited with the clerk of superior court. If an order of forfeiture is entered by the court, the court shall order the proceeds held by the clerk to be disbursed as provided in G.S. 20-28.5(b). If the court determines that the motor vehicle is not subject to forfeiture, the court shall order the proceeds held by the clerk to be disbursed first to pay the sale, towing, and storage costs, second to pay outstanding liens on the motor vehicle, and the balance to be paid to the motor vehicle owners."

(c) G.S. 20-28.3(m), as enacted in Section 3 of S.L. 1998-182, reads as rewritten:

"(m) Trial Priority. -- District court trials of impaired driving offenses involving forfeitures of motor vehicles pursuant to G.S. 20-28.2 shall be scheduled on the arresting officer's next court date or within 30 days of the offense, whichever comes first.

Once scheduled, the case shall not be continued unless all of the following conditions are met:

(1) A written motion for continuance is filed with notice given to the opposing party prior to the motion being heard.

(2) The judge makes a finding of a 'compelling reason' for the continuance.

(3) The motion and finding are attached to the court case record.

Upon a determination of guilt, the issue of vehicle forfeiture shall be heard by the judge immediately, or as soon thereafter as feasible, and the judge shall issue the appropriate orders pursuant to G.S. 20-28.2(d).

Should a defendant appeal the conviction to superior court, any party ~~may file a motion for review to consider whether the motor vehicle may be released pursuant to G.S. 20-28.2(e) or (f) or G.S. 20-28.3(e), (e1), or (e3).~~ who has not previously been heard on a petition for pretrial release under subsections (e1) or (e3) of this section or any party whose motor vehicle has not been the subject of a forfeiture hearing held pursuant to G.S. 20-28.2(d) may be heard on a petition for pretrial release pursuant to subsections (e1) or (e3) of this section. The provisions of subsection (e) of this section shall also apply to seized motor vehicles pending trial in superior court. Where a motor vehicle was released pursuant to subsection (e) of this section pending trial in district court, the release of the motor vehicle continues, and the terms and conditions of the original bond remain the same as those required for the initial release of the motor vehicle under subsection (e) of this section, pending the resolution of the underlying offense involving impaired driving in superior court."

(d) G.S. 20-28.5(a), as amended by Section 5 of S.L. 1998-182, reads as rewritten:

"(a) Sale. -- A motor vehicle ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i), shall be sold at a public sale conducted in accordance with the provisions of Article 12 of Chapter 160A of the General Statutes, applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or (4), subject to the notice requirements of this subsection, and shall be conducted by the county board of education or a person acting on its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of the vehicle to be ~~sold~~ sold, at the address shown by the records of the Division and at any other address of the motor vehicle owner as may be found in the criminal file in which the forfeiture was ordered. Written notice of sale shall also be given to all lienholders on file with the Division. Notice of sale shall be given to the Division in accordance with the procedures established by the Division. Notices required to be given under this subsection shall be mailed at least ~~14~~ 10 days prior to the date of sale. A lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien, if that should be the highest bid, without being required to tender any additional funds, other than the towing and storage fees. The county board of education, or its agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant,

the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf."

(e) G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable Accident. -- An accident or collision involving a motor vehicle that results in either of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars ($1,000) or ~~more.~~ more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

(f) Subsections (a), (c), and (e) of this section become effective December 1, 1998. Subsections (b) and (d) of this section are effective on and after October 15, 1998.

Section 63. Section 6 of S.L. 1998-169 reads as rewritten:

"Section 6. The Board of Transportation, with the assistance of the Secretary and the Department of Transportation, shall develop a plan to establish Rural Transportation Planning Organizations (RPOs) as a counterpart to the existing Metropolitan Planning Organizations (MPOs). The Board or its designee shall report its plan to establish these organizations to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations on or before ~~December 31, 1998.~~ June 30, 1999."

Section 64. Section 12.5 of S.L. 1997-458 reads as rewritten:

"Section 12.5. The Utilities Commission, the Local Government Commission, and the Environmental Management Commission, with the assistance of other State agencies, shall jointly study issues relating to ~~publically~~ publicly owned treatment works that persistently fail to comply with Article 21 of Chapter 143 of the General Statutes, rules adopted pursuant to that Article, or other federal and State laws, regulations, and rules for the protection of public health and the environment. The Commissions shall make a specific finding as to whether a State agency should assume control of a persistently noncomplying treatment works and, if so, how the State agency would assume control and operate the treatment works. The Utilities Commission, the Local Government Commission, and the Environmental Management Commission shall jointly present their findings and recommendations, including any legislative proposals, to the 1998 Regular Session of the 1997 General Assembly."

Section 65. Senate Bill 1366 of the 1997 General Assembly, as enacted, is amended by rewriting the line above the heading to Section 17.22 to read:

"Requested by: Senators Gulley, Rand, Wellons, Representatives Justus, Kiser, Sexton."

Section 66. Section 20 of S.L. 1998-150 reads as rewritten:

"Section 20. This act becomes effective November 1, 1998, and applies to annexations for which the resolution of intent is adopted on or after that date. Sections 2 and 3 shall not apply to any incorporation proposal originally presented to the Joint Legislative Commission on Municipal Incorporations prior to the effective date. As to any incorporation petition submitted after October 31, 1998 but before

the deadline set by G.S. 120-163(e) for the 1999 Regular Session, which did not meet the requirement of Section 3 of this act, the petition may be amended by a majority of the members of the interim board named in the petition so as to comply. The amendment may be made either before or after the petition is submitted."

Section 67. Effective January 1, 1999, through June 30, 2003, G.S. 135-3(8)c., as rewritten by Section 28.24(a) of Senate Bill 1366 of the 1997 General Assembly, as enacted, reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed, or otherwise engaged to perform services, by an employer participating in the Retirement System on a part-time, temporary, interim, or on a fee-for-service basis, whether contractual or otherwise, and if such beneficiary earns an amount in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars ($20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, G.S 135-3(8)c., who has been retired at least 12 months and has not been employed in any capacity, except as a substitute teacher, with a public school for at least 12 months, shall not include earnings while:

1. The beneficiary is employed to teach on a substitute or interim basis, and not on a permanent basis, in a public school;
2. The beneficiary is employed to teach in the teacher's area of certification in a low-performing school. As used in this sub-subdivision, a low-performing school is a public elementary or middle school at which forty-eight percent (48%) or more of the students were below grade level during either of the prior two school years or a public high school identified by the

State Board of Education as low-performing. If the designation of low-performing is removed while the beneficiary is employed to teach at the school, the provisions of this sub-subdivision apply for the next two school years after the designation is removed; or

3. The beneficiary is employed to teach in a public school in the teacher's area of certification in a geographical area in which the State Board of Education determines that there is a shortage of teachers in the beneficiary's area of certification.

The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit under the provisions of this sub-subdivision and as a ~~probationary~~ retired teacher as the term is defined under the provisions of ~~G.S. 115C-325(a)(5).~~ G.S. 115C-325-(a)(5a).

Beneficiaries employed under this sub-subdivision are not entitled to any benefits otherwise provided under this Chapter as a result of this period of employment.

Section 67.1. Section 28.16B(c) of Senate Bill 1366, if it becomes law, is amended by deleting "1998" and substituting "1997".

Section 68. Except as otherwise provided herein, this act is effective when it becomes law.

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
October 28, 1998
11:30 A.M.

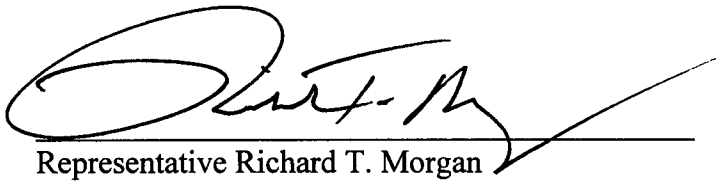
The Committee on Rules, Calendar, and Operations of the House met October 28, 1998, at 11:30 a.m. in the House Conference Room in the Legislative Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Crawford, Dockham, Esposito, Gulley, Hill, McMahan, Mitchell, and Thompson.

Chairman Morgan brought forward H.B. 1472 - A BILL TO BE ENTITLED AN ACT TO ALLOW STATE AGENCIES TO RETAIN RECEIPTS FROM THE SALE OF RECYCLABLE MATERIALS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION, AND TO CREATE THE COMMISSION ON SMALL FAMILY FARM PRESERVATION, introduced by Representative Hill, with the unengrossed amendment for recommendation for concurrence or non-concurrence. Committee Counsel Linwood Jones was recognized to explain the bill and the amendment unengrossed. Mr. Jones explained that the original House Bill 1472 contained what is now Section 1 and Section 2. It deals with agencies being able to get back some of the receipt they derive when they sell recyclable material. The Senate changed the effective date and added Sections 3-9 of the bill which is a study on small family farm preservation. The amendment which has not had time to be engrossed into the Senate bill said that the director of the budget can identify resources up to 10 million dollars from the General Fund for this fiscal year to match grant funds for the Center for Community Self Help. The funds will be used to create a loan loss reserve to raise private capital for home ownership. Representative Hill was recognized and explained that the Senate wanted to add the amendment about the family farms. Representative Bowie asked what would happen to the budget? Linwood Jones stated that it does not identify where the funds will come from. The Governor could pull it out of lapsed salaries or unused funds but it does not appropriate a new 10 million. Representative Thompson wanted to know what is the Center for Self Help? Michael Cahoun with the Center for Community Self Help was recognized and explained that the House and Senate had supported the group for a number of years. The Center received a grant this year from the Ford Foundation and it allows 10 million of the grant to be matched by appropriation. The Center commits to leverage that 20 to 1 for first time home ownership loan across the state. About half of them are rural and they are all people below 80% medium income so with the one time 10 million dollar appropriation, the Center will deliver 200 million dollars in new home loans in North Carolina. Representative Esposito wanted to know if this was not part of the budget bill before that was not funded. Representative Mitchell stated that there were not funds to fund it when it was in the budget process. Representative Esposito wanted to know if it were eligible since it was not funded before. Chairman Morgan stated that it is properly before the Committee.

Representative McMahan asked if this money serves as reserve or are funds actually used to make loans or is it just used as collateral. Mr. Cahoun stated that it is both but it essentially provides the loan loss reserve for these so the loans can be made. The grant from the Ford Foundation was received after both the House and Senate had already passed their initial budgets. After further discussion, Representative Hill made the motion that the Rules Committee recommend that the House do concur with the Senate committee substitute as amended. The motion carried.

Senate Committee Substitute for S.B. 1239 - A BILL TO BE ENTITLED AN ACT TO EXEMPT FAMILY FARMS AND FAMILY BUSINESSES FROM INHERITANCE TAXES, introduced by Senator Hoyle was next before the Committee. Representative Mitchell moved for adoption of a committee substitute for discussion and the vote was unanimous. Committee Counsel Linwood Jones explained that the substitute is in two section. The first section would prohibit the Governor and DEHNR from signing an MOU (Memorandum of Understanding) concerning the permitting of air emission sources around certain lands. The second section authorizes the Environmental Review Commission to also study the issue and make possible recommendations in the 1999 Session. Representative Carpenter was recognized and explained that the issue has arisen from a MOU that was signed by the State of Tennessee in 1997. It was signed with the Department of Interior with the hope that all the other Southeastern states would also sign. No other state has signed and North Carolina has been getting pressure from the State of Tennessee to sign the MOU which would allow the Federal Land Managers to have a part in the permit issuance of industry within 62 1/1 miles of federal lands in North Carolina, which are the Great Smoky Mountains and Swan Quarter. That means from the boundary of the Great Smoky Mountain National Park down to Winston Salem and certainly 62 ½ miles west of Swan Quarter, any industry that might want to come into the area would be commented upon by the Federal Land Managers and they would have some say so into whether or not North Carolina committed industry to come and locate in those areas. Citizens in the Western part of the state oppose this MOU. Representative Thompson asked if the Legislative Branch could dictate to the Executive Branch what they can and can't do. Linwood Jones answered, yes, as far as them committing us to something. Representative Carpenter stated that Rick Carlisle with the Department of Commerce is very concerned about this matter. Representative Carpenter also stated that Wayne McDevitt, Secretary of Economic and Natural Resources, said it is an area of concern. They would not like the MOU that is now in existence to be signed in its present form. Representative Mitchell moved for a favorable report to the House committee substitute, unfavorable to the original bill. The motion carried.

There being no further business, the meeting adjourned at 11:55 a.m.



Representative Richard T. Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:

Committee Reports
Bills
Attachment 1
Visitor's Sheet

1997 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR AND OPERATIONS OF THE HOUSE.**

X Senate Committee Substitute for
H.B. 1472 A BILL TO BE ENTITLED AN ACT TO ALLOW STATE AGENCIES TO RETAIN RECEIPTS FROM THE SALE OF RECYCLABLE MATERIALS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION, AND TO CREATE THE COMMISSION ON SMALL FAMILY FARM PRESERVATION.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

X With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

4/24/97

Original

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1472

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H1472-ALT-01

Date 10/27/ ,1998

Comm. Sub. [YES]
Amends Title [YES]
H1472-PCS1624-RT-02

Senator Rand

moves to amend the bill on page 5, lines 4 through 5, by adding the following language between the lines:

"Section 8.1. Notwithstanding any other provision of law, the Director of the Budget may identify resources of up to ten million dollars ($10,000,000) from the General Fund for the 1998-99 fiscal year for the Center for Community Self-Help to match grant funds on a one-to-one basis. These funds shall be used to create a loan loss reserve that leverages private capital for home ownership.";

and on page 1, line 4, by deleting the word "AND";

and on page 1, line 5, by adding the following before the period:

"AND TO PROVIDE THAT THE DIRECTOR OF THE BUDGET MAY IDENTIFY FUNDS TO MATCH GRANT FUNDS FOR THE CENTER FOR COMMUNITY SELF-HELP".

SIGNED Tony Rand
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED 44-0 FAILED _____ TABLED _____

Janet Pruitt 10/27/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H 3

HOUSE BILL 1472*
Committee Substitute Favorable 9/24/98
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 10/27/98

Short Title: Agency Recyc. Receipts/ Family Farms Study. (Public)

Sponsors:

Referred to:

May 25, 1998

A BILL TO BE ENTITLED

AN ACT TO ALLOW STATE AGENCIES TO RETAIN RECEIPTS FROM THE SALE OF RECYCLABLE MATERIALS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION, AND TO CREATE THE COMMISSION ON SMALL FAMILY FARM PRESERVATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-64.02 reads as rewritten:

"**§ 143-64.02. Definitions.**

As used in Part 1 of this Article, except where the context clearly requires otherwise:

(1) 'Agency' means an existing department, institution, commission, committee, board, division, or bureau of the State.

(2) 'Nonprofit tax exempt organizations' means those nonprofit tax exempt medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, universities, schools for the mentally retarded, schools for the physically handicapped, radio and television stations licensed by the Federal Communications Commission as educational radio or educational television stations, public libraries, and civil defense organizations, that have been certified by the Internal Revenue Service as tax-exempt nonprofit

organizations under section 501(c)(3) of the United States Internal Revenue Code of 1954.

(3) 'Recyclable material' means a recyclable material, as defined in G.S. 130A-290, that the Secretary of Administration determines, consistent with G.S. 130A-309.14, to be a recyclable material."

Section 2. G.S. 143-64.05 reads as rewritten:

"**§ 143-64.05. ~~Warehousing, transfer, etc., charges.~~ Service charges for disposal of surplus property and recyclables; use of receipts from sale of surplus property and recyclable material.**

(a) The State agency for surplus property may assess and collect a service charge ~~charges or fees~~ for the acquisition, receipt, warehousing, ~~distribution~~ distribution, or transfer of any State surplus ~~property.~~ property and for the transfer or sale of recyclable material.

(b) All receipts from the transfer or sale of surplus, obsolete, or unused equipment of State departments, institutions, and ~~agencies,~~ agencies that are supported by appropriations from the General Fund, except where the receipts have been anticipated ~~for,~~ for or budgeted against the cost of replacements, shall be credited by the Secretary to the Office of State ~~Treasurer, Nontax Revenues.~~ Treasurer as nontax revenue.

(c) A department, institution, or agency may retain receipts derived from the transfer or sale of recyclable material, less any charge collected pursuant to subsection (a) of this section, and may use the receipts to defray the costs of its recycling activities. A contract for the transfer or sale of recyclable material to which a department, institution, or agency is a party shall not become effective until the contract is approved by the Secretary of Administration. The Secretary of Administration shall adopt rules governing the transfer or sale of recyclable material by a department, institution, or agency and specifying the conditions and procedures under which a department, institution, or agency may retain the receipts derived from the transfer or sale, including the appropriate allocation of receipts when more than one department, institution, or agency is involved in a recycling activity."

Section 3. The Commission on Small Family Farm Preservation is created in the General Assembly. The Commission shall study:

(1) Land-use and population trends in North Carolina.

(2) The causes of the declining number of small family farms in the State.

(3) The influence of federal and State taxes in the conversion of small family farms to nonagricultural uses.

(4) Voluntary incentives and voluntary options to preserve small family farms as well as enhance their economic viability and their use of environmentally sustainable agriculture.

(5) The feasibility and desirability of using various farmland preservation mechanisms, including: purchase or lease of development rights, land-use tax credits, estate and gift tax exemptions, comprehensive land-use plans, redevelopment of

urban areas and density development to eliminate duplication of infrastructure, cluster zoning, agricultural protection zoning, limits on annexation, and limits on extending utilities to designated agricultural areas; and the adequacy of Article 61 of Chapter 106 of the General Statutes in preserving farmland in this State.

(6) Ways to improve the business climate for small family farming.

(7) Ways to promote the small family farmers' role in the environment and in protecting our State's natural resources.

(8) Ways to promote the small family farmer as a true asset to the State.

(9) The final reports of other study commissions, task forces, or strategic plans in other states as well as the final report of the National Commission on Small Farms by the United States Department of Agriculture and other resources on the subject of small farm preservation.

(10) Ways in which the Department of Agriculture and Consumer Services, the Department of Environment and Natural Resources, and the Department of Commerce can cooperate to preserve small family farms that are environmentally sustainable and economically viable.

Section 4. (a) The Commission on Small Family Farm Preservation shall consist of 19 members:

(1) One member of the Senate appointed by the President Pro Tempore of the Senate.

(2) One member of the Senate appointed by the President Pro Tempore of the Senate.

(3) One member of the Senate appointed by the President Pro Tempore of the Senate.

(4) One member of the House of Representatives appointed by the Speaker of the House of Representatives.

(5) One member of the House of Representatives appointed by the Speaker of the House of Representatives.

(6) One member of the House of Representatives appointed by the Speaker of the House of Representatives.

(7) One farmer appointed by the Governor who currently operates well-managed small family farms in North Carolina.

(8) One farmer appointed by the Governor who currently operates well-managed small family farms in North Carolina.

(9) The Master of the North Carolina State Grange or the Master's designee.

(10) The President of the North Carolina Farm Bureau Federation or the President's designee.

(11) The Commissioner of Agriculture and Consumer Services or the Commissioner's designee.

(12) The Secretary of Environment and Natural Resources or the Secretary's designee.
(13) The Secretary of Commerce or the Secretary's designee.
(14) The Dean of the School of Agriculture and Life Sciences at North Carolina State University or the Dean's designee.
(15) The Dean of the School of Agriculture at North Carolina Agricultural and Technical State University or the Dean's designee.
(16) The Dean of the School of Design at North Carolina State University or the Dean's designee.
(17) The Dean of the School of Regional Planning at the University of North Carolina at Chapel Hill or the Dean's designee.
(18) The Director of the North Carolina Environmental Defense Fund or the Director's designee.
(19) The Director of the Southern Environmental Law Center or the Director's designee.

(b) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a member of the General Assembly who is a member of the Commission as cochair of the Commission. A majority of the Commission shall constitute a quorum for the transaction of business.

Section 5. The Commission may file an interim report to the 1999 Regular Session of the 1999 General Assembly and shall file a final report prior to the convening of the 2000 Regular Session of the 1999 General Assembly. The Commission shall submit interim and final reports by filing the reports with the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The final report shall contain the findings, recommendations, and legislative proposals, if any, of the Commission.

Section 6. Members appointed to the Commission shall serve until the Commission makes its final report. Vacancies on the Commission shall be filled by the same appointing officer who made the original appointments. The Commission shall terminate upon the filing of its final report.

Section 7. The Commission may contract for consultant services as provided by G.S. 120-32.02. The Commission may obtain assistance from the State's universities. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives' and Senate's Supervisors of Clerks. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission. The Commission, while in the discharge of official duties, may exercise all the powers authorized by G.S. 120-19 through G.S. 120-19.4.

Section 8. Members of the Commission shall receive per diem, subsistence, and travel allowances as follows:

(1) Commission members who are also General Assembly members, at the rate established in G.S. 120-3.1.

(2) Commission members who are officials or employees of the State or local government agencies, at the rate established in G.S. 138-6.

(3) All other Commission members, at the rate established in G.S. 138-5.

Section 9. Sections 1 and 2 of this act become effective 1 January 1999. Sections 3 through 9 of this act are effective when this act becomes law.

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **MORGAN** for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ Senate Committee Substitute for #2
S.B. 1239 A BILL TO BE ENTITLED AN ACT TO EXEMPT FAMILY FARMS AND FAMILY BUSINESSES FROM INHERITANCE TAXES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title, unfavorable as to original bill (Committee Substitute Bill #), (and recommendation that the committee substitute bill #) be re-referred to the Committee on .)

☒ With a favorable report as to House committee substitute bill (#———), ☑ which changes the title, unfavorable as to Senate committee substitute bill. #2

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

3/25/98

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 1239
Finance Committee Substitute Adopted 6/4/98
Finance Committee Substitute #2 Adopted 9/2/98
Proposed House Committee Substitute S1239-CSLD-2
WARNING: LINE NUMBERS MAY CHANGE AFTER ADOPTION

Short Title: Stop Governor/DENR Signing MOU. (Public)

Sponsors:

Referred to:

May 21, 1998

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE GOVERNOR AND THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FROM SIGNING A MEMORANDUM OF UNDERSTANDING REGARDING THE PERMITTING OF AIR EMISSION SOURCES AND TO AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION TO CONSIDER ISSUES RELATED TO ENTERING INTO SUCH AN AGREEMENT.

The General Assembly of North Carolina enacts:

Section 1. The Governor and the Department of Environment and Natural Resources shall not sign any memorandum of understanding or other agreement with the United States Department of the Interior, the United States Department of Agriculture, or any other federal agency or department or with any other State regarding the permitting of new or modified air emission sources.

Section 2. The Environmental Review Commission may consider issues related to entering into such an agreement and may recommend legislative proposals to the 1999 General Assembly that:

(1) Authorize the Governor or the Department of Environment and Natural Resources to sign a

memorandum of understanding regarding the permitting of new or modified air emission sources and provide the terms to be set forth in that memorandum of understanding,

(2) Authorize the Environmental Management Commission to adopt rules that provide changes to permitting new or modified air emission sources within guidelines set forth by the Environmental Review Commission, or

(3) Otherwise address these issues.

Section 3. Section 2 of this act becomes effective July 1, 1998. Sections 1 and 3 of this act are effective when they become law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S 3

SENATE BILL 1239
Finance Committee Substitute Adopted 6/4/98
Finance Committee Substitute #2 Adopted 9/2/98

Short Title: Exempt Family Farms/Family Businesses. (Public)

Sponsors:

Referred to:

May 21, 1998

A BILL TO BE ENTITLED

AN ACT TO EXEMPT FAMILY FARMS AND FAMILY BUSINESSES FROM INHERITANCE TAXES.

Whereas, the General Assembly recognizes the importance of family farms and family-owned businesses; and

Whereas, relief from State inheritance tax is already provided to surviving spouses; and

Whereas, the General Assembly finds that this relief should be extended to those who have worked hard to build up a family farm or family business and who wish to pass the fruits of their labors on to their families; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-9 is amended by adding a new subdivision to read:

"(9) An amount equal to the deduction for family-owned business interests that would be allowed under section 2057 of the Code if calculated without regard to the maximum deduction limitation provided in section 2057(a)(2) of the Code."

Section 2. This act becomes effective January 1, 1999, and applies to the estates of decedents dying on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 1239
Finance Committee Substitute Adopted 6/4/98
Finance Committee Substitute #2 Adopted 9/2/98
Proposed House Committee Substitute S1239-PCS9634-LD2

Short Title: Stop Governor/DENR Signing MOU. (Public)

Sponsors:

Referred to:

May 21, 1998

A BILL TO BE ENTITLED

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Attachment 1

NCCBI

North Carolina Citizens for Business & Industry

P.O. Box 2508, Raleigh, NC 27602 • 225 Hillsborough Steet, Suite 460, Raleigh, NC 27603 • Telephone: (919) 836-1400 • Fax: (919) 836-1425

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- William Cavanaugh III *Raleigh*
- Bert Collins *Durham*
- Malcolm E. Everett III *Charlotte*
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- William E. McDonald *Wake Forest*
- [illegible]alter McDowell [illegible]ston-Salem
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- John F. McNair III *Winston-Salem*
- John O. McNairy *Kinston*
- Sherwood H. Smith Jr. [illegible]leigh
- [illegible]medes York [illegible]leigh
- Charles E. Zeigler Jr. *Gastonia*

January 7, 1998

The Honorable Wayne McDevitt
Secretary
N.C. Department of Environment
and Natural Resources
512 N. Salisbury Street
Raleigh, NC 27604

RE: Memorandum of Understanding Defining the Role of the Federal Land Manager in Permitting Decisions Affecting Class I Areas

Dear Mr. Secretary:

As we have mentioned to you and members of your staff on several occasions in recent months, in June of 1997 the State of Tennessee signed a Memorandum of Understanding (MOU) with the Department of the Interior and the Department of Agriculture that defines the role of, and in our view dramatically increases the power of, the Federal Land Manager (FLM) in permitting new and modified air emission sources in Tennessee. The MOU obligates Tennessee and the signatory federal agencies to use their "best efforts" to convince all states participating in the Southern Appalachian mountain Initiative (SAMI) to also sign the MOU and change the role, and power, of FLMs in each respective SAMI state. It is our understanding that both Tennessee and the Department of Interior have strongly encouraged North Carolina to sign on to the Tennessee MOU.

Based on recent conversations with Alan Klimek and Linda Rimer, we understand that the State of North Carolina is currently considering signing the Tennessee MOU, or some variation of this agreement. This troubles us greatly. Both North Carolina Citizens for Business and Industry (NCCBI) and the North Carolina Manufacturers and Chemical Industry Council (MCIC) have reviewed the MOU. We believe that certain provisions of the MOU represent a significant departure from current Prevention of Significant Deterioration (PSD) regulatory procedures under the Clean Air Act and North Carolina regulations. While members of our respective organizations may support notifying the FLM of projects that may impact federal Class I areas and including the FLM earlier in the permitting process, we do not support several key aspects of the MOU. These aspects are discussed below.

Thomas W. Bradshaw Jr., Raleigh, *Chairman of the Board* • Stephen P. Zelnak Jr., Raleigh, *First Vice Chairman*
Earl N. Phillips Jr., High Point, *Second Vice Chairman* • R. Horace Johnson, Raleigh, *Treasurer* • Phillip J. Kirk Jr., Raleigh, *President/Secretary*

All Applications Become Subject to FLM Review

The MOU requires the permitting authority to notify the FLM of all permit applications received from potentially new or modified PSD sources regardless of their proximity to a Class I area. In addition, the MOU obligates the permitting authority to provide the FLM reasonable notice and opportunity to attend and participate in any pre-permit application meetings. These requirements represent a significant deviation from the current PSD framework and the role of the FLM in the permitting process.

FLM Approval Required for Application Completeness Determination

Under the MOU, the permitting authority must consult with the FLM before making a completeness determination on the permit application. The current PSD rules do not provide any role for the FLM in making an application completeness determination. Furthermore, this would represent a significant change in current North Carolina permitting regulations.

Shifting of the Burden for Conducting All AQRV Analyses to the Applicant

The MOU in all instances places the burden of conducting Air Quality Related Value (AQRV) impact analyses on the permit applicant. Under Section 165 of the Clean Air Act, however, whether AQRV analyses must be performed is based upon whether air quality modeling indicates that the proposed source would "cause or contribute" to an exceedance of the PSD increments in the Class I area. See 42 U.S.C. Sec. 7475 (d). The Act clearly provides that if air quality modeling indicates that emissions from the proposed source would not cause or contribute to an increment exceedance, the permitting authority may issue the permit unless the FLM demonstrates "to the satisfaction of the State" that the source "will have" an adverse impact on an AQRV. See 42 U.S.C. Sec. 7475 (d) (2) (c) (ii).

Under current law, the burden of conducting the AQRV analyses shifts to the applicant only when the applicant's increment analysis indicates that the source would cause or contribute to an increment exceedance. In such a case, after the applicant performs the required AQRV analyses, the FLM must "certify" that no adverse impact on an AQRV in the Class I area would result before the State may issue a permit. See 42 U.S.C. Sec. 7475 (d) (2) (c) (iii). Under these circumstances, the applicant must conduct the AQRV analyses to the satisfaction of the FLM and the permitting authority in order to obtain the required FLM certification. By shifting the burden to the applicant to conduct AQRV analyses in every case, without regard to the clear existing threshold of whether a Class I increment may be exceeded as a result of the application, the MOU represents a significant departure not only from the current North Carolina practice but also from the statutory language of the Clean Air Act.

The MOU Requires Formal Rulemaking

It is our understanding that certain representatives of the Department of Interior and US EPA have described the procedures contained in the MOU as "consistent" with the current PSD regulations. We disagree. The MOU contains significant deviations from the current North Carolina and federal regulatory procedures for permitting sources that may impact Class I areas. As a result, if your Department intends to move forward with a document similar to the MOU, or any document that changes the current relationship between the FLM, the State, and permit applicants, we strongly encourage you to go through formal rulemaking procedures. Before signing the MOU, the State of Tennessee solicited comments and received substantial input from the regulated community. If North Carolina moves forward with the MOU or some variation of this document, we hope that the State will also recognize the need to involve the public in the decision-making process.

Thank you for your consideration, and we are available to meet with you regarding this matter at any time.

Sincerely,

C. Edward Scott, III, Chairman
Environmental Concerns Committee

George T. Everett
Executive Director, MCIC

cc: Alan Klimek
Linda Rimer
Phil Kirk
Leslie Bevacqua
Alan McConnell, Esq.
Sandra Birckhead

Jim Carpenter

Page #1

October 15, 1998 Vol. 2 No. 39 DEFENDING THE PEOPLE'S RIGHT TO KNOW WNC Edition Seventy-Five Cents

Feds seek control of N.C. growth

"Federal Land Managers" would have screening authority of new businesses

By Matthew Mittan
The Asheville Tribune

In a packed conference center at UNCA, environmental activists provided a parade of speeches hammering out the threat of deforestation, global warming, fish kills, acid saturated drinking water and severe breathing difficulties. The topic of the night had been advertised as a "public meeting" to discuss what has been dubbed "The Smokies Pact."

The initiative, which became known to the general public here only a week ago, is a "Memorandum of Understanding" (MOA) between The Department of The Interior and local states. Tennessee has already signed the agreement with the federal government and now wants to convince North Carolina to do the same.

By signing the agreement, the State would allow "Federal Land Managers" the authority to become part of a "permit issuing" bureaucracy that would have screening authority over businesses that want to build or renovate within 100km (62.5 miles) of federal lands. That amounts to a circle that stretches from the outskirts of Winston-Salem, Charlotte, Columbia, SC, north of Atlanta and back along the Tennessee/Kentucky line. Another area, Swanquarter, would cover nearly half the eastern seaboard, moving inland to the outskirts of Raleigh. (See map on page 13) However, the federal "permitting" would not necessarily be limited to that radius. One official said, "facilities that are within this 100 km, that's the ones that we really focus on. However, if it's a large facility outside of that area, that could potentially impact that Class 1 area, then we'll be looking at that also."

Some "Class 1" areas in North Carolina are Great Smokey Mountains National Park, Shining Rock, Linville Gorge, Joyce Kilmer-Slickrock National Wilderness Area and Swanquarter National Wilderness Area on the central coast. Cape Romain in South Carolina is also listed as a "Class 1" area.

(Continued on page 13)

(Continued from page 1)

Federal control of N.C. growth?

"The effect of signing this permit means that our major new industries coming into North Carolina would have to perform a more sophisticated analysis having to do with their impact on the mountains, on the Class 1 areas, the air quality related values," according to Allen Clement, a government official. He went on to say that the state basically had three options with this initiative. 1) Sign the Tennessee document. 2) Sign the Tennessee document with modifications. 3) Don't sign at all and defer to "rulemaking by the EPA (Environmental Protection Agency)."

While most of the dialogue has focused on large "smokestack" industries, the pact itself is more broad in its reach. Copies of the proposed agreement can be obtained by calling the N.C. Division of Air Quality (DAQ) at 828-251-6208 or on the internet at http://daq.state.nc.us/.

When the Smokey Mountain Park Superintendent was asked a hypothetical question, "if a small printing business wanted to open up in Fairview, would it fall under this permit procedure?" The answer was "Yes, I believe it would." Despite the blitzkrieg of media attention on the air quality of Western North Carolina, very little has been discussed or debated regarding the Constitutional and economic impact of the initiative. Yet, even within the environmental arguments, there are major inconsistences.

Car emissions, "probably the biggest problem" one official stated, is shown in National Parks Service charts as contributing only 2% of sulfur dioxide in the Southeast. (See chart.)

Bill Holman, Assistant Secretary of Environmental Protection for NC said, "we are engaged in [this initiative] to protect and restore air quality in the mountains." Jim Remphroe, a specialist on Air Quality for the National Parks Service, showed a series of slides which ended with a haze filled valley followed by a clear vista of a mountain range saying that the haze was what they wanted to get away from. However, he did say that the signing of this pact, in fact, will not have any effect on visibility or ozone readings within the Smokey Mountains. Literature distributed at the meeting by the National Park Service clearly showed that the heavy airborne pollutants in our mountains come mostly from the Ohio Valley region and the Alabama/Mississippi region.

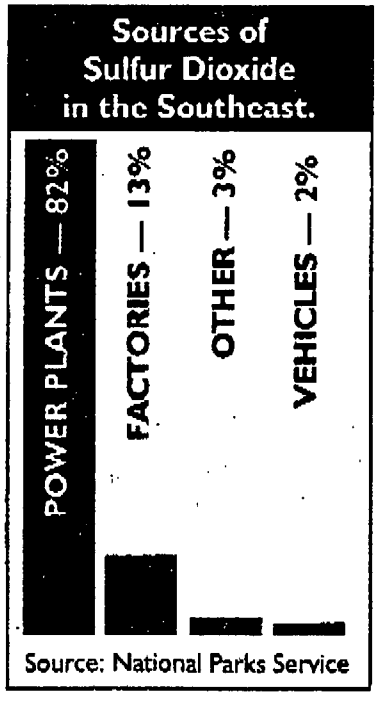
Several charts were displayed showing an explosion in the number of days this summer that exceeded "safe" levels of ozone compared with previous years. However, 1998 numbers were based on new stricter federal standards while the previous years graphics were based on old standards. No charts were offered showing the actual changes to baseline levels.

One motive for signing the MOA was commented on by Justin Wilson, Environmental Policy Adviser to Tennessee Governor Don Sundquist, when he said, "if we don't deal with it ourselves there's a real risk the Federal Government can impose a situation on us that really doesn't make sense." He also said that the intention of this agreement was "to move the discussion and debate away from the public arena" and into the conference room "and most of all, away from the courtrooms." Regarding the sections of the pact addressing conflict resolution between industry and the Dept. of Interior, Wilson stated, "We haven't been around long enough to know whether it works or not. We believe it will."

This pact is expected to be signed by North Carolina in three weeks, unless there is public opposition to it. If another state does not sign on with Tennessee by the end of December, the initiative will expire. Tennessee, V.P. Al Gore's home state, is the only state to have signed the agreement to date.

A "public comment" period of 30 days was announced at the UNCA meeting Oct. 6. Citizens wishing to comment on this plan should contact the North Carolina Department of Environment and Natural Recources. Phone: 919-715-4140 FAX: 919-715-3060 Mail: PO BOX 27687, Raleigh, NC 27611-7687 Email: bill_holman@mail.enr.state.nc.us.

Elected officials contacted by the *Asheville Tribune* had little or no knowledge of this pact.



PIEDMONT TRIAD LEGISLATIVE CAUCUS

January 30, 1997

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Steve Wood - Davidson, Guilford
  Sylvia Perkins

NOTES: Underline indicates county of residence - No line indicates residing outside 11-county area
Room Number/Telephone Number (Area code is 919)/Staff/Fax Number
Fax Numbers: 3 digit offices 919/733-3113 (1st Floor) or 919/715-5815 (6th Floor)
4 digit offices 919/733-2599
e-Mail: Name@ms.ncga.state.nc.us
For all Senate correspondence, use Raleigh, NC 27601-2208
For all House correspondence, use Raleigh, NC 27601-1096

North Carolina General Assembly

Senate Chamber

State Legislative Building

Raleigh 27601-2808

SENATOR ROBERT C. "BOB" CARPENTER
42ND SENATE DISTRICT

HOME ADDRESS: 180 GEORGIA ROAD
FRANKLIN, N. C. 28734

TELEPHONE: (704) 524-5009

RALEIGH ADDRESS: LOB ROOM 517
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Basnight

Tyrrell

Culpepper

Basnight

Pamlico

Nichols

Wainwright

Perdue

Jim Carpenter

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of the initiative. Yet, even within the environmental arguments, there are major inconsistences. Car emissions, "probably the biggest problem" one official stated, is shown in National Parks Service charts as contributing only 2% of sulfur dioxide in the Southeast. (See chart.)

Bill Holman, Assistant Secretary of Environmental Protection for NC said, "we are engaged in [this initiative] to protect and restore air quality in the mountains." Jim Remphroe, a specialist on Air Quality for the National Parks Service, showed a series of slides which ended with a haze filled valley followed by a clear vista of a mountain range saying that the haze was what they wanted to get away from. However, he did say that the signing of this pact, in fact, will not have any effect on visibility or ozone readings within the Smokey Mountains. Literature distributed at the meeting by the National Park Service clearly showed that the heavy airborne pollutants in our mountains come mostly from the Ohio Valley region and the Alabama/Mississippi region.

Several charts were displayed showing an explosion in the number of days this summer that exceeded "safe" levels of ozone compared with previous years. However, 1998 numbers were based on new stricter federal standards while the previous years graphics were based on old standards. No charts were offered showing the actual changes to baseline levels.

One motive for signing the MOA was commented on by Justin Wilson, Environmental Policy Adviser to Tennessee Governor Don Sundquist, when he said, "if we don't deal with it ourselves there's a real risk the Federal Government can impose a situation on us that really doesn't make sense." He also said that the intention of this agreement was "to move the discussion and debate away from the public arena" and into the conference room and most of all, "away from the courtrooms." Regarding the sections of the pact addressing conflict resolution between industry and the Dept. of Interior, Wilson stated, "We haven't been around long enough to know whether it works or not. We believe it will."

This pact is expected to be signed by North Carolina in three weeks, unless there is public opposition to it. If another state does not sign on with Tennessee by the end of December, the initiative will expire Tennessee, V.P. Al Gore's home state, is the only state to have signed the agreement to date.

A "public comment" period of 30 days was announced at the UNCA meeting Oct. 6. Citizens wishing to comment on this plan should contact the North Carolina Department of Environment and Natural Recources. Phone: 919-715-4140 FAX: 919-715-3060 Mail: PO BOX 27687, Raleigh, NC

27611-7687 Email: bill_holman@mail.enr state.nc.us.

Elected officials contacted by the Asheville Tribune had little or no knowledge of this pact.

PETITION TO

PROTEST THE SMOKIES PACT

We, the undersigned, protest North Carolina signing or otherwise becoming part of any pact such as the "Memorandum of Understanding between the Department of The Interior and local states which Tennessee has already signed.

We protest any and all action on the part of the federal government to gain any authority to become involved in "permit issuing" or in any way to exercise screening authority over businesses that want to build within 100km (62.5 miles) of federal lands or anywhere in North Carolina, and we protest any action on the part of the State of North Carolina through any of its agencies to allow such unconstitutional interference by the federal government.

We further protest that meetings such as that held October 6 at UNCA in Asheville are "set up" for the radical environmentalists to present their scary stories and figures (to be recorded as representing a "consensus" of the region) which are not based on sound scientific research, and that no reasonable effort was made to make the populace aware of the meeting--especially in time to offer a rebuttal to those pushing a radical agenda.

Signature _____ Address _____ Zip ____

Signature _____ Address _____ Zip ____

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Signature _____ Address _____ Zip ____

Return by October 28 to: Sandi Hann, 148 King's Cove Rd. Franklin, NC 28734

The Preservation of Private Property Rights of W.N.C.

148 King's Cove Road, Franklin, North Carolina 28734

Phone: 704-524-0088

Sandra J. Hann, Chairman

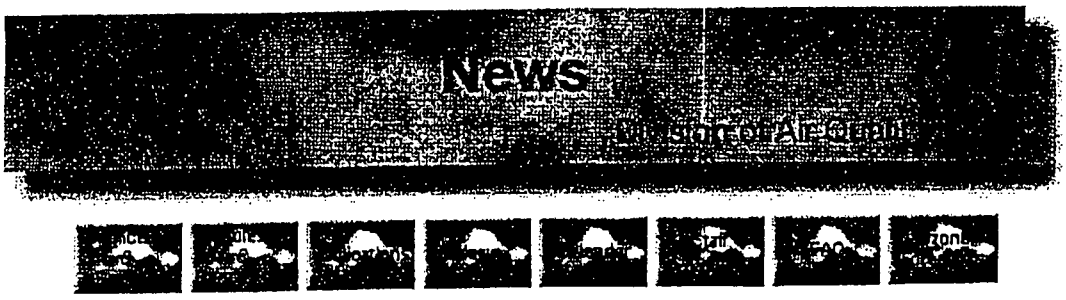
PRESS RELEASE

The next meeting of The Preservation of Private Property Rights Alliance of W.N.C. will be held at the Macon County Recreational Center, 441 S. at 7:00 P.M., Oct. 29th.

Matt Bennett, who serves as Director and main spokesperson of the Project For Responsible Dominion, will be the speaker. Mr Bennett has a Bachelor of Science degree in Forestry from the University of Tennessee, and twenty years working in the lumber industry. During that time Mr. Bennett has served as Chairman of the Kentucky-Tennessee Society of Amerian Foresters, been appointed to several state and federal forestry advisory committees, and most recently served as the President of the Tennessee Forestry Association. Over the past year he has traveled extensively, sharing his knowledge of "The Wildlands Project" with audiences concerned with the future of their communities.

At this meeting he will speaking about the impact of service/ecotourism jobs on the economy.

Sandra Hann, Chairman



NORTH CAROLINA ADDENDUM TO AGREEMENT ON PERMITTING PROCEDURES

THIS ADDENDUM ("the Addendum") to the Memorandum of Agreement on Permitting Procedures ("the Agreement") is entered into by the North Carolina Department of Environment and Natural Resources ("signatory permitting authority"), and by the United States Department of the Interior and the with that Agreement, is incorporated into the Agreement as fully as if it were set forth therein. It is the intention of the parties that this Addendum controls over any conflicting terms, conditions or provisions contained in the Agreement. By this Addendum, the parties agree to interpret and apply certain specified provisions of the Agreement as follows:

ADDENDUM ONE:

Preamble. In the preamble to the Agreement, (specifically, at the bottom of the third paragraph on the first page) the signatory permitting authority is assigned the role of "securing the participation of local air pollution control programs in that State as a party to these Procedures" (i.e., the Agreement). The signatory permitting authority will, in its sole discretion, determine the extent of the efforts, if any, to be undertaken pursuant to that role.

ADDENDUM TWO:

Paragraph A. The trigger for notification of the signatory Federal Land Managers ("FLMs"), [illegible] in the Agreement on "when it [the permitting authority] is first notified" will be the pre-application meeting.

ADDENDUM THREE:

Paragraph B. In requiring the applicant to perform the Air Quality Related Values ("AQRV") analysis as part of a "complete" permit application in response to concerns raised by the signatory FLMs, the signatory permitting authority shall have and retain sole authority to determine when the application is complete as provided under 40 CFR part 51.166(q)(1).

ADDENDUM FOUR:

Paragraph C. The signatory FLMs will furnish the permitting authority the applicable screening level values for all AQRV's at all potentially impacted Class I areas for each PSD application within 30 days after the preapplication meeting. If no screening value is furnished by the appointed date, it will be assumed that the signatory FLMs do not believe the proposed source will have an adverse impact on any Class I area, and paragraph C will not apply to that application.

In performing the AQRV analysis requested by the signatory FLMs (both the screening and the refined modeling) under paragraph C, whether the signatory permitting authority or the applicant actually performs the analysis, the signatory permitting authority shall have the authority to define the assumptions, including the parameter values needed to complete the analysis, used in the AQRV analysis.

ADDENDUM FIVE:

Paragraph D. The signatory FLMo shall provide the signatory permitting authority a final adverse impact determination within 30 days of receiving of the refined analysis required under paragraph C.

ADDENDUM SIX:

Paragraph H. The signatory permitting authority shall determine the extent of the efforts, if any, to be undertaken by the State of North Carolina to support an offsets market.

ADDENDUM TO AGREEMENT ON PERMITTING PROCEDURES
SIGNATORY PAGE

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

By: _____
Wayne McDevitt Date
Secretary, North Carolina Department of Environment and Natural Resources

U.S. DEPARTMENT OF THE INTERIOR

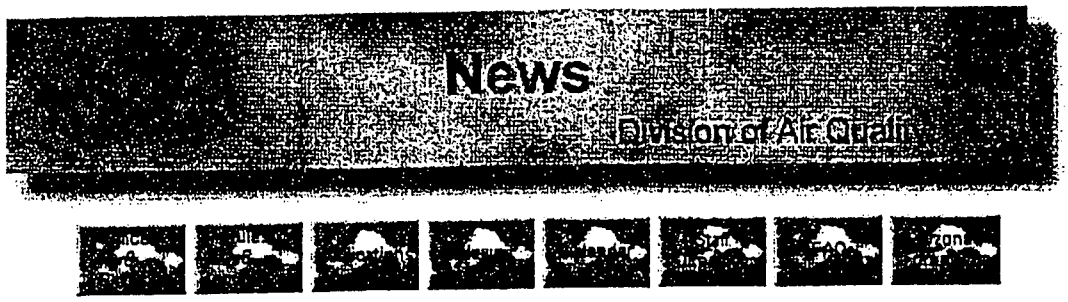
By: _____
DONALD J. BERRY Date
Assistant Secretary for Fish and Wildlife and Parks

U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE

By: _____
ELIZABETH ESTILL Date
Regional Forester, Southern Region

[redacted]

DAQ is a division of the Department of Environment and Natural Resources (DENR)
Contact Webmaster with questions or comments regarding this site.



Tennessee Department of Environment and Conservation

PERMITTING PROCEDURES

The signatory parties to this agreement on Permitting Procedures (Procedures) are permitting authorities approved by the United States Environmental Protection Agency (EPA) to issue Prevention of Significant Deterioration (PSD) permits, and Federal Land Managers (FLMs) exercising their responsibilities under the Clean Air Act at 42 USC 7475.

In its mission statement, the Southern Appalachian Mountains Initiative (SAMI) has recognized that existing Air Quality Related Values (AQRVs) in the Southern Appalachian Mountains are being adversely impacted by human induced air pollution. This finding primarily centers on the Class I park and wilderness areas of the Southern Appalachian Mountains. Permitting Authorities issue permits, known as PSD permits, within their respective political subdivisions for the construction of new or modified major air pollution sources. The Department of the Interior, through its bureau, the National Park Service (NPS), has the responsibility, inter alia, for preserving and protecting all National Parks, and all NPS administered mandatory Class I areas under the Clean Air Act, 42 U.S.C. 7401 et seq. The federal official charged with the direct responsibility for management of a National Park is the Park Superintendent, and the Federal Land Manager is the DOI's Assistant Secretary for Fish and Wildlife and Parks. The Clean Air Act and state laws charge the FLMs and Park Superintendent with the "affirmative responsibility" to protect AQRVs, including visibility, by reviewing proposed PSD permits for sources which may affect Class I areas. Similarly, the Department of Agriculture Forest Service, through its Forest Supervisors and Regional Forester, Southern Region has the responsibility of reviewing all proposed PSD permits for the Class I Areas under its administration.

The parties have committed to work with other members of SAMI to encourage those members to adopt agreements on permitting procedures similar to these Procedures. In addition, each state in which a signatory permitting authority is located will assume a leadership role among the States to improve air quality in the Class I areas in the region. This role includes securing the participation of local air pollution control programs in that State as a party to these Procedures. The signatory FLMs shall use their best efforts to secure the signatures of all permitting authorities that issue PSD permits that affect federal Class I areas in the Southern Appalachian Mountains.

In addition to agreeing to these Procedures, the signatory permitting authorities are committed to continue and expand cooperation with the signatory FLMs in protecting the resources of Class I areas. The signatory permitting authorities and signatory FLMs agree that opportunities for the exchange and sharing of research, information, and personnel should be pursued to enhance cooperation between the parties and the protection of our natural resources. Participation in educational conferences and other forums addressing these issues will likewise be encouraged.

These Procedures enhance the coordination between the signatory permitting authorities and signatory FLMs, so that all reasonable efforts will be made to protect Class I areas from the harmful effects of air pollution in accordance with the Federal Clean Air Act and the statutes of the signatory permitting authorities and their implementing regulations. These Procedures are also intended to enhance the predictability and expediency of the PSD permitting process. It is not the

intent of these Procedures to constitute rule-making but, instead, to articulate points of coordination and guidelines to be followed in permitting PSD sources that may affect Class I areas. Additionally, it is not the intent of these Procedures to shift a statutory or regulatory burden of one party to another.

In accordance with these understandings, the parties agree to the following:

A. The signatory permitting authority agrees that, when it is first notified that a potential PSD source is planning a new or modified source within its political subdivision, it will provide written notification to the signatory FLMs. Notification by the signatory permitting authority does not create any inference that the proposed source would affect a Class I area. The signatory permitting authority will distribute to PSD sources publications that provide guidance as to the signatory permitting authority's expectations in such permitting matters. In addition, the signatory permitting authority will distribute to these sources the most current version of the signatory FLM's guidance for PSD permit applicants. Other guidance materials furnished by the signatory FLMs will also be distributed to PSD sources. The signatory permitting authority will inform all PSD applicants through the publications referenced above, that the signatory FLMs are available to offer assistance, and encourage [illegible] addition, the signatory permitting authority will provide the signatory FLMs with reasonable notice and the opportunity to attend and participate in any pre-permit application meetings.

B. The signatory permitting authority agrees to require [illegible] the signatory permitting authority in consultation with the signatory FLMs and in consideration of the publications and guidance referred to in paragraph A above as part of a "complete" permit application for every PSD source that may affect a Class I area. After receiving a permit application, the signatory permitting authority agrees to consult with the signatory FLMs prior to making a completeness determination concerning AQRVs. (While the process set out in these Procedures concerns the impacts that PSD sources may have on AQRVs at Class I areas administered by the signatory FLMs, nothing herein is intended to limit the signatory FLM's ability to comment on other aspects of permit applications.) A copy of the permit application and any amendments or supplements will be sent to the signatory FLMs or the signatory FLM's designated representative at the same time the signatory permitting authority receives its copy of the application and related information. The signatory permitting authority will inform the signatory FLM of any time period established by state or local law in which a completeness determination must be reached. The signatory FLM's response concerning completeness must be received by the signatory permitting authority within that time period.

C. For each PSD permit application which may affect a Class I area, the signatory FLMs will furnish to the signatory permitting authority any currently applicable screening level values for AQRVs impacts from a single source. For each PSD permit application which may affect a Class I area. These pollutant-specific screening level values are based on current air quality and AQRV conditions.

The signatory permitting authority will perform, or will require the applicant to perform, preliminary modeling and/or analysis to assess the impacts of the source on AQRVs. If preliminary modeling and/or analysis indicates a source's impacts are less than each applicable screening level value, no further modeling or analysis will be required. If preliminary modeling and/or analysis indicates a possible impact equal to or greater than an applicable screening level value, the applicant or the signatory permitting authority will perform more refined modeling and/or analysis can be performed to better quantify assess the source's potential contribution to AQRV impacts. If the refined modeling and/or analysis indicate a possible impact contribution equal to or greater than the an applicable screening level value, the FLM then will assess whether the impacts are acceptable under through a case-by-case determination considering factors such as magnitude, frequency, duration,

location, and timing of impacts, as well as current and projected conditions of AQRVs based on cumulative impacts. If the refined modeling and/or analysis indicates impacts less than the applicable screening levels values, the impact shall be considered as not significant and no further modeling or analysis shall be required.

Once the screening level values are specified for a particular permit application, said screening levels values shall remain constant in both the screening and, if needed, refined modeling and/or analysis for that permit application. Upon request of the signatory permitting authority, the signatory FLMs shall furnish a statement justifying the stringency of the screening level value furnished. This refined All modeling and/or analysis shall be performed in accordance with the applicable statutes, and regulations, in the Clean Air Act, policies, and guidance.

D. If the signatory FLMs preliminarily determine that a new or modified source may cause an adverse impact on specified AQRVs, the signatory permitting authority and the signatory FLMs will consult. During this consultation, the signatory permitting authority and the signatory FLMs will discuss the preliminary adverse impact determination. After consultation, if the signatory FLMs make a final adverse impact determination, it will be submitted in writing to the signatory permitting authority in a timely manner and will include an analysis and rational basis for the determination.

E. If the signatory permitting authority disagrees with the adverse impact determination, the signatory permitting authority will offer an opportunity for a meeting and further consultation with the signatory FLMs, and, if disagreement persists, the signatory permitting authority will respond in writing to the adverse impact determination, providing an analysis and rational basis for the rejection. If the signatory permitting authority continues to disagree, it will issue the permit. The signatory FLMs will have any and all rights of appeal provided by State, Federal and other applicable law.

F. If the signatory permitting authority agrees with the signatory FLMs' adverse impact determination, the signatory permitting authority will deny the permit, unless it can be demonstrated by the applicant that measures will be implemented to mitigate the adverse impact. At any time, during the analysis or modeling of impacts on Class I areas, the applicant may elect to acquire sufficient emission offsets to mitigate such impacts on Class I areas to the satisfaction of the signatory permitting authority and the signatory FLMs. If this option is chosen by the applicant, the signatory permitting authority will require such measures as enforceable conditions in the permit and any other affected permits. The signatory permitting authority and the signatory FLMs jointly recognize that mitigation of impacts through emission offsets may be an acceptable approach to avoiding adverse impacts on Class I areas in certain circumstances.

G. The signatory permitting authority and the signatory FLMs jointly recognize that post-construction monitoring has importance in certain permit reviews. When the signatory permitting authority determines that post-construction monitoring is appropriate, it shall consult with the signatory FLMs regarding any post-construction monitoring in areas under the FLM's jurisdiction.

H. The signatory permitting authority will support the creation of an "offsets market" through its participation in SAMI or other regional organizations in which the signatory permitting authority is a member. It should be recognized that offsets may not be an issue for every permit under review.

I. It is the intention of the parties that these Procedures be consistent with current federal and state law and regulations and with current EPA published policy. Any conflicts between the provisions of these Procedures and federal and state law and regulations and EPA published policy are to be resolved by interpreting the provision in question so that it is consistent with the applicable law, regulation or published policy. If new laws, regulations

or EPA published policies are enacted which affect these Procedures, the Procedures will be interpreted to the fullest extent possible, to be consistent with the new law, regulation or published policy and, if necessary, will be revised so that consistency is achieved.

J. These Procedures shall remain in effect, binding on successors and assignees of signatory agencies, unless terminated by any signatory successor or assignee thereto. Said termination shall be initiated with thirty (30) days prior written notice that includes a statement of cause for the termination. Such termination shall be effective only to the party terminating, it being the intent of the signatories hereto that these Procedures shall remain binding on the remaining signatories provided there is at least one signatory permitting authority and one signatory FLM remaining as parties hereto. On December 31, 2001, the parties will meet to assess the effectiveness of these Procedures, including, inter alia, whether these Procedures have increased communication between the parties, reduced delays, and simplified permitting procedures. If the finding of the parties is that the Procedures have served the anticipated purpose, these Procedures will remain in effect until such time that they are otherwise terminated in accordance with the above procedures. Notwithstanding the above stated language, these Procedures shall automatically terminate on December 31, 1998 if there are not two or more SAMI member state signatory permitting authorities to these Procedures unless, the signatory permitting authority elects to nullify said automatic termination. For the purpose of the preceding sentence, "SAMI member states" shall mean any state which is a member of SAMI as of September 1, 1996.

In consideration of the foregoing, the parties, by their authorized representatives, hereby bind themselves to these Procedures by executing them in triplicate on the date written by the party's signature.

PERMITTING PROCEDURES SIGNATORY PAGE

TENNESSEE DIVISION OF AIR POLLUTION CONTROL

By: _____
MILTON H. HAMILTON, JR. Date
Commissioner, Tennessee Department of Environment and Conservation
and
Chairman, Tennessee Air Pollution Control Board

_____
JOHN W. WALTON, P.E. Date
Director, Tennessee Division of Air Pollution Control
and
Technical Secretary, Tennessee Air Pollution Control Board

PERMITTING PROCEDURES SIGNATORY PAGE

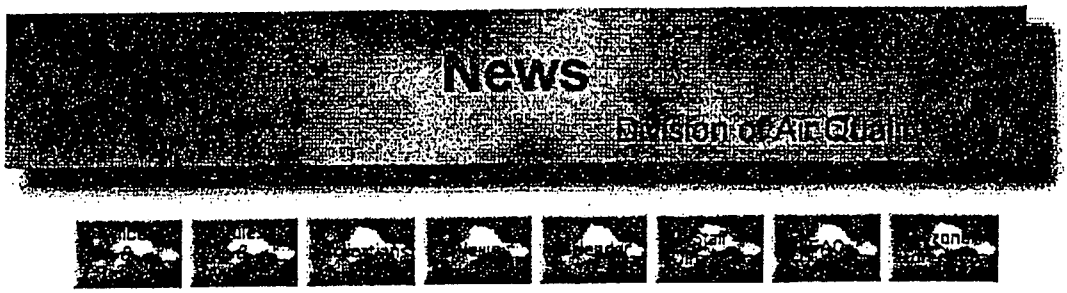
U.S. DEPARTMENT OF THE INTERIOR

By: _____
GEORGE T. FRAMPTON, JR. Date
Assistant Secretary for Fish and Wildlife and Parks

PERMITTING PROCEDURES SIGNATORY PAGE

U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE

By: _____
ROBERT C. JOSLIN Date
Regional Forester, Southern Region



James B. Hunt Jr., Governor NCDENR Wayne McDevitt, Secretary

N.C. Department of Environment and Natural Resources

Release: Immediate
Contact: Tom Mather (919) 715-7408
Date: September 3, 1998
Distribution: Statewide

PUBLIC INPUT SOUGHT ON AIR QUALITY PERMIT REVIEWS FOR PRISTINE AREAS

RALEIGH -- Citizens concerned about air pollution or the siting of new industries near national parks and wilderness areas in North Carolina are encouraged to attend one of two public meetings on new proposed procedures for reviewing air quality permits. The meetings will be held:

- Tuesday, October 6, at 7 p.m., in Room 302 of the Owens Conference Center, University Heights, University of North Carolina at Asheville.
- Thursday, October 8, at 7 p.m., in the Ground Floor Hearing Room at the Archdale Building, 512 N. Salisbury Street, Raleigh.

The state Division of Air Quality (DAQ) has scheduled the meetings to get public input on a proposed Permitting Procedures Document for Class I Areas; the DAQ will accept written comments on the document until October 30. In North Carolina, Class I Areas include the Great Smoky Mountains National Park, the Blue Ridge Parkway, several wilderness areas in Western North Carolina, and the Swan Quarter National Wildlife Refuge in Hyde County.

"North Carolina is committed to improving air quality and visibility in the most pristine natural areas of the mountains and the coast. We need to hear from the public on the best ways to accomplish these goals," said Bill Holman, assistant secretary for environmental protection with the state Department of Environment and Natural Resources.

Under the Clean Air Act Amendments of 1977, all national parks and wilderness areas exceeding 5,000 acres were designated as Class I Areas. The act states that federal land managers in the U.S. Department of Interior "have an affirmative responsibility to protect the air quality related values" of Class I Areas and to consider "whether a proposed source or modification would have an adverse impact on such values."

State environmental officials have been working with federal land managers to develop a procedure for reviewing air quality permits for large industries which emit air pollutants that could affect Class I Areas in North Carolina and nearby states. At the meetings in Asheville and Raleigh, DENR officials will describe and seek public comment on three proposals for dealing with such permits:

- North Carolina could agree to sign an existing agreement between the state of Tennessee and federal land managers, which will expire on December 31 unless signed by other states.
- North Carolina could sign the Tennessee document, with modifications proposed by the DAQ that would let the state tailor the permit review analysis to North Carolina's airshed.
- The state could decline to sign either document, deferring to pending rule-making by the U.S. Environmental Protection Agency.

The permitting document would require large new industries to conduct sophisticated computer modeling to determine whether their emissions would affect air quality in [illegible] wilderness areas. In return, industries would benefit from having a more consistent permit review process. Some industries, however, are concerned that the review process could limit their ability to site facilities near Class I Areas.

Copies of the proposed permit review procedures are available for public review and can be obtained by calling the DAQ's Asheville Regional Office at (828) 251-6208 or the DAQ's Raleigh Headquarters at (919) 715-7408. Copies also can be reviewed at the DAQ's web site by clicking on the links above.

Counties | Search | DENR | DAQ Home | Up

NCCBI
www.nccbi.org
North Carolina Citizens for Business & Industry
P.O. Box 2508, Raleigh, NC 27602 • 225 Hillsborough Street, Suite 460, Raleigh, NC 27603 • Telephone: (919) 836-1400 • Fax: (919) 836-1425

Executive Committee:
- John V. Andrews *Monroe*
- William Cavanaugh III *Raleigh*
- Sue W. Cole *Greensboro*
- Bert Collins *Durham*
- John A. Forlines Jr. *Granite Falls*
- Carolyn Grant *Raleigh*
- Meredythe J. Holmes *Durham*
- James B. Hyler Jr. *Raleigh*
- Estell C. Lee *Wilmington*
- George W. Little *Southern Pines*
- Robert R. Mauldin *Rocky Mount*
- J. Walter McDowell *Winston-Salem*
- Henry E. Miller Jr. *Wilmington*
- Stephen P. Miller *Asheville*
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- Paul M. Wiles *Winston-Salem*
- Stephen K. Zaytoun *Cary*

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- John O. McNairy *Kinston*
- Sherwood H. Smith Jr. *Raleigh*
- O. Smedes York *Raleigh*
- Charles E. Zeigler Jr. *Gastonia*

October 1, 1998

Dr. David Moreau
16 Kendall Drive
Chapel Hill, NC 27514

RE: Class I Areas - Permitting Procedures and the Federal Land Manager Role

Dear Commissioner Moreau:

This letter is to provide you with information on the role of the Federal Land Managers in the PSD permitting process and the upcoming public meetings that DENR has scheduled for October 6th and 8th. We have been discussing this issue with DENR for nearly two years, and have encouraged involvement of the EMC; we are pleased that this has finally been done. In sum, the factual case that western air quality is deteriorating has not been made, as described below, and the Tennessee MOU cannot be adopted without rulemaking by the EMC. Obviously, this is an important regulatory issue for the State of North Carolina and we urge you to take an active role in this process.

The focal point for this issue has been claims that air quality is deteriorating in western areas of the State where most of the Class I areas are located. However, the facts do not square with these claims. In June, the Division of Air Quality issued "Air Quality in Western North Carolina: Recent Annual Trends," which reported that all measures of air quality are either improving or relatively constant. In particular, acid rain and particulate matter levels are decreasing, visibility appears to be improving, and ozone concentrations are relatively unchanged. The DAQ report is based on measurements from air quality monitors located in western areas, along with data from several Tennessee and Virginia locations. In addition, new Federal requirements on acid rain sources, the new ozone and fine particulate matter standards, and the SIP call decision announced by EPA last week will substantially improve air quality.

Despite this evidence, some argue that North Carolina should enter into a Memorandum of Understanding on permitting procedures that the State of Tennessee signed with the U.S. Departments of Interior and Agriculture (FLM) in 1997. The MOU formalized a set of procedures for the PSD permitting process and, most significantly, granted the FLM an unprecedented role in the permit process that <u>is not authorized under current State or Federal PSD regulations</u>. Since the beginning of

Stephen P. Zelnak Jr., Raleigh, *Chairman of the Board* • Earl N. Phillips Jr., High Point, *First Vice Chairman*
Malcolm Everett III, Charlotte, *Second Vice Chairman* • R. Horace Johnson, Raleigh, *Treasurer* • Phillip J. Kirk Jr., Raleigh, *President/Secretary*

discussions with DENR, we have pointed out that imposing the requirements in the MOU would require rulemaking by the EMC, and have encouraged DENR to bring this matter to the EMC. Even EPA apparently agrees with this position, as most of the changes in the FLM role under the MOU were proposed by EPA as modifications to the PSD program regulations in July 1996. To implement the FLM provisions in the MOU would require either completion of the EPA rulemaking or adoption of the changes by the EMC. Attempting to implement them merely by signing the MOU would not be consistent with either State or Federal air programs. In fact, Tennessee recognized this deficiency and adopted its current MOU by rulemaking.

Even if claims of deteriorating air quality were true, the MOU would not remedy them. This is because the predominant influence on air quality in western areas is from emissions carried into the State from upwind sources. Sources within the State, particularly those located east of the mountain areas simply do not contribute significantly to air quality in the west. To significantly reduce the impacts of emissions from upwind sources will require coordinated action with upwind States, which is the subject of a conference that the Governor is scheduling for April of next year. Beyond the conference, the seven-State Southern Appalachian Mountains Initiative (SAMI), which North Carolina currently chairs, is another appropriate forum for the joint action necessary to undertake regional solutions necessary for additional improvements in air quality. To date, no other SAMI State has signed the MOU, even though all have been invited to do so.

The MOU is not the panacea proclaimed by its proponents, but a diversion from the true air quality issues. It originated from a settlement of a permit appeal for a Tennessee source located adjacent to the Great Smokies National Park, and not as a comprehensive solution to air quality concerns in the mountains. Moreover, North Carolina is surrounded by Class I areas--in the west, Virginia and South Carolina, and the Swan Quarter National Wilderness Area in Hyde County--and any significant new industrial sources or expansions of existing facilities would be severely impacted or could even be blocked under the MOU procedures.

Finally, Tennessee has spent most of the period since signing the MOU trying to get the FLM to satisfy their obligations under it. Earlier this year, the Tennessee Air Board sought intervention by its Congressional delegation to force the FLM to provide key numerical standards for its implementation. After the standards were finally provided, technical review of them indicated that they were set so low as to be unmeasurable; as a result, the Air Board is currently seeking an explanation from the FLM on how to implement unmeasurable values (see attached letter from Steve M. Hays, Vice-Chairman, Tennessee Air Pollution Control Board).

In summary, we urge you to take an active role in this process and carefully consider the MOU and its potential regulatory impacts. If you have any questions or need additional information, please contact Ed Scott at 336-768-2518.

Very truly yours,

Phil Kirk

Phillip J. Kirk, Jr.
President, NCCBI

Ed Scott

C. Edward Scott
Chairman, Environmental Concerns Committee (ECC)

Attachment

\kl

STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF AIR POLLUTION CONTROL
8TH FLOOR L&C ANNEX
401 CHURCH STREET
NASHVILLE, TENNESSEE 37243-1531

AUG 14 1998

Molly N. Ross
Senior Advisor to the Assistant Secretary
for Fish and Wildlife and Parks
United States Department
of the Interior
Office of the Secretary
Washington, D. C. 20240

Dear Ms. Ross:

Thank you for your May 8, 1998, letter. That letter transmitted your agency's progress in developing Screening Level Values for use in the implementation of the Permitting Procedures document.

The Board has heard presentations from the staff regarding the values you furnished and there appears to be a concern as to whether or not some of the values are within the realm of measurability. The Board would be interested in hearing your views on this issue. Do you feel that the Screening Level Values that you furnished can be measured? If not, please provide an explanation of how these unmeasureable values should be used. If you do believe that the values you furnished can be quantitatively measured, please provide the Board a measurement protocol that the staff can analyze for use in determining compliance with those values. It would be helpful to have these discussions now rather than in the evaluation of an applicant's request for a permit when both of our organizations are pressed to make a decision more quickly.

On behalf of the Board, I thank you for your response and assure you that we are committed to making this arrangement work to the satisfaction of all parties.

Sincerely,

Steve M. Hays, PE, CIH
Vice-Chairman
Tennessee Air Pollution Control Board

Copy to: Board Members
Tennessee Congressional Delegation

Comments to DENR Public Meeting

Thursday, October 8, 1998

C. Edward Scott

Chairman, NCCBI's Environmental Concerns Committee

NCDENR Announcement

Bill Holman is quoted as saying "NC is committed to improving air quality and visibility in the most pristine natural areas of the mountains and the coast."

NCCBI agrees that protecting and improving air quality in our state is a most important goal. Air quality is everyone's business and there is no one here tonight who wants poor air quality.

There is a huge misunderstanding about the Tennessee Memorandum of Understanding (MOU). The Tennessee MOU or the proposed Permitting Procedures Document for Class I Areas, as DENR now calls it, isn't needed and won't improve air quality. Even if it were needed and would improve air quality, it should go before and be approved by the EMC.

Let me now address why we believe that it isn't needed and won't improve air quality.

* DENR's own data says air quality is improving in Western North Carolina (Presented at May, 1998 OIG) (The impact of PSD standards, acid-rain rules, new ozone and PM standards, NOx reduction standards, to mention a few.)

* The majority of sources of pollution in Western North Carolina is from beyond our own borders (see Park Source Data, DENR tracking of ozone clouds)

* Tennessee needs to clean up its own air. SO_2 emissions limit for PSP sources: N.C. 2.3#/mm BTU, Tenn 5#/mm BTU, results in approximately 300,000 tons of SO_2 emissions per year in North Carolina and over 800,000 tons per year in Tennessee. (Alan Klimek comments to EMC, Oct. 8, 1998)

* And what about the cars? How much do they contribute? (See N&O article; 45% for vehicles and non-road engines. Source - National Park Service) What is the park service doing to minimize the impact of vehicles in their Class I areas?

* Proposed Procedures only apply to PSD sources. DENR processes 1000 permits per year. (Per Alan Klimek at Oct. 7 EMC Air Quality Meeting), only 4 or 5 are PSD.

* But you could argue that these 4 or 5 PSD permits are for large sources. But look at what a PSD source must do today - apply BACT, not exceed PSD increments.

* And the FLM is currently involved in the PSD process as required by the Federal Clean Air Act. If the permitee exceeds the increment allowed for an AQRV, then the permittee must now satisfy the FLM that Class I areas within 200kl will not be adversely impacted.

There is much more we could say and present on this. It is clear, in our opinion, that the case has not been made that the Tennessee MOU/NC Procedures is either needed or will actually result in improved air quality.

DENR says that the proposal is simply a procedure for reviewing air quality permits and a clarification of the role of the federal land manager is the PSD process. While this may be true, they also go far beyond the current requirements of the federal Clean Air Act in several significant ways:

* Fundamentally changes and increases the role of the FLM in the PSD permitting process.

* Drastically increases the burden of proof on the permittee.

* Applies to all sources in North Carolina, not just those within 200 kl of Class I Areas.

Therefore, NCCBI believes that any Tennessee MOU must go through the rule-making process administered, according to NC Statute, by the Environmental Management Commission.

NCCBI will submit detailed comments for the record before October 30.

WEEKLY NEWS MAGAZINE

The Asheville Tribune

October 15, 1998 Vol. 2 No. 39 DEFENDING THE PEOPLE'S RIGHT TO KNOW WNC Edition Seventy-

Feds seek control of N.C. growt

"Federal Land Managers" would have screening authority of new businesses

By Matthew Mittan
The Asheville Tribune

In a packed conference center at UNCA, environmental activists provided a parade of speeches hammering out the threat of deforestation, global warming, fish kills, acid saturated drinking water and severe breathing difficulties. The topic of the night had been advertised as a "public meeting" to discuss what has been dubbed "The Smokies Pact."

The initiative, which became known to the general public here only a week ago, is a "Memorandum of Understanding" (MOA) between The Department of The Interior and local states. Tennessee has already signed the agreement with the federal government and now wants to convince North Carolina to do the same.

By signing the agreement, the State would allow "Federal Land Managers" the authority to become part of a "permit issuing" bureaucracy that would have screening authority over businesses that want to build or renovate within 100km (62.5 miles) of federal lands. That amounts to a circle that stretches from the outskirts of Winston-Salem, Charlotte, Columbia, SC, north of Atlanta and back along the Tennessee/Kentucky line. Another area, Swanquarter, would cover nearly half the eastern seaboard, moving inland to the outskirts of Raleigh. (See map on page 13) However, the federal "permitting" would not necessarily be limited to that radius. One official said, "facilities that are within this 100 km, that's the ones that we really focus on. However, if it's a large facility outside of that area, that could potentially impact that Class I area, then we'll be looking at that also."

Some "Class 1" areas in North Carolina are Great Smokey Mountains National Park, Shining Rock, Linville Gorge, Joyce Kilmer-Slickrock National Wilderness Area and Swanquarter National Wilderness Area on the central coast. Cape Romain in South Carolina is also listed as a "Class 1" area.

(Continued on page 13)

U.S. Vice President Al Gore announces a $229 million end from the federal government to local police forces to purch technologies used in fighting crime. Photo by Win McNamee,

Federal control of N.C. growth?

'The effect of signing this per- t means that our major new in- stries coming into North Carolina uld have to perform a more so- sticated analysis having to do h their impact on the mountains, the Class I areas, the air quality ated values," according to Allen ment, a government official. He nt on to say that the state basi- ly had three options with this tiative. 1) Sign the Tennessee cument. 2) Sign the Tennessee cument with modifications. 3) n't sign at all and defer to "rule- king by the EPA (Environmen- Protection Agency)."

While most of the dialogue has used on large "smokestack" in- stries, the pact itself is more ad in its reach. Copies of the posed agreement can be ob- ied by calling the N.C. Division Air Quality (DAQ) at 828-251- 08 or on the internet at http:// .state.nc.us/.

When the Smokey Mountain Park perintendent was asked a hypo- tical question, "if a small print- business wanted to open up in rview, would it fall under this mit procedure?" The answer was s, I believe it would." Despite the zkrieg of media attention on the quality of Western North Caro- , very little has been discussed debated regarding the Constitu- al and economic impact of the iative. Yet, even within the envi- mental arguments, there are ma- inconsistences.

ur emissions, "probably the big- t problem" one official stated, is wn in National Parks Service rts as contributing only 2% of ur dioxide in the Southeast. (See rt.)

ill Holman, Assistant Secretary Environmental Protection for NC l, "we are engaged in [this initia- tive] to protect and restore air quality in the mountains." Jim Remphroe, a specialist on Air Quality for the National Parks Service, showed a series of slides which ended with a haze filled valley followed by a clear vista of a mountain range saying that the haze was what they wanted to get away from. However, he did say that the signing of this pact, in fact, will not have any effect on visibility or ozone readings within the Smokey Mountains. Literature distributed at the meeting by the National Park Service clearly showed that the heavy airborne pollutants in our mountains come mostly from the Ohio Valley region and the Alabama/Mississippi region.

Several charts were displayed showing an explosion in the number of days this summer that exceeded "safe" levels of ozone compared with previous years. However, 1998 numbers were based on new stricter federal standards while the previous years graphics were based on old standards. No charts were offered showing the actual changes to baseline levels.

One motive for signing the MOA was commented on by Justin Wilson, Environmental Policy Adviser to Tennessee Governor Don Sundquist, when he said, "if we don't deal with it ourselves there's a real risk the Federal Government can impose a situation on us that really doesn't make sense." He also said that the intention of this agreement was "to move the discussion and debate away from the public arena" and into the conference room "and most of all, away from the courtrooms." Regarding the sections of the pact addressing conflict resolution between industry and the Dept. of Interior, Wilson stated, "We haven't been around long enough to know whether it works or not. We believe it will."

This pact is expected to be signed by North Carolina in three weeks, unless there is public opposition to it. If another state does not sign on with Tennessee by the end of December, the initiative will expire. Tennessee, V.P. Al Gore's home state, is the only state to have signed the agreement to date.

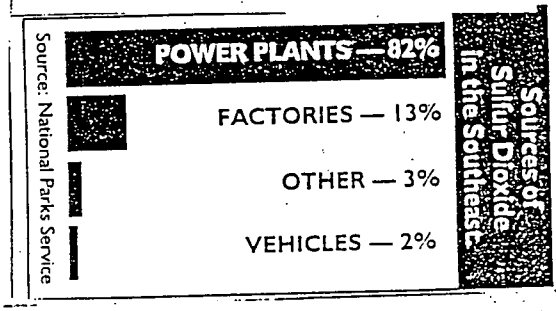
A "public comment" period of 30 days was announced at the UNCA meeting Oct. 6. Citizens wishing to comment on this plan should contact the North Carolina Department of Environment and Natural Recources. Phone: 919-715-4140 FAX: 919-715-3060 Mail: PO BOX 27687, Raleigh, NC 27611-7687 Email: bill_holman@mail.enr.state.nc.us.

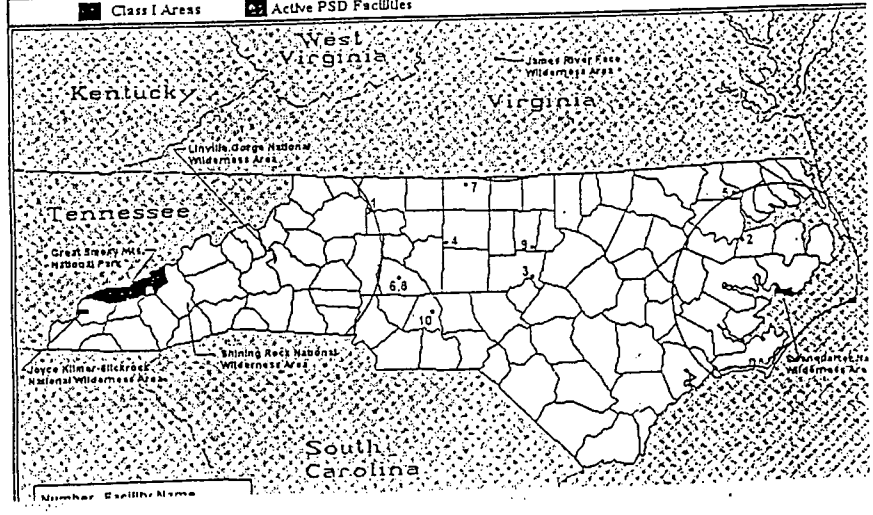
Elected officials contacted by the *Asheville Tribune* had little or no knowledge of this pact.

JOHN H. WEATHERLY
NORTH CAROLINA HOUSE OF REPRESENTATIVES
48TH DISTRICT
CLEVELAND, RUTHERFORD, POLK, AND GASTON COUNTIES

HOME ADDRESS
142 QUAIL HOLLOW DR.
KINGS MOUNTAIN, N.C. 28086
(704) 487-0039

OFFICE
LEGISLATIVE BLDG.
ROOM #503
RALEIGH, N.C. 27601-1096
(919) 733-5849





VISITOR REGISTRATION SHEET

RULES, CALENDAR, AND OPERATIONS OF THE HOUSE, OCT. 28, 1998

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Kaine Howell	NCBA
Carl Williams	NCHIBA
Patsi Yancey	LLPP
	AP&T
Martha Glenn	DOA
B. Wade	GO.O.
Henry Jones	Attorney - Raleigh
Garland Garrett	Governors Office
David Simmons	ZDA, PA
Lu-Ann Lee	FFF
Amy Dao Bain	Smith Anderson
Deborah Koss	ACLU
Tommy Watts	Carolinas Healthcare System
Roz Routh	Lobbyist
Christina P. Mellon	Covenant w/ NCs Children
Stephanie Grubbs	Charlotte Observer
Fred Taylor	WRAL-TV
Cam Cove	BPMHL
Alice Garland	EC
Alan Winters	Bar - Room 1JF
Mike Collins	Self - Help
Laura DeVino	DENR

MINUTES
COMMITTEE ON RULES, CALENDAR, AND OPERATIONS OF THE HOUSE
October 29, 1998

The Committee on Rules, Calendar, and Operations of the House met October 29, 1998, at 11:00 a.m. in the House Conference Room in the Legislative Building. Representative Morgan, Committee Chair, called the meeting to order and asked the clerk to call the roll. The following members were present: Representative Bowie, Vice Chair, and Representatives Culp, Dockham, Esposito, Gulley, Hill, Mitchell, Thompson, Wilson and Wood.

Representative Gulley moved that the proposed House Committee Substitute for S.B. 1279 AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO MAKE OTHER TECHNICAL CORRECTIONS, TO CLARIFY THAT THE ATTORNEY GENERAL MAY EXEMPT CERTAIN BUSINESS COMBINATIONS FROM THE SHAREHOLDER PROTECTION ACT, TO AUTHORIZE THE INDUSTRIAL COMMISSION TO ISSUE WRITS OF HABEAS CORPUS AD TESTIFICANDUM, TO RESTORE A PROVISION ON COMMUNITY SERVICES PASSED BUT NOT CODIFIED IN 1997, TO EXTEND THE TIME TO OBTAIN VOLUNTARY EASEMENTS FOR CERTAIN STRUCTURES OVER STATE-OWNED LANDS BY THREE YEARS, TO PROHIBIT CANDIDATES FOR SUPERIOR COURT FROM RUNNING FOR ANOTHER OFFICE AT THE SAME TIME, TO REVISE THE APPLICABILITY CLAUSE OF THE WORKPLACE HARASSMENT LAW CONCERNING CASES DISMISSED WITHOUT PREJUDICE PRIOR TO AUGUST 15, 1998, TO PROVIDE FOR THE LICENSING OF THIRD-PARTY ADMINISTRATORS SERVING WORKERS' COMPENSATION SELF-INSURED GROUPS, TO CLARIFY THE LAW GOVERNING VEHICLE FORFEITURE TO SCHOOLS FOR DWI OFFENSES, TO EXTEND THE DATE FOR THE RURAL TRANSPORTATION PLANNING ORGANIZATION STUDY, TO PROVIDE FOR PROOF OF COMPLIANCE WITH THE MEDICAL MALPRACTICE EXPERT WITNESS RULE THROUGH LIMITED INTERROGATORIES VERIFIED BY THE EXPERT, TO CORRECT A REFERENCE TO PROBATIONARY TEACHERS IN THE BUDGET, TO RESOLVE A CONFLICT WITH THE EFFECTIVE DATE OF LEGISLATION INVOLVING MUNICIPAL INCORPORATION PROCEDURES, AND TO CORRECT AN INADVERTENT OMISSION IN THE BUDGET CONCERNING RECEIPT-SUPPORTED POSITIONS IN THE STATE TREASURER'S OFFICE, which earlier received a favorable report from the Rules Committee be reconsidered. The motion carried.

The substitute was properly before the committee and Representative Bowie moved to amend the bill on page 1, line 21 to page 2, line 2 by rewriting those lines. Committee Counsel Linwood Jones was recognized and explained that this would change the medical malpractice expert review witness rule that was amended and it would limit

how much discovery there can be of the expert witness. It also changes the title. Representative Bowie moved for adoption of the amendment and the motion carried.

Representative Hill sent forth an amendment to amend the bill on page 2, line 6 by inserting before the period ", and to correct an inadvertent omission in the Conference Report on the budget concerning receipt-supported positions in the State Treasurer's office." Linwood Jones explained that this amendment was in three parts. The first part is on page 35, lines 20-21, and deletes what was put in when the last committee substitute was done. Section 67.1 has been taken out and a new Section 67.1 has been added that is a technical correction to a citation on the front side of the amendment. On the back of the amendment, two items have been added concerning receipt supported positions in the State Treasurer's office. This was agreed to in the Appropriations Committee and was inadvertently omitted from the Conference Report. Representative Hill moved for adoption of the amendment and the motion carried.

Representative Culp moved that the amendments be rolled into a committee substitute and it be given a favorable report, unfavorable to the original bill and the motion carried.

The meeting adjourned at 11:07 a.m.

Representative Richard T .Morgan
Committee Chair

Dixie Epps
Committee Clerk

Attachments:
Committee Report
Amendments
Bill
Visitor's Sheet

1998 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:
By Representative(s) **Morgan** for the Committee on **RULES, CALENDAR AND OPERATIONS OF THE HOUSE.**

☒ House Committee Substitute for
S.B. 1279 A BILL TO BE ENTITLED AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE OTHER TECHNICAL CORRECTIONS AND OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on ☐ Appropriations ☐ Finance ☐

☒ With a favorable report as to House committee substitute bill (# 2), ☒ which changes the title, unfavorable as to House Committee Substitute Bill (# 1).

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ And having received a unanimous vote in committee, is placed on the Consent Calendar. (PUBLIC BILLS ONLY)

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1279

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1279-ARN-007

Date_____,1998

Comm. Sub. [YES]
Amends Title []
Fourth Edition, PCS6897

Representative

moves to amend the bill on page 1, line 21 to page 2, line 2, by rewriting those lines to read:

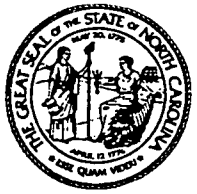
"STUDY, TO PROVIDE FOR PROOF OF COMPLIANCE WITH THE MEDICAL MALPRACTICE EXPERT WITNESS RULE THROUGH LIMITED INTERROGATORIES VERIFIED BY THE EXPERT,"

and on page 30, lines 11 through 34 by rewriting those lines to read:

"(j) Medical malpractice. -- Any complaint alleging medical malpractice by a health care provider as defined in G.S. 90-21.11 in failing to comply with the applicable standard of care under G.S. 90-21.12 shall be dismissed unless:

(1) The pleading specifically asserts that the medical care has been reviewed by a person who is reasonably expected to qualify as an expert witness under Rule 702 of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care;

(2) The pleading specifically asserts that the medical care has been reviewed by a person that the complainant will seek to have qualified as an expert witness by motion under Rule 702(e) of the Rules of Evidence and who is willing to testify



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1279

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1279-ARN-007 Page 2 of __

that the medical care did not comply with the applicable standard of care, and the motion is filed with the complaint; or

(3) The pleading alleges facts establishing negligence under the existing common-law doctrine of res ipsa loquitur.

Upon motion by the complainant prior to the expiration of the applicable statute of limitations, a resident judge of the superior court of the county in which the cause of action arose may allow a motion to extend the statute of limitations for a period not to exceed 120 days to file a complaint in a medical malpractice action in order to comply with this Rule, upon a determination that good cause exists for the granting of the motion and that the ends of justice would be served by an extension. The plaintiff shall provide, at the request of the defendant, proof of compliance with this subsection through up to ten written interrogatories, the answers to which shall be verified by the expert required under this subsection. These interrogatories do not count against the interrogatory limit under Rule 33."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1279

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1279-ARN-006

Page 1 of __

Date_____,1998

Comm. Sub. [YES]
Amends Title [X]
Fourth Edition, PCS6897

Representative Morgan

moves to amend the bill on page 2, line 6 by inserting before the period: ", AND TO CORRECT AN INADVERTENT OMISSION IN THE CONFERENCE REPORT ON THE BUDGET CONCERNING RECIPT-SUPPORTED POSITIONS IN THE STATE TREASURER'S OFFICE.";

and on page 35, lines 20-21, by deleting those lines (being all of Section 67.1); and

on page 35, between lines 21 and 22,
by adding the following new sections to read:

"Section 67.1. (a) G.S. 115C-325(a)(5a), as enacted by Senate Bill 1366 of the 1997 General Assembly, reads as rewritten:

'(5a) "Retired teacher" means a beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who has been retired at least 12 months, has not been employed in any capacity, other than as a substitute teacher, with a local board of education for at least 12 months, is determined by a local board of education to have had satisfactory performance during the last year of employment by a local board of education, and who is employed to teach as provided in G.S. 135-3(8)c1. G.S. 135-3(8)c. A retired teacher shall be treated the same as a probationary teacher except that a retired teacher is not eligible for career status.'

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1279

AMENDMENT NO._____
(to be filled in by
Principal Clerk)

S1279-ARN-006

(b) This section becomes effective January 1, 1999, and expires June 30, 2003.

Section 67.2.(a) There is appropriated out of departmental receipts available to the Office of the State Treasurer the sum of one million three hundred four thousand two hundred fifty-three dollars ($1,304,253) for the 1998-99 fiscal year. These funds shall be used to support ten additional positions in the Retirement Division to help the Department meet the increasing demand for services placed upon the Division from a rapidly growing, active and retired, membership.

(b) There is appropriated out of departmental receipts available to the Office of the State Treasurer the sum of fifty-two thousand four hundred twenty-six dollars ($52,426) for the 1998-99 fiscal year. These funds shall be used to support one supervisory position in the Escheats Division to oversee the daily processing of tangible and intangible property and cash receipts.

(c) This section is effective July 1, 1998."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S D

SENATE BILL 1279
Judiciary Committee Substitute Adopted 8/10/98
Third Edition Engrossed 8/12/98
House Committee Substitute Favorable 10/7/98
Proposed House Committee Substitute S1279-PCS6897-RN

Short Title: 1998 Technical Corrections. (Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO MAKE OTHER TECHNICAL CORRECTIONS, TO CLARIFY THAT THE ATTORNEY GENERAL MAY EXEMPT CERTAIN BUSINESS COMBINATIONS FROM THE SHAREHOLDER PROTECTION ACT, TO AUTHORIZE THE INDUSTRIAL COMMISSION TO ISSUE WRITS OF HABEAS CORPUS AD TESTIFICANDUM, TO RESTORE A PROVISION ON COMMUNITY SERVICE PASSED BUT NOT CODIFIED IN 1997, TO EXTEND THE TIME TO OBTAIN VOLUNTARY EASEMENTS FOR CERTAIN STRUCTURES OVER STATE-OWNED LANDS BY THREE YEARS, TO PROHIBIT CANDIDATES FOR SUPERIOR COURT FROM RUNNING FOR ANOTHER OFFICE AT THE SAME TIME, TO REVISE THE APPLICABILITY CLAUSE OF THE WORKPLACE HARASSMENT LAW CONCERNING CASES DISMISSED WITHOUT PREJUDICE PRIOR TO AUGUST 15, 1998, TO PROVIDE FOR THE LICENSING OF THIRD-PARTY ADMINISTRATORS SERVING WORKERS' COMPENSATION SELF-INSURED GROUPS, TO CLARIFY THE LAW GOVERNING VEHICLE FORFEITURE TO SCHOOLS FOR DWI OFFENSES, TO EXTEND THE DATE FOR THE RURAL TRANSPORTATION PLANNING ORGANIZATION STUDY, TO CLARIFY THAT DISCOVERY APPLIES TO EXPERTS WHO

ARE REQUIRED TO REVIEW RECORDS AND ARE WILLING TO TESTIFY UNDER THE MEDICAL MALPRACTICE EXPERT WITNESS REVIEW RULE, TO CORRECT A REFERENCE TO PROBATIONARY TEACHERS IN THE BUDGET, AND TO RESOLVE A CONFLICT WITH THE EFFECTIVE DATE OF LEGISLATION INVOLVING MUNICIPAL INCORPORATION PROCEDURES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 14-34.6(a)(2) reads as rewritten:

"(2) ~~An~~ A medical responder."

Section 2. G.S. 14-399(c) reads as rewritten:

"(c) Any person who violates this section in an amount not exceeding 15 pounds and not for commercial purposes is guilty of a Class 3 misdemeanor punishable by a fine of not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for the first offense. In addition, the court may require the violator to perform community service of not less than eight hours nor more than 24 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed. Any second or subsequent offense within three years after the date of a prior offense is punishable by a fine of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000). In addition, the court may require the violator to perform community service of not less than 16 hours nor more than 50 hours. The community service required shall be to pick up litter if feasible, and if not feasible, to perform other labor commensurate with the offense committed."

Section 3. (a) G.S. 14-408 reads as rewritten:

"**§ 14-408. Violation of § 14-406 ~~or 14-407~~ a misdemeanor.**

Any person, firm, or corporation violating any of the provisions of G.S. 14-406 ~~or 14-407~~ shall be guilty of a Class 2 misdemeanor."

(b) This section becomes effective December 1, 1998. Prosecutions for offenses committed before the effective date of this section are not abated or affected by this section, and the statutes that would be applicable but for this section remain applicable to those prosecutions.

Section 4. (a) G.S. 14-74 reads as rewritten:

"**§ 14-74. Larceny by servants and other employees.**

If any servant or other employee, to whom any money, goods or other chattels, or any of the articles, securities or choses in action mentioned in ~~the following section,~~ G.S. 14-75, by his master shall be delivered safely to be kept to the use of his master, shall withdraw himself from his master and go away with such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, with intent to steal the same and defraud his master thereof, contrary to the trust and confidence in him reposed by his said master; or if any servant, being in the service of his master, without the assent of his master, shall embezzle such money, goods or other chattels, or any of the articles, securities or choses in action mentioned as aforesaid, or any part thereof, or otherwise convert the same to his own use, with like purpose to steal them, or to defraud his master thereof,

the servant so offending shall be guilty of a felony: Provided, that nothing contained in this section shall extend to apprentices or servants within the age of 16 years. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is one hundred thousand dollars ($100,000) or more, the person is guilty of a Class C felony. If the value of the money, goods, or other chattels, or any of the articles, securities, or choses in action mentioned in G.S. 14-75, is less than one hundred thousand dollars ($100,000), the person is guilty of a Class H felony."

(b) G.S. 25-7-502 reads as rewritten:

"§ 25-7-502. Rights acquired by due negotiation.

(1) Subject to ~~the following section~~ G.S. 25-7-503 and to the provisions of G.S. 25-7-205 on fungible goods, a holder to whom a negotiable document of title has been duly negotiated acquires thereby:

(a) title to the document;

(b) title to the goods;

(c) all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the document was issued; and

(d) the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by him except those arising under the terms of the document or under this article. In the case of a delivery order the bailee's obligation accrues only upon acceptance and the obligation acquired by the holder is that the issuer and any indorser will procure the acceptance of the bailee.

(2) Subject to ~~the following section,~~ G.S. 25-7-503, title and rights so acquired are not defeated by any stoppage of the goods represented by the document or by surrender of such goods by the bailee, and are not impaired even though the negotiation or any prior negotiation constituted a breach of duty or even though any person has been deprived of possession of the document by misrepresentation, fraud, accident, mistake, duress, loss, theft or conversion, or even though a previous sale or other transfer of the goods or document has been made to a third person."

(c) G.S. 25-7-507 reads as rewritten:

"§ 25-7-507. Warranties on negotiation or transfer of receipt or bill.

Where a person negotiates or transfers a document of title for value otherwise than as a mere intermediary under ~~the next following section,~~ G.S. 25-7-508, then unless otherwise agreed he warrants to his immediate purchaser only in addition to any warranty made in selling the goods

(a) that the document is genuine; and

(b) that he has no knowledge of any fact which would impair its validity or worth; and

(c) that his negotiation or transfer is rightful and fully effective with respect to the title to the document and the goods it represents."

(d) G.S. 44A-21 reads as rewritten:

"**§ 44A-21. Pro rata payments.**

In the event that the funds in the hands of the obligor and the obligor's personal liability, if any, under ~~the previous section~~ G.S. 44A-20 are less than the amount of valid lien claims that have been filed with the obligor under this Article the parties entitled to liens shall share the funds on a pro rata basis."

Section 5. G.S. 25-8-103(a) reads as rewritten:

"(a) A share ~~of~~ or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security."

Section 6. G.S. 39-23.3(b) reads as rewritten:

"(b) For the purposes of G.S. 39-23.4(a)(2) and G.S. 39-23.5, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, ~~nonexclusive~~ noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement."

Section 7. (a) G.S. 50-11(e) reads as rewritten:

"(e) An absolute divorce obtained within this State shall destroy the right of a spouse to ~~an~~ equitable distribution ~~of the marital property~~ under G.S. 50-20 unless the right is asserted prior to judgment of absolute divorce; except, the defendant may bring an action or file a motion in the cause for equitable distribution within six months from the date of the judgment in such a case if service of process upon the defendant was by publication pursuant to G.S. 1A-1, Rule 4 and the defendant failed to appear in the action for divorce."

(b) G.S. 50-11(f) reads as rewritten:

"(f) An absolute divorce by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property shall not destroy the right of a spouse to ~~an~~ equitable distribution ~~of marital property~~ under G.S. 50-20 if an action or motion in the cause is filed within six months after the judgment of divorce is entered. The validity of such divorce may be attacked in the action for equitable distribution."

(c) G.S. 50-20 reads as rewritten:

"**§ 50-20. Distribution by court of marital and divisible property upon divorce.**

(a) Upon application of a party, the court shall determine what is the marital property and divisible property and shall provide for an equitable distribution of the marital property and divisible property between the parties in accordance with the provisions of this section.

(b) For purposes of this section:

(1) 'Marital property' means all real and personal property acquired by either spouse or both spouses during the course of the marriage and before the date of the separation of the parties, and presently owned, except property determined to be separate property or divisible property in accordance with subdivision (2) or (4) of this subsection. Marital property includes all vested and nonvested pension, retirement, and other deferred compensation rights, and vested and nonvested military pensions eligible under the federal

Uniformed Services Former Spouses' Protection Act. It is presumed that all property acquired after the date of marriage and before the date of separation is marital property except property which is separate property under subdivision (2) of this subsection. This presumption may be rebutted by the greater weight of the evidence.

(2) 'Separate property' means all real and personal property acquired by a spouse before marriage or acquired by a spouse by bequest, devise, descent, or gift during the course of the marriage. However, property acquired by gift from the other spouse during the course of the marriage shall be considered separate property only if such an intention is stated in the conveyance. Property acquired in exchange for separate property shall remain separate property regardless of whether the title is in the name of the husband or wife or both and shall not be considered to be marital property unless a contrary intention is expressly stated in the conveyance. The increase in value of separate property and the income derived from separate property shall be considered separate property. All professional licenses and business licenses which would terminate on transfer shall be considered separate property.

(3) 'Distributive award' means payments that are payable either in a lump sum or over a period of time in fixed amounts, but shall not include alimony payments or other similar payments for support and maintenance which are treated as ordinary income to the recipient under the Internal Revenue Code.

(4) 'Divisible property' means all real and personal property as set forth below:

a. All appreciation and diminution in value of marital property and divisible property of the parties occurring after the date of separation and prior to the date of distribution, except that appreciation or diminution in value which is the result of postseparation actions or activities of a spouse shall not be treated as divisible property.

b. All property, property rights, or any portion thereof received after the date of separation but before the date of distribution that was acquired as a result of the efforts of either spouse during the marriage and before the date of separation, including, but not limited to, commissions, bonuses, and contractual rights.

c. Passive income from marital property received after the date of separation, including, but not limited to, interest and dividends.

d. Increases in marital debt and financing charges and interest related to marital debt.

(c) There shall be an equal division by using net value of marital property and not value of divisible property unless the court determines that an equal division is not equitable. If the court determines that an equal division is not equitable, the court shall divide the marital property and divisible property equitably. Factors the court shall consider under this subsection are as follows:

(1) The income, property, and liabilities of each party at the time the division of property is to become effective;

(2) Any obligation for support arising out of a prior marriage;

(3) The duration of the marriage and the age and physical and mental health of both parties;

(4) The need of a parent with custody of a child or children of the marriage to occupy or own the marital residence and to use or own its household effects;

(5) The expectation of pension, retirement, or other deferred compensation rights that are not marital property;

(6) Any equitable claim to, interest in, or direct or indirect contribution made to the acquisition of such marital property by the party not having title, including joint efforts or expenditures and contributions and services, or lack thereof, as a spouse, parent, wage earner or homemaker;

(7) Any direct or indirect contribution made by one spouse to help educate or develop the career potential of the other spouse;

(8) Any direct contribution to an increase in value of separate property which occurs during the course of the marriage;

(9) The liquid or nonliquid character of all marital ~~property;~~ property and divisible property;

(10) The difficulty of evaluating any component asset or any interest in a business, corporation or profession, and the economic desirability of retaining such asset or interest, intact and free from any claim or interference by the other party;

(11) The tax consequences to each party;

(11a) Acts of either party to maintain, preserve, develop, or expand; or to waste, neglect, devalue or convert ~~such~~ the marital ~~property,~~ property or divisible property, or both, during the period after separation of the parties and before the time of distribution; and

(12) Any other factor which the court finds to be just and proper.

(c1) Notwithstanding any other provision of law, a second or subsequent spouse acquires no interest in the marital property and divisible property of his or her spouse from a former marriage until a final determination of equitable distribution is made in the marital property and divisible property of the spouse's former marriage.

(d) Before, during or after marriage the parties may by written agreement, duly executed and acknowledged in accordance with the provisions of G.S. 52-10 and 52-10.1, or by a written agreement valid in the jurisdiction where executed, provide for distribution of the marital property or divisible property, or both, in a manner

deemed by the parties to be equitable and the agreement shall be binding on the parties.

(e) Subject to the presumption of subsection (c) of this section that an equal division is equitable, it shall be presumed in every action that an in-kind distribution of marital or divisible property is equitable. This presumption may be rebutted by the greater weight of the evidence, or by evidence that the property is a closely held business entity or is otherwise not susceptible of division in-kind. In any action in which the presumption is rebutted, the court in lieu of in-kind distribution shall provide for a distributive award in order to achieve equity between the parties. The court may provide for a distributive award to facilitate, effectuate or supplement a distribution of marital or divisible property. The court may provide that any distributive award payable over a period of time be secured by a lien on specific property.

(f) The court shall provide for an equitable distribution without regard to alimony for either party or support of the children of both parties. After the determination of an equitable distribution, the court, upon request of either party, shall consider whether an order for alimony or child support should be modified or vacated pursuant to G.S. 50-16.9 or 50-13.7.

(g) If the court orders the transfer of real or personal property or an interest therein, the court may also enter an order which shall transfer title, as provided in G.S. 1A-1, Rule 70 and G.S. 1-228.

(h) If either party claims that any real property is marital ~~property,~~ property or divisible property, that party may cause a notice of lis pendens to be recorded pursuant to Article 11 of Chapter 1 of the General Statutes. Any person whose conveyance or encumbrance is recorded or whose interest is obtained by descent, prior to the filing of the lis pendens, shall take the real property free of any claim resulting from the equitable distribution proceeding. The court may cancel the notice of lis pendens upon substitution of a bond with surety in an amount determined by the court to be sufficient provided the court finds that the claim of the spouse against property subject to the notice of lis pendens can be satisfied by money damages.

(i) Upon filing an action or motion in the cause requesting an equitable distribution or alleging that an equitable distribution will be requested when it is timely to do so, a party may seek injunctive relief pursuant to G.S. 1A-1, Rule 65 and Chapter 1, Article 37, to prevent the disappearance, waste or conversion of property alleged to be marital ~~property~~ property, divisible property, or separate property of the party seeking relief. The court, in lieu of granting an injunction, may require a bond or other assurance of sufficient amount to protect the interest of the other spouse in the ~~marital or separate~~ property. Upon application by the owner of separate property which was removed from the marital home or possession of its owner by the other spouse, the court may enter an order for reasonable counsel fees and costs of court incurred to regain its possession, but such fees shall not exceed the fair market value of the separate property at the time it was removed.

(i1) Unless good cause is shown that there should not be an interim distribution, the court may, at any time after an action for equitable distribution has been filed

and prior to the final judgment of equitable distribution, enter orders declaring what is separate property and may also enter orders dividing part of the marital property, divisible property or debt, or marital debt between the parties. The partial distribution may provide for a distributive award and may also provide for a distribution of marital property, marital debt, divisible property, or divisible debt. Any such orders entered shall be taken into consideration at trial and proper credit given.

Hearings held pursuant to this subsection may be held at sessions arranged by the chief district court judge pursuant to G.S. 7A-146 and, if held at such sessions, shall not be subject to the reporting requirements of G.S. 7A-198.

(j) In any order for the distribution of property made pursuant to this section, the court shall make written findings of fact that support the determination that the marital property and divisible property has been equitably divided.

(k) The rights of the parties to an equitable distribution of marital property and divisible property are a species of common ownership, the rights of the respective parties vesting at the time of the parties' separation."

Section 8. G.S. 62-268 reads as rewritten:

"**§ 62-268. Security for protection of public; liability insurance.**

No certificate or broker's license shall be issued or remain in force until the applicant shall have procured and filed with the Division of Motor Vehicles such security bond, insurance or self-insurance for the protection of the public as the Commission shall by regulation require. The Commission shall require that every motor carrier for which a certificate or license is required by the ~~provision~~ provisions of this Chapter, shall maintain liability insurance or satisfactory surety of at least fifty thousand dollars ($50,000) because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, one hundred thousand dollars ($100,000) because of bodily injury to or death of two or more persons in any one accident, and fifty thousand dollars ($50,000) because of injury to or destruction of property of others in any one accident; and the Commission may require any greater amount of insurance as may be necessary for the protection of the public. Notwithstanding any rule or regulation to the contrary, the Commission shall not require that any insurance procured and filed be provided in any single policy of insurance or through a single insurer, if the insurers involved are otherwise qualified. A motor carrier may satisfy the requirements of the Commission by procuring insurance with coverage and limits of liability required by the Commission in one or more policies of insurance issued by one or more insurers.

Notwithstanding any other provisions of this section or Chapter, bus companies shall file with the Commission proof of financial responsibility in the form of bonds, policies of insurance, or shall qualify as a self insurer, with minimum levels of financial responsibility as prescribed for motor carriers of passengers pursuant to the provisions of 49 U.S.C. § ~~10927(a)(1).~~ 31138. Provided, further, that no bus company operating solely within the State of North Carolina and which is exempt from regulation under the provisions of G.S. 62-260(a)(7) shall be required to file with the

Commission proof of the financial responsibility in excess of one million five hundred thousand dollars ($1,500,000)."

Section 9. G.S. 78C-16(b) reads as rewritten:

"(b) It is unlawful for any person required to be registered as an investment adviser under this Chapter to employ an investment adviser representative unless the investment adviser representative is registered under this Chapter. The registration of an investment adviser representative is not effective during any period when the investment adviser representative is not employed by (i) an investment adviser registered under this Chapter; or (ii) an investment adviser covered under federal law who has made a notice filing pursuant to the provisions of G.S. 78C-17(a1). When an investment adviser representative begins or terminates employment or association with an investment adviser who is registered under this Chapter, the investment adviser shall notify promptly the Administrator. When an investment adviser representative begins or terminates employment or association with an investment adviser covered under federal law, the investment adviser representative shall, and the investment adviser may, notify promptly the Administrator. ~~No investment adviser representative may be registered with more than one investment adviser unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control.~~ No investment adviser representative may be registered with more than one investment adviser or investment adviser covered under federal law unless each of the investment advisers which employs or associates the investment adviser representative is under common ownership or control."

Section 10. G.S. 90-113.40(a)(8) reads as rewritten:

"(8) The applicant <u>for</u> substance abuse counselor has completed either a total of 6,000 hours of supervised experience in the field, whether paid or volunteer, or, if a graduate of a Board-approved master's degree program, a total of 3,000 hours of supervised experience in the field, whether paid or volunteer. The applicant for substance abuse prevention consultant has completed a total of 10,000 hours supervised experience in the field, whether paid or volunteer, or 4,000 hours if the applicant has at least a bachelors degree in a human services field."

Section 11. G.S. 110-91(10) reads as rewritten:

"(10) Each operator or staff member shall attend to any child in a nurturing and appropriate manner, and in keeping with the child's developmental needs.

Each ~~child~~ child care facility shall have a written policy on discipline, describing the methods and practices used to discipline children enrolled in that facility. This written policy shall be discussed with, and a copy given to, each child's parent prior to the first time the child attends the facility. Subsequently, any change in discipline methods or practices shall be communicated in writing to the parents prior to the effective date of the change.

The use of corporal punishment as a form of discipline is prohibited in ~~child~~ child care facilities and may not be used by any operator or staff member of any child care facility, except that corporal punishment may be used in ~~religious-sponsored child~~ religious sponsored child care facilities as defined in G.S. 110-106, only if (i) the ~~religious-sponsored child~~ religious sponsored child care facility files with the Department a notice stating that corporal punishment is part of the religious training of its program, and (ii) the ~~religious-sponsored child~~ religious sponsored child care facility clearly states in its written policy of discipline that corporal punishment is part of the religious training of its program. The written policy on discipline of ~~nonreligious-sponsored child~~ nonreligious sponsored child care facilities shall clearly state the prohibition on corporal punishment."

Section 12. G.S. 115C-404(a) reads as rewritten:

"(a) Written notifications received in accordance with ~~G.S. 7A-675.1~~ G.S. 7A-675.2 are confidential records, are not public records as defined under G.S.132-1, and shall not be made part of the student's official record under G.S. 115C-402. Immediately upon receipt, the principal shall maintain these documents in a safe, locked record storage that is separate from the student's other school records. The principal shall maintain these documents until the principal receives notification that the judge dismissed the petition under G.S. 7A-637, the judge transferred jurisdiction over the student to superior court under G.S. 7A-608, or the judge granted the student's petition for expunction of the records. At that time, the principal shall shred, burn, or otherwise destroy the documents to protect the confidentiality of this information. In no case shall the principal make a copy of these documents."

Section 13. G.S. 130A-233 reads as rewritten:

"**§ 130A-233. Definitions.**

The following definitions apply to this Part:

(1) Coastal fishing ~~waters, as defined~~ waters. -- Defined in G.S. 113-129(4).

(2) Inland fishing ~~waters, as defined~~ waters. -- Defined in G.S. 113-129(9)."

Section 14. (a) G.S. 139-3.1 is repealed.

(b) The repeal of this section shall not be construed to affect any language currently in the General Statutes.

Section 15. G.S. 143-53(a)(2) reads as rewritten:

"(2) Prescribing the routine, including consistent contract language, for securing bids on items that do not ~~not~~ exceed the bid value benchmark established under the provisions of G.S. 143-53.1 or G.S. 116-31.10.

The purchasing delegation for securing ~~offers,~~ offers (excluding the special responsibility constituent institutions of The

University of North Carolina), for each State department, institution, agency, community college, and public school administrative unit shall be determined by the Director of the Division of Purchase and Contract. For the State agencies this shall be done following the Director's consultation with the State Budget Officer and the State Auditor. The Director for the Division of Purchase and Contract may set or lower the delegation, or raise the delegation upon written request by the agency, after consideration of their overall capabilities, including staff resources, purchasing compliance reviews, and audit reports of the individual agency. The routine prescribed by the Secretary shall include contract award protest procedures and consistent requirements for advertising of solicitations for securing offers issued by State departments, institutions, universities (including the special responsibility constituent institutions of The University of North Carolina), agencies, community colleges, and the public school administrative units."

Section 16. G.S. 143-129(f) reads as rewritten:

"(f) The provisions of this Article shall not apply to purchases of apparatus, supplies, materials, or equipment when performance or price competition for a product are not available; when a needed product is available from only one source of supply; or when standardization or compatibility is the overriding consideration. Notwithstanding any other provision of this section, the governing board of a municipality, county, or other subdivision of the State shall approve ~~purchases made under this exception~~ the purchases listed in the preceding sentence prior to the award of the contract. In the case of purchases by hospitals, in addition to the other exceptions in this subsection, the provisions of this Article shall not apply when a particular medical item or prosthetic appliance is needed; when a particular product is ordered by an attending physician for his patients; when additional products are needed to complete an ongoing job or task; when products are purchased for 'over-the-counter' resale; when a particular product is needed or desired for experimental, developmental, or research work; or when equipment is already installed, connected, and in service under a lease or other agreement and the governing body of the hospital determines that the equipment should be purchased. The governing body of a hospital, municipality, county or other political subdivision of the State shall keep a record of all purchases made pursuant to this ~~exception.~~ subsection. These records are subject to public inspection."

Section 17. G.S. 143B-283(a)(8) reads as rewritten:

"(8) One who shall, at the time of appointment, be actively employed by, or recently retired from, an industrial manufacturing facility and knowledgeable in ~~in~~ the field of industrial air and water pollution control;".

Section 18. (a) G.S. 143B-289.52(e) reads as rewritten:

"(e) The Commission may adopt rules to implement or comply with a fisheries management plan adopted by the Atlantic States Marine Fisheries Commission or an interstate fisheries management council. Notwithstanding G.S. 150B-21.1(a), the Commission may adopt temporary rules under this subsection at any time within six months of the adoption of a fisheries management plan by the Atlantic States Marine Fisheries ~~Council~~ Commission or an interstate fisheries management council."

(b) If House Bill 1448, 1997 Regular Session becomes law prior to the date this act becomes law and amends G.S. 143B-289.52(e), then this section shall not become effective. If House Bill 1448, 1997 Regular Session becomes law after the date this act becomes law and amends G.S. 143B-289.52(e), then this section of this act is repealed.

Section 19. G.S. 143B-433 reads as rewritten:

"**§ 143B-433. Department of Commerce -- organization.**

The Department of Commerce shall be organized to include:

~~(a)~~ (1) The following agencies:

~~(1)~~ a. The North Carolina Alcoholic Beverage Control ~~Commission,~~ Commission.

~~(2)~~ b. The North Carolina Utilities ~~Commission,~~ Commission.

~~(3)~~ c. The Employment Security ~~Commission,~~ Commission.

~~(4)~~ d. The North Carolina Industrial ~~Commission,~~ Commission.

~~(5)~~ e. State Banking ~~Commission,~~ Commission.

~~(6)~~ f. Savings and Loan Association ~~Division,~~ Division.

~~(7)~~ g. The State Savings Institutions ~~Commission,~~ Commission.

~~(8)~~ h. Credit Union ~~Commission,~~ Commission.

~~(9)~~ i. The North Carolina Milk ~~Commission,~~ Commission.

~~(10)~~ j. The North Carolina Mutual Burial Association ~~Commission,~~ Commission.

~~(11)~~ k. North Carolina Cemetery ~~Commission,~~ Commission.

~~(12)~~ l. The North Carolina Rural Electrification ~~Authority,~~ Authority.

~~(13)~~ m. Repealed by Session Laws 1985, c. 757, s. 179(d).

~~(14)~~ n. North Carolina Science and Technology Research ~~Center,~~ Center.

~~(15)~~ o. The North Carolina State Ports ~~Authority,~~ Authority.

~~(16)~~ p. North Carolina National Park, Parkway and Forests Development ~~Council,~~ Council.

~~(17)~~ q. Economic Development ~~Board,~~ Board.

~~(18)~~ r. Labor Force Development ~~Council,~~ Council.

~~(19)~~ s. Energy Policy ~~Council,~~ Council.

~~(20)~~ t. Energy ~~Division,~~ Division.

~~(21)~~ u. Navigation and Pilotage Commissions established by Chapter 76 of the General Statutes.

~~(22)~~ v. Repealed by Session Laws 1993, c. 321, s. 313(b).

~~(b)~~ (2) Those agencies which are transferred to the Department of Commerce including the:

~~(1)~~ a. Community Assistance ~~Division,~~ Division.

~~(2)~~ b. Community Development ~~Council;~~ Council.

~~(3)~~ c. Employment and Training ~~Division; and~~ Division.

~~(4)~~ d. Job Training Coordinating ~~Council; and~~ Council.

~~(c)~~ (3) Such divisions as may be established pursuant to Article 1 of this Chapter."

Section 20. G.S. 157-35 reads as rewritten:

"**§ 157-35. Creation of regional housing authority.**

If the board of county commissioners of each of two or more contiguous counties having an aggregate population of more than 60,000 by resolution declares that there is a need for one housing authority to be created for all of such counties to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties ~~to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority for all of such counties~~ shall (after the commissioners thereof file an application with the Secretary of State as hereinafter provided) thereupon exist for and exercise its powers and other functions in such counties; and thereupon any housing authority created for any of such counties shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided: Provided, that the board of county commissioners shall not adopt a resolution as aforesaid if there is a county housing authority created for such county which has any bonds or notes outstanding unless first, all holders of such bonds and notes consent in writing to the substitution of such regional housing authority in lieu of such county housing authority on all such bonds and notes; and second, the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided: Provided, further, that when the above conditions are complied with and such regional housing authority is created and authorized to exercise its powers and other functions, all rights, contracts, agreements, obligations, and property, real and personal, of such county housing authority shall be in the name of and vest in such regional housing authority, and all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they might have been asserted, enforced, and prosecuted against such county housing authority. When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed in the office provided for the filing of deeds: Provided, that nothing contained in this sentence

shall affect the vesting of property in the regional housing authority as provided above.

The board of county commissioners of each of two or more said contiguous counties shall by resolution declare that there is a need for one regional housing authority to be created for all of such counties to exercise powers and other functions herein prescribed in such counties, if such board of county commissioners finds (and only if it finds)

(1) Insanitary or unsafe dwelling accommodations exist in the area of its respective county and/or there is a lack of safe or sanitary dwelling accommodations in the county available for all the inhabitants thereof and

(2) That a regional housing authority for the proposed region would be a more efficient or economical administrative unit than a housing authority for an area having a smaller population to carry out the purposes of the housing authorities law and any amendments thereto, in such county.

In determining whether dwelling accommodations are unsafe or insanitary, the board of county commissioners shall take into consideration the following: the physical condition and age of the buildings; the degree of overcrowding; the percentage of land coverage; the light and air available to the inhabitants of such dwelling accommodations; the size and arrangement of the rooms; the sanitary facilities; and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

If it shall determine that both (1) and (2) of the above enumerated conditions exist, the board of county commissioners shall adopt a resolution so finding (which need not go into any detail other than the mere finding). After the appointment, as hereinafter provided, of the commissioners to act as the regional housing authority, said authority shall be a public body and a body corporate and politic upon the completion of the taking of the following proceedings:

The commissioners shall present to the Secretary of State an application signed by them, which shall set forth (without any detail other than the mere recital)

(1) That the boards of county commissioners made the aforesaid determination and that they have been appointed as commissioners;

(2) The name, and official residence of each of the commissioners, together with a certified copy of the appointment evidencing their right to office, the date and place of induction into and taking oath of office, and that they desire the housing authority to become a public body and a body corporate and politic under this Article;

(3) The term of office of each of the commissioners;

(4) The name which is proposed for the corporation; and

(5) The location of the principal office of the proposed corporation.

The application shall be subscribed and sworn to by each of said commissioners before an officer authorized by the laws of the State to take and certify oaths, who shall certify upon the application that he personally knows the commissioners and knows them to be the officers as asserted in the application, and that each subscribed and swore thereto in the officer's presence. The Secretary of State shall examine the application and if he finds that the name proposed for the corporation is not identical with that of a person or of any other corporation of this State or so nearly similar as to lead to confusion and uncertainty he shall receive and file it and shall record it in an appropriate book of record in his office.

When the application has been made, filed and recorded, as herein provided, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application; the Secretary of State shall make and issue to the said commissioners, a certificate of incorporation pursuant to this Article, under the seal of the State, and shall record the same with the application.

In any suit, action or proceeding involving the validity or enforcement of, or relating to any contract of the regional housing authority, the regional housing authority shall be conclusively deemed to have been established in accordance with the provisions of this Article upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action or proceeding, and shall be conclusive proof of the filing and contents thereof."

Section 21. Effective July 1, 1997, subsection (d) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(d) This ~~act~~ section applies only to Columbus, Durham, and Rockingham Counties."

Section 22. Effective July 1, 1997, subsection (e) of Section 18.22 of S.L. 1997-443 reads as rewritten:

"(e) This ~~act~~ section becomes effective October 1, 1997, and expires June 30, 1998."

Section 23. The prefatory language of Section 6 of S.L. 1997-452 reads as rewritten:

"Section 6. Section 115.6(b) of the Charter of the City of Durham, being Chapter 671 of the ~~1995~~ 1975 Session Laws, as added by Chapter 476 of the 1989 Session Laws and rewritten by Chapter 992 of the 1991 Session Laws, reads as rewritten:".

Section 24. G.S. 75E-3 reads as rewritten:

"**§ 75E-3. Investigative and regulatory powers of the Attorney General.**

The Attorney General may conduct such investigations as the Attorney General deems necessary to determine compliance by all persons or entities with the provisions of Articles 9 and 9A of Chapter 55 of the General ~~Statutes.~~ Statutes; and the Attorney General may exempt from the provisions of Article 9 of Chapter 55 of the General Statutes any business combination that is solely an internal corporate restructuring which does not effect any material change in the ultimate ownership of the corporation and does not affect the ongoing applicability of that Article to the

corporation or any other entity. In performing any such investigations, the Attorney General shall have all the powers given him by G.S. 75-10. The provisions of G.S. 75-11 and G.S. 75-12 shall apply to this Chapter."

Section 25. (a) G.S. 90-113.38(b) reads as rewritten:

"(b) The fee to obtain a certificate of certification for a clinical addictions specialist pursuant to ~~G.S. 90-113.41A~~ deemed status may not exceed one hundred dollars ($100.00). The fee to renew a certificate may not exceed fifty dollars ($50.00). The fee to obtain a certificate of certification for a clinical addictions specialist ~~under G.S. 90-113.40~~ pursuant to all other procedures authorized by this Article may not exceed three hundred twenty-five dollars ($325.00). The fee to renew the certificate may not exceed one hundred dollars ($100.00)."

(b) Section 17 of S.L. 1997-492 reads as rewritten:

"Section 17. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the North Carolina Substance Abuse Professional Certification Board (Board) may certify a person as a 'Clinical Addictions Specialist' during a limited period of one year after the effective date of this act upon completion of any prescribed continuing education requirements that are required during the course of this year for renewal of the original certification, payment of the fee as required for renewal of the original certification, payment of the clinical addictions specialist certification fee, and the submission of proof of one of the following to the Board:

(1) Certification as a substance abuse counselor holding a master's degree with a clinical application in a human services field; the equivalent of two years of full-time post-graduate supervised substance abuse experience; and three letters of reference from certified substance abuse professionals who have master's degrees.

(2) Certification as a substance abuse counselor with a bachelors degree in a human services field; the equivalent of five years of full-time, post-graduate, supervised substance abuse experience; a passing score on a master's level written examination; and submission of three letters of reference from certified substance abuse professionals who have master's degrees.

(3) Certification as a clinical supervisor; a master's degree with a clinical application in a human services field; and three letters of reference from certified substance abuse professionals who have master's degrees.

(4) Certification as a substance abuse counselor; a master's degree with a clinical application in a human services field with a substance abuse specialty; and three letters of reference from certified substance abuse professionals who have master's degrees.

(5) Certification before July 1, 1994, as an alcohol counselor, a drug and alcohol counselor, or a substance abuse counselor; the equivalent of 10 years of documented full-time substance abuse

work experience; and three letters of reference from certified substance abuse professionals who have master's degrees.

(6) Certification, licensure, or membership in good standing with a professional discipline that has been granted deemed status under G.S. 90-113.41A, as enacted by Section 11 of this act."

(c) Section 18 of S.L. 1997-492 reads as rewritten:

"Section 18. Notwithstanding G.S. 90-113.40(c), as enacted by Section 9 of this act, the Board may certify an applicant as a 'Clinical Addictions Specialist' during a limited period of three years beginning October 1, 1998, if the applicant completes any prescribed continuing education requirements that are required during the course of these years for renewal of the original certification, pays the fee as required for renewal of the original certification, pays the clinical addictions specialist certification fee, and submits proof to the Board that the applicant: (i) has been certified as a substance abuse counselor; (ii) has the equivalent of 10 years of supervised, full-time, substance abuse counseling experience; (iii) has passed a master's level oral and written examination and; (iv) submits three letters of reference from certified substance abuse professionals who hold master's degrees."

(d) This section is effective on and after October 1, 1997.

Section 26. G.S. 95-97 is repealed.

Section 27. G.S. 95-128(3) and (4) read as rewritten:

"(3) Employees whose safety and health are subject to protection under the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801) and the Federal Metal and Nonmetallic Mine Safety Act (30 U.S.C. 725), or ~~the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-41);~~ Subtitle V of Title 49 of the United States Code;

(4) Railroad employees whose safety and health are subject to protection under ~~the Federal Safety Appliance Act (45 U.S.C. 1-50), or the Federal Railroad Safety Act of 1970 (45 U.S.C. 431-41);~~ Subtitle V of Title 49 of the United States Code;".

Section 28. G.S. 95-174(k) reads as rewritten:

"(k) 'Hazardous chemical' shall mean any element, chemical compound or mixture of elements and/or compounds which is a physical hazard or health hazard as defined in subsection (c) of the ~~NCOSHA~~ OSHNC Standard or a hazardous substance as defined in ~~subsection (d)(3) of the NCOSHA Standard.~~ standards adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7)."

Section 29. G.S. 95-174(p) reads as rewritten:

"(p) 'Material Safety Data Sheets' or 'MSDS' shall mean chemical information sheets drawn up in conformity to standards for material safety data sheets adopted by the Occupational Safety and Health Division of the North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC

7). ~~in 13 North Carolina Administrative Code 7C .0101(a)(99) (hereinafter designated as 13 N.C.A.C. 7C .0101(a)(99).~~"

Section 30. G.S. 95-174(r) reads as rewritten:

"(r) '~~NCOSHA~~ OSHNC Standard' shall mean the ~~currently adopted~~ current Hazard Communication Standard adopted by the Occupational Safety and Health Division of North Carolina Department of Labor in Title 13, Chapter 7 of the North Carolina Administrative Code (13 NCAC 7). ~~13 North Carolina Administrative Code 7C .0101(a)(99), as amended.~~"

Section 31. G.S. 95-198(b) reads as rewritten:

"(b) In nonemergency situations, a chemical manufacturer, importer, or employer shall, upon request, disclose a specific chemical identity, otherwise permitted to be withheld under this section, to a ~~health professional,~~ responsible party, as defined in ~~13 N.C.A.C. 7C .0101(a)(99),~~ the standards adopted in Title 13, Subchapter 7F of the North Carolina Administrative Code (13 NCAC 7F), providing medical or other occupational health services to exposed persons if the request is in writing and states the medical need for the information. The employer may require that the ~~health care provider~~ responsible party sign a confidentiality agreement prior to release of the information. The parties are not precluded from pursuing noncontractual remedies to the extent permitted by law."

Section 31.1. (a) Article 1 of Chapter 97 of the General Statutes is amended by adding a new section to read:

"**§ 97-101.1. Commission may issue writs of habeas corpus.**

The Industrial Commission may issue a writ of habeas corpus ad testificandum under Article 8 of Chapter 17 of the General Statutes although it is not a court of record."

(b) G.S. 143-296 reads as rewritten:

"**§ 143-296. Powers of Industrial Commission; deputies.**

The members of the Industrial Commission, or a deputy thereof, shall have power to issue subpoenas, administer oaths, conduct hearings, take evidence, enter orders, opinions, and awards based thereon, ~~and~~ punish for ~~contempt.~~ contempt, and issue writs of habeas corpus ad testificandum pursuant to G.S. 97-101.1. The Industrial Commission is authorized to appoint deputies and clerical assistants to carry out the purpose and intent of this Article, and such deputy or deputies are hereby vested with the same power and authority to hear and determine tort claims against State departments, institutions, and agencies as is by this Article vested in the members of the Industrial Commission. Such deputy or deputies shall also have and are hereby vested with the same power and authority to hear and determine cases arising under the Workers' Compensation Act when assigned to do so by the Industrial Commission. The Commission may order parties to participate in mediation, under rules substantially similar to those approved by the Supreme Court for use in the Superior Court division, except the Commission shall determine the manner in which payment of the costs of the mediated settlement conference is assessed."

Section 32. (a) G.S. 105-116(a), as amended by S.L. 1998-22, reads as rewritten:

"(a) Tax. -- An annual franchise or privilege tax is imposed on the following:

(1) An electric power company engaged in the business of furnishing electricity, electric lights, current, or power.

(2) Repealed by S.L. 1998-22, s.2.

(2a) Repealed by S.L. 1998-22, s.2.

(3) A water company engaged in owning or operating a water system subject to regulation by the North Carolina Utilities Commission.

(4) A public sewerage company engaged in owning or operating a public sewerage system.

The tax on an electric power company is three and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from the business of furnishing electricity, electric lights, current, or power. ~~The tax on a regional natural gas district is three and twenty-two hundredths percent (3.22%) of the district's taxable gross receipts from the furnishing of piped natural gas.~~ The tax on a water company is four percent (4%) of the company's taxable gross receipts from owning or operating a water system subject to regulation by the North Carolina Utilities Commission. The tax on a public sewerage company is six percent (6%) of the company's taxable gross receipts from owning or operating a public sewerage company. A company's taxable gross receipts are its gross receipts from business inside the State less the amount of gross receipts from sales reported under subdivision (b)(2). A company that engages in more than one business taxed under this section shall pay tax on each business. A company is allowed a credit against the tax imposed by this section for the company's investments in certain entities in accordance with Division V of Article 4 of this Chapter."

(b) G.S. 105-187.44(a), as enacted by S.L. 1998-22, reads as rewritten:

"(a) City Information. -- A monthly return filed under this Article must indicate the amount of tax attributable to the following: ~~if a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city:~~

(1) Piped natural gas delivered during the month to sales or transportation customers in each city in the State.

(2) Piped natural gas received during the month in each city in the State by persons who have direct access to an interstate gas pipeline and who receive the gas for their own consumption.

If a tax return does not state this information, the Secretary must determine how much of the tax proceeds are to be attributed to each city."

(c) This section becomes effective July 1, 1999.

Section 33. G.S. 130A-24(b) reads as rewritten:

"(b) Appeals concerning the enforcement of rules adopted by the local board of health and concerning the imposition of administrative penalties by a local health director shall be conducted in accordance with this subsection and subsections ~~(b),~~ (c) and (d) of this section. The aggrieved person shall give written notice of appeal to the local health director within 30 days of the challenged action. The notice shall contain the name and address of the aggrieved person, a description of the challenged

action and a statement of the reasons why the challenged action is incorrect. Upon filing of the notice, the local health director shall, within five working days, transmit to the local board of health the notice of appeal and the papers and materials upon which the challenged action was taken."

Section 34. G.S. 143B-475.1 is rewritten by adding a new subsection to read:

"(f) The community service staff shall report to the court in which the community service was ordered, a significant violation of the terms of the probation, or deferred prosecution, related to community service. The community service staff shall give notice of the hearing to determine if there is a willful failure to comply to the person who was ordered to perform the community service. This notice shall be given by either personal delivery to the person to be notified or by depositing the notice in the United States mail in an envelope with postage prepaid, addressed to the person at the address shown on the records of the community service staff. The notice shall be mailed at least 10 days prior to any hearing and shall state the basis of the alleged willful failure to comply. The court shall then conduct a hearing, even if the person ordered to perform the community service fails to appear, to determine if there is a willful failure to complete the work as ordered by the community service staff within the applicable time limits. If the court determines there is a willful failure to comply, it shall revoke any drivers license issued to the person and notify the Division of Motor Vehicles to revoke any drivers license issued to the person until the community service requirement has been met. In addition, if the person is present, the court may take any further action authorized by Article 82 of Chapter 15A of the General Statutes for violation of a condition of probation."

Section 35. (a) G.S. 146-12(c) reads as rewritten:

"(c) Voluntary Easement Applications for Existing Structures. -- Riparian or littoral property owners of existing structures may voluntarily obtain an easement under subsection (b) of this section in accordance with the procedures set forth in this section. For purposes of this section, the term 'existing structures' means all presently existing piers, docks, marinas, wharves, and other structures located over or upon State-owned lands covered by navigable waters. Applications for voluntary easements shall be received by the State Property Office ~~within 36 months of the effective date of this section.~~ no later than 1 October 2001."

(b) G.S. 146-12(d) reads as rewritten:

"(d) Notification of Availability of Voluntary Easements. -- The State Property Office shall provide public notice of the availability of voluntary easements by placing an advertisement in one newspaper of general circulation in each of the coastal counties identified under G.S. 113A-103(2) at least once every six ~~months during the 36-month period.~~ months. The final notice shall be placed ~~at least 30 days prior to the expiration of the 36-month period.~~ no later than 1 September 2001."

(c) This section is effective retroactively to August 31, 1998, and applies to applications for voluntary easements received by the State Property Office on or after that date.

Section 36. (a) G.S. 163-323(e) reads as rewritten:

"(e) Candidacy for More Than One Office Prohibited. -- No person may file a notice of candidacy for more than one office or group of offices described in subsection (b) of this ~~section~~ section, or for an office or group of offices described in subsection (b) of this section and an office described in G.S. 163-106(c), for any one election. If a person has filed a notice of candidacy with a board of elections under this section or under G.S. 163-106(c) for one office or group of offices, then a notice of candidacy may not later be filed for any other office or group of offices under this section when the election is on the same date unless the notice of candidacy for the first office is withdrawn under subsection (c) of this section."

(b) This section is effective on and after February 1, 1999.

Section 37. The prefatory language of Section 1 of S.L. 1998-37 reads as rewritten:

"Section 1. G.S. 153A-335, as it applies to Stanly County under Chapter 930 of the 1987 Session Laws, as amended by Chapter 504 of the 1991 Session Laws and Chapter 574 of the 1993 Session Laws, reads as rewritten:".

Section 38. Section 5.1 of the Charter of the Town of Forest Hills, being Section 1 of S.L. 1997-345, reads as rewritten:

"Section 5.1. **Mayor-Council Plan.** The Village of Forest Hills operates under the Mayor-Council Plan as provided by Part 3 of Article 7 of Chapter ~~160B~~ 160A of the General Statutes. The Mayor shall vote only in those cases necessary to break a tie."

Section 39. The prefatory language of Section 1 of S.L. 1998-72 reads as rewritten:

"Section 1. G.S. 115D-15 reads ~~are~~ as rewritten:".

Section 40. Reserved.

Section 41. G.S. 89C-13(b)(1)d., as amended by S.L. 1998-118, reads as rewritten:

"d. Graduation from a high school or the completion of a high school equivalency certificate and a record satisfactory to the Board of seven years of progressive practical experience, six years of which shall have been under a practicing licensed land surveyor, and satisfactorily passing any oral and written examinations required by the Board, all of which shall determine and indicate that the candidate is competent to practice land surveying. The applicant may be qualified by the Board to take the first examination (Surveying Fundamentals) upon graduation from high school or the completion of a high school equivalency certificate and successfully completing ~~six~~ five years of progressive practice experience, ~~five~~ four of which shall have been under a practicing licensed land surveyor. ~~The applicant may apply to take the second examination (Principles and Practice of Land Surveying) upon passing the first examination and successfully completing four years~~

~~of progressive practical experience, two of which shall have been under a practicing licensed land surveyor.~~"

Section 42. G.S. 105-130.17(f) is repealed.

Section 43. G.S. 105-122(a) reads as rewritten:

"(a) Every corporation, domestic and foreign, incorporated, or, by an act, domesticated under the laws of this State or doing business in this State, except as otherwise provided in this Article or schedule, shall, on or before the fifteenth day of the third month following the end of its income year, annually, make and deliver to the Secretary of Revenue in such form as he may prescribe a full, accurate and complete report and statement signed by either its president, vice-president, treasurer, assistant treasurer, secretary or assistant secretary, containing such facts and information as may be required by the Secretary of Revenue as shown by the books and records of the corporation at the close of such income year.

There shall be annexed to the return required by this subsection the affirmation of the officer signing the ~~return in the following form: "Under penalties prescribed by law, I hereby affirm that to the best of my knowledge and belief this return, including any accompanying schedules and statements, is true and complete. If prepared by a person other than taxpayer, his affirmation is based on all information of which he has any knowledge."~~ return."

Section 44. G.S. 105-155(c) is repealed.

Section 45. G.S. 120-123(55) and (65) are repealed.

Section 46. (a) G.S. 130A-335(f1), as enacted by Section 1 of S.L. 1998-126, is recodified as G.S. 130A-335(f2).

(b) This section is effective retroactively to August 28, 1998.

Section 47. G.S. 153A-15, as amended by S.L. 1998-110, reads as rewritten:

"**§ 153A-15. Consent of board of commissioners necessary in certain counties before land may be condemned or acquired by a unit of local government outside the county.**

(a) Notwithstanding the provisions of ~~G.S. 153A-159, Article 11 of Chapter 160A of the General Statutes, G.S. 130-130,~~ Chapter ~~40~~ 40A of the General ~~Statutes,~~ Statutes or any other general law or local act conferring the power of eminent domain, before final judgment may be entered in any action of condemnation initiated ~~(or in the case of Article 11 of Chapter 160A, before a final condemnation resolution is adopted)~~ by a county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county, whereby the condemnor seeks to acquire property located in the other county, the condemnor shall furnish proof that the county board of commissioners of the county where the land is located has consented to the taking.

(b) Notwithstanding the provisions of G.S. 153A-158, ~~Chapter 160A of the General Statutes~~ 160A-240.1, ~~Article 12 of Chapter 130 of the General Statutes,~~ 130A-55, or any other general law or local act conferring the power to acquire real property, before any county, city or town, special district, or other unit of local government which is located wholly or primarily outside another county acquires any real property located in the other county by exchange, purchase or lease, it must have

the approval of the county board of commissioners of the county where the land is located.

(c) This section applies to Alamance, Alleghany, Anson, Ashe, Bertie, Bladen, Brunswick, Burke, Buncombe, Cabarrus, Caldwell, Camden, Carteret, Caswell, Catawba, Chatham, Cherokee, Clay, Cleveland, Columbus, Craven, Cumberland, Currituck, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Gaston, Graham, Granville, Greene, Guilford, Halifax, Harnett, Haywood, Henderson, Hoke, Iredell, Jackson, Johnston, Jones, Lee, Lincoln, Macon, Madison, Martin, McDowell, Mecklenburg, Montgomery, Nash, New Hanover, Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Polk, Richmond, Robeson, Rockingham, Rowan, Sampson, Scotland, Stanly, Stokes, Surry, Swain, Transylvania, Union, Vance, Wake, Warren, Watauga, Wilkes, and Yancey ~~counties~~ Counties only.

(d) This section does not apply as to ~~any:~~

~~(1) Condemnation; or~~

~~(2) Acquisition~~

any condemnation or acquisition of real property or an interest in real property by a city where the property to be condemned or acquired is within the corporate limits of that city."

Section 48. G.S. 158-35(a) reads as rewritten:

"(a) Commission Membership. -- The governing body of the Zone is the Global TransPark Development Commission. The members of the Commission must be residents of the Zone and shall be appointed as follows:

(1) The board of commissioners of each county participating in the Zone shall appoint three voting members, one of whom shall be a minority person as defined in ~~G.S. 143-128(e)~~ G.S. 143-128(f)(2) and one of whom may be a member of the board of commissioners.

(2) The Authority shall appoint at least three but no more than seven voting members. By the appointment of these members, the Authority shall ensure that the voting membership of the Commission includes at least seven women and seven members of a racial minority described in ~~G.S. 143-128(e).~~ G.S. 143-128(f)(2). The Authority shall appoint the fewest number of members necessary to achieve these minimums.

(3) Four nonvoting members shall be appointed as follows:

a. One appointed by the Chancellor of East Carolina University to represent the University.

b. One appointed by a majority vote of the presidents of the community colleges located in the Zone, to represent the community colleges.

c. One appointed by the chair of the State Ports Authority, to represent the sea ports of the State.

d. One member of the board of directors of the Global TransPark Foundation, Inc., appointed by that board."

Section 49. The Revisor of Statutes shall codify the first paragraph of Section 4 of S.L. 1997-129, as amended by Section 10 of S.L. 1997-257, as G.S. 75A-14.1, "Lake Norman no-wake zone."

Section 50. Section 2 of S.L. 1998-113 is amended by deleting "1997-98", and substituting "1998-99".

Section 51. Section 2 of Chapter 214 of the 1991 Session Laws is repealed.

Section 52. Section 2 of S.L. 1998-199 reads as rewritten:

"Section 2. The Revisor of Statutes shall cause to be printed with this act all relevant portions of the official comments to the ~~North Carolina~~ Uniform Planned Community Act and all explanatory comments of the drafters of this act, as the Revisor deems appropriate."

Section 53. (a) The following changes are made to S.L. 1998-198:

(1) G.S. 122C-211(f), as enacted by Section 6 of that act, is recodified as G.S. 122C-211(f1).

(2) G.S. 122C-211(a), as amended by S.L. 1998-47, reads as rewritten:

"(a) Except as provided in subsections (b) through ~~(f)~~ (f1) of this section, any individual, including a parent in a family unit, in need of treatment for mental illness or substance abuse may seek voluntary admission at any facility by presenting himself for evaluation to the facility. No physician's statement is necessary, but a written application for evaluation or admission, signed by the individual seeking admission, is required. The application form shall be available at all times at all facilities. However, no one shall be denied admission because application forms are not available. An evaluation shall determine whether the individual is in need of care, treatment, habilitation or rehabilitation for mental illness or substance abuse or further evaluation by the facility. Information provided by family members regarding the individual's need for treatment shall be reviewed in the evaluation. An individual may not be accepted as a client if the facility determines that the individual does not need or cannot benefit from the care, treatment, habilitation, or rehabilitation available and that the individual is not in need of further evaluation by the facility. The facility shall give to an individual who is denied admission a referral to another facility or facilities that may be able to provide the treatment needed by the client."

(3) Section 7 of that act reads as rewritten:

"Section 7. This act becomes effective ~~October 1,~~ November 1, 1998."

(4) The prefatory language of Section 5 of that act reads as rewritten:

"Section 5. ~~G.S. 122C-57(d), (e), and (f) are amended as follows:~~ G.S. 122C-57(d) through (f) read as rewritten:".

(5) The Revisor of Statutes may delete from G.S. 122C-77, as rewritten by Section 2 of that act, any lines on the form to be filled in where it was clearly intended that those lines be deleted but which do not appear to be stricken through because of formatting.

(b) This section becomes effective September 30, 1998.

Section 54. Section 6 of S.L. 1998-135 reads as rewritten:

"Section 6. This act becomes effective August 15, 1998, and applies to State employee grievances arising on or after that date and to cases pending on that date in the Office of Administrative Hearings or before the State Personnel Commission or on appeal from a decision of the Commission. This act also applies to cases that were voluntarily dismissed without prejudice before the Office of Administrative Hearings before August 15, 1998, and that are refiled prior to December 1, 1998, provided that the case is not otherwise barred from being refiled."

Section 55. (a) Section 11(a) of S.L. 1998-55 reads as rewritten:

"Section 11(a). The Piedmont Triad ~~International~~ Airport Authority may contract for design and construction of an air freight distribution facility on Airport property without being subject to the requirements of Article 8 of Chapter 143 of the General Statutes."

(b) Section 11(b) of S.L. 1998-55 reads as rewritten:

"Section 11(b). The Piedmont Triad ~~International~~ Airport Authority may contract for supplies, materials, equipment, and contractual services of the Authority related to an air freight distribution facility on Airport property without being subject to the requirements of ~~Article 3~~ Articles 3 or 8 of Chapter 143 of the General Statutes."

Section 56. G.S. 58-65-133(d), as enacted by S.L. 1998-3, reads as rewritten:

"(d) Advisory Committee. -- An advisory committee shall be formed to (i) develop, subject to the approval of the Attorney General, the criteria for selection of the Foundation's initial board of directors and (ii) nominate candidates for the initial board of directors. The advisory committee shall be comprised of the following 11 members: three representatives of the business community selected by North Carolina Citizens for Business and Industry, three representatives of the public and private medical school community selected by The University of North Carolina Board of Governors, three representatives of private foundations and other nonprofit organizations selected by the North Carolina Center for Nonprofits, a representative of ~~the North Carolina Association of Hospitals and Health Care Networks,~~ NCHA, Inc., and a representative of the North Carolina Medical Society. After receiving a copy of the proposed plan of conversion, the Attorney General shall immediately notify these organizations, and the advisory committee shall be constituted within 45 days thereafter.

The advisory committee's criteria shall ensure an open recruitment process for the directors. The advisory committee shall nominate 22 residents of North Carolina for the 11 positions to be filled by the Attorney General. The Attorney General shall retain an independent executive recruiting firm or firms to assist the advisory committee in its work."

Section 57. The following changes are made to S.L. 1998-202:

(1) G.S. 7B-2514(a), as enacted by that act, reads as rewritten:

"(a) In determining whether a juvenile should be released before the juvenile's 18th birthday, the Office shall consider the protection of the public and the likelihood that continued placement will lead to further rehabilitation. If the Office does not intend to release the juvenile prior to the juvenile's eighteenth birthday, or

if the Office determines that the juvenile's commitment should be continued beyond the maximum commitment period as set forth in G.S. 7B-2512(a), the Office shall notify the juvenile and the juvenile's parent, guardian, or custodian in writing at least 30 days in advance of the juvenile's eighteenth birthday or the end of the maximum commitment period, of the additional specific commitment period proposed by the Office, the basis for extending the commitment period, and the plan for future care or treatment."

(2) The prefatory language of Section 2(b) of that act reads as rewritten:

"(b) ~~G.S. 147-33.34(5),~~ G.S. 147-33.34(a)(5), as enacted by Section 1 of this act, reads as rewritten:".

(3) Section 2(f) of that act reads as rewritten:

"(f) Effective July 1, 1999, the Revisor of Statutes shall substitute the term 'post-release supervision' for the term ~~'aftercare' and~~ 'aftercare,' the term 'detention facility' for the terms 'detention home' and ~~'regional detention home'~~ 'regional detention home,' and the term 'detention facilities' for the term 'regional detention homes' everywhere those terms appear in Article 3C of Chapter 147 of the General Statutes, as enacted in Section 1 of this act.

Section 58. (a) Article 47 of Chapter 58 of the General Statutes is amended by adding the following new Part:

"Part 3. Third-Party Administrators for Groups.

"§ 58-47-210. Definitions.

As used in this Part:

(1) 'Board' means the board of trustees or other governing body of a group.

(2) 'Control' means 'control' as defined in G.S. 58-19-5(2).

(3) 'GAAP financial statement' means a financial statement as defined by generally accepted accounting principles.

(4) 'Group' means a group of employers that is licensed under Part 1 of this Article.

(5) 'Hazardous financial condition' means that, based on its present or reasonably anticipated financial condition, a person is insolvent or, although not yet financially impaired or insolvent, is unlikely to be able to meet obligations with respect to known and reasonably anticipated obligations in the normal course of business.

(6) 'Member' means an employer that participates in a group.

(7) 'Third-party administrator' or 'TPA' means a person engaged by a board to execute the policies established by the board and to provide day-to-day management of the group. 'Third-Party Administrator' and 'TPA' does not mean:

a. An employer acting on behalf of its employees or the employees of one or more of its affiliates.

b. An insurer that is licensed under this Chapter or that is acting as an insurer with respect to a policy lawfully issued

and delivered by it and under the laws of a state in which the insurer is licensed to write insurance.

c. An agent or broker who is licensed by the Commissioner under Article 33 of this Chapter whose activities are limited exclusively to the sale of insurance.

d. An adjuster licensed by the Commissioner under Article 33 of this Chapter whose activities are limited to adjustment of claims.

e. An individual who is an officer, a member, or an employee of a board.

"**§ 58-47-215. TPA authority; license, qualification for approval.**

(a) No person shall act as, offer to act as, or hold himself or herself out as a TPA with respect to risks located in this State for a group unless that person is licensed by the Commissioner under this Part.

(b) An applicant for a license shall file with the Commissioner the information required by subsection (c) of this section on a form prescribed by the Commissioner at least 90 days before the proposed licensing date. No application is complete until the Commissioner has received all required information.

(c) The following information shall be included in the license application:

(1) All organizational documents of the TPA, including articles of incorporation, articles of association, a partnership agreement, a trade name certificate, or a trust agreement, any other applicable documents, and all amendments to these documents;

(2) The bylaws, rules, regulations, or similar documents regulating the internal affairs of the TPA;

(3) The names, addresses, official positions, and professional qualifications of the individuals who are responsible for the conduct of affairs of the TPA, including (i) all members of the board of directors, executive committee, or other governing board or committee, (ii) the principal officers in the case of a corporation or the partners or members in the case of a partnership or association, (iii) all shareholders holding directly or indirectly ten percent (10%) or more of the voting securities of the TPA, and (iv) any other person who exercises control or influence over the affairs of the TPA;

(4) The annual audited GAAP financial statements for the two most recent years that demonstrate the applicant is solvent and an ongoing concern and any other information the Commissioner may require in order to review the current financial condition of the applicant;

(5) A general description of the business operations, including information on staffing levels and activities proposed in this State and nationwide. The description shall provide details setting forth the TPA's capability for providing a sufficient number of

experienced and qualified personnel in the areas of claims processing, record keeping, and underwriting;

(6) The annual report of the manner and amount of all charges, fees, and direct and indirect compensation received from the group as specified in the service agreement;

(7) All written agreements or contracts with groups; and

(8) Any other pertinent information, including evidence of compliance with other provisions of this Article, as required by the Commissioner.

(d) The information required by subsection (c) of this section, including any trade secrets, shall be kept confidential; provided that the Commissioner may use that information in any judicial or administrative proceeding instituted against the TPA.

(e) TPA licenses shall be renewed annually and applications for renewals of licenses shall include or be accompanied by any changes in the information required by subsection (c) of this section.

(f) A TPA shall notify the Commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for a license in this State, 30 business days before the change. Failure of the Commissioner to disapprove any material changes within 30 days after the changes have been filed with the Commissioner constitutes the Commissioner's approval of the filed changes.

(g) After initial licensing, a TPA shall file with the Commissioner all contracts with a group 60 days before the effective date of the contract.

"§ 58-47-220. TPA license; termination; revocation; restrictions.

(a) The Commissioner may refuse to issue a license if the Commissioner determines that any of the provisions of this section apply to the TPA, or to any individual responsible for the conduct of affairs of the TPA.

(b) The Commissioner shall suspend or revoke automatically the license of a TPA and a request for a hearing shall not stay the effect of the revocation, suspension, or nonrenewal if the Commissioner finds that any of the following apply to the TPA:

(1) The TPA is using methods or practices in the conduct of its business that render its further transaction of business in this State hazardous or injurious to insured persons or the public;

(2) The TPA has failed to pay any judgment rendered against it in this State within 60 days after the judgment has become final;

(3) The TPA has refused to be examined or to produce its accounts, records, and files for examination, or any of its officers have refused to give information with respect to its affairs or have refused to perform any other legal obligation as to that examination, when required by the Commissioner;

(4) The TPA has, without just cause, refused to pay proper claims or perform services arising under its contract, has caused covered members to accept less than the amount due them, or has caused covered members to employ attorneys or bring suit against the TPA to secure full payment or settlement of the claims;

(5) The TPA is an affiliate of or under the same general management, interlocking directorate, or ownership as another TPA or group that unlawfully transacts business in this State;

(6) The TPA, or any principal or affiliate of the TPA, has been convicted of or has entered a plea of guilty or nolo contendere to a felony without regard to whether judgment was withheld;

(7) The TPA or an affiliate is under revocation, suspension, or nonrenewal in another state;

(8) The TPA is in hazardous financial condition;

(9) The TPA has filed for protection under the United States Bankruptcy Code or any state receivership law;

(10) The financial condition or business practices of the TPA otherwise pose an imminent threat to the public health, safety, or welfare of the residents of this State; or

(11) The TPA is found to be in violation of Article 63 of this Chapter.

(c) The Commissioner may, after notice and opportunity for hearing, suspend or revoke the license of a TPA if the Commissioner finds that any of the following apply to the TPA:

(1) The TPA has violated a rule or an order of the Commissioner or any provision of this Chapter or Chapter 97 of the General Statutes; or

(2) The TPA at any time fails to meet any qualification for which issuance of the license could have been refused had the failure then existed and been known to the Commissioner at the time of the application.

(d) If the Commissioner determines that a TPA or any other person has not materially complied with this Article or with any rule adopted or order issued under this Article, after notice and opportunity to be heard, the Commissioner may order:

(1) For each separate violation, a civil penalty pursuant to G.S. 58-2-70(d); or

(2) Revocation, suspension, or nonrenewal of the person's license.

(e) If the Commissioner finds that, because of a material noncompliance, a group has suffered any loss or damage, the Commissioner may maintain a civil action brought by or on behalf of the group and its policyholders and creditors for recovery of compensatory damages for the benefit of the group and its policyholders and creditors or for other appropriate relief.

(f) Nothing in this Article affects the Commissioner's right to impose any other penalties provided for in this Chapter. Nothing in this Article limits or restricts the rights of policyholders, claimants, and creditors.

(g) If an order of rehabilitation or liquidation of the group has been entered under Article 30 of this Chapter, and the receiver appointed under that order determines that the TPA or any other person has not materially complied with this section, or any order or rule adopted thereunder, and the group suffered any loss or damage

therefrom, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the group."

(b) This section becomes effective January 1, 2000.

Section 59. Section 2 of S.L. 1998-121 reads as rewritten:

"Section 2. ~~Part 2 of Division II of Article 5 of Chapter 105 of the General Statutes~~ G.S. 105-164.5 is repealed."

Section 60. If ratified Senate Bill 882, 1997 Regular Session, and House Bill 926, 1997 Regular Session both become law, then Section 90 of ratified Senate Bill 882, 1997 Regular Session is repealed.

Section 61. G.S. 1A-1, Rule 9(j), reads as rewritten:

"(j) Medical malpractice. -- Any complaint alleging medical malpractice by a health care provider as defined in G.S. 90-21.11 in failing to comply with the applicable standard of care under G.S. 90-21.12 shall be dismissed unless:

(1) The pleading specifically asserts that the medical care has been reviewed by a person who is reasonably expected to qualify as an expert witness under Rule 702 of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care;

(2) The pleading specifically asserts that the medical care has been reviewed by a person that the complainant will seek to have qualified as an expert witness by motion under Rule 702(e) of the Rules of Evidence and who is willing to testify that the medical care did not comply with the applicable standard of care, and the motion is filed with the complaint; or

(3) The pleading alleges facts establishing negligence under the existing common-law doctrine of res ipsa loquitur.

Upon motion by the complainant prior to the expiration of the applicable statute of limitations, a resident judge of the superior court of the county in which the cause of action arose may allow a motion to extend the statute of limitations for a period not to exceed 120 days to file a complaint in a medical malpractice action in order to comply with this Rule, upon a determination that good cause exists for the granting of the motion and that the ends of justice would be served by an extension. Experts required by this Rule shall be subject to discovery pursuant to Rule 26(b)(4) to the same extent as experts designated for trial."

Section 62. (a) G.S. 20-28.3(h), as enacted in Section 3 of S.L. 1998-182, reads as rewritten:

"(h) Insurance Proceeds. -- In the event a motor vehicle is damaged incident to the conduct of the defendant which gave rise to the defendant's arrest and seizure of the motor vehicle pursuant to this section, the county board of education, or its authorized designee, is authorized to negotiate the county board of education's interest with the insurance company and to compromise and accept settlement of any claim for damages. Property insurance proceeds accruing to the defendant, or other owner of the seized motor vehicle, shall be paid by the responsible insurance company directly to the clerk of superior court in the county where the motor vehicle

driver was charged. If the motor vehicle is declared a total loss by the insurance company ~~responsible for~~ liable for the damages to the motor vehicle, the clerk of superior court, upon application of the county board of education, shall enter an order that the motor vehicle be released to the insurance company upon payment into the court of all insurance proceeds for damage to the motor vehicle after payment of towing and storage costs and all valid liens. The clerk of superior court shall provide the Division with a certified copy of the order entered pursuant to this subsection, and the Division shall transfer title to the insurance company or to such other person or entity as may be designated by the insurance company. Insurance proceeds paid to the clerk of court pursuant to this subsection shall be subject to forfeiture pursuant to G.S. 20-28.5 and shall be disbursed pursuant to further orders of the court. An affected motor vehicle owner or lienholder who objects to any agreed upon settlement under this subsection may file an independent claim with the insurance company for any additional monies believed owed. Notwithstanding any other provisions in this Chapter, nothing in this section or G.S. 20-28.2 shall require an insurance company to make payments in excess of those required pursuant to its policy of insurance on the seized motor vehicle."

(b) G.S. 20-28.3(i), as enacted in Section 3 of S.L. 1998-182, reads as rewritten:

"(i) Expedited Sale of Seized Motor Vehicles in Certain Cases. -- In order to avoid additional liability for towing and storage costs pending resolution of the criminal proceedings of the defendant, the county board of education may, after expiration of 90 days from the date of seizure, sell any motor vehicle having a fair market value of one thousand five hundred dollars ($1,500) or less. The county board of education may also sell a motor vehicle, regardless of the fair market value, any time the outstanding towing and storage costs exceed eighty-five percent (85%) of the fair market value of the vehicle, or with the consent of all the motor vehicle owners. Any sale conducted pursuant to this subsection shall ~~take place upon not less than 10 days' prior notice to the motor vehicle owners and lienholders,~~ be conducted in accordance with the provisions of G.S. 20-28.5(a), and the proceeds of the sale, after the payment of outstanding towing and storage ~~costs,~~ costs or reimbursement of towing and storage costs paid by a person other than the defendant, shall be deposited with the clerk of superior court. If an order of forfeiture is entered by the court, the court shall order the proceeds held by the clerk to be disbursed as provided in G.S. 20-28.5(b). If the court determines that the motor vehicle is not subject to forfeiture, the court shall order the proceeds held by the clerk to be disbursed first to pay the sale, towing, and storage costs, second to pay outstanding liens on the motor vehicle, and the balance to be paid to the motor vehicle owners."

(c) G.S. 20-28.3(m), as enacted in Section 3 of S.L. 1998-182, reads as rewritten:

"(m) Trial Priority. -- District court trials of impaired driving offenses involving forfeitures of motor vehicles pursuant to G.S. 20-28.2 shall be scheduled on the arresting officer's next court date or within 30 days of the offense, whichever comes first.

Once scheduled, the case shall not be continued unless all of the following conditions are met:

(1) A written motion for continuance is filed with notice given to the opposing party prior to the motion being heard.

(2) The judge makes a finding of a 'compelling reason' for the continuance.

(3) The motion and finding are attached to the court case record.

Upon a determination of guilt, the issue of vehicle forfeiture shall be heard by the judge immediately, or as soon thereafter as feasible, and the judge shall issue the appropriate orders pursuant to G.S. 20-28.2(d).

Should a defendant appeal the conviction to superior court, any party ~~may file a motion for review to consider whether the motor vehicle may be released pursuant to G.S. 20-28.2(e) or (f) or G.S. 20-28.3(e), (e1), or (e3).~~ who has not previously been heard on a petition for pretrial release under subsections (e1) or (e3) of this section or any party whose motor vehicle has not been the subject of a forfeiture hearing held pursuant to G.S. 20-28.2(d) may be heard on a petition for pretrial release pursuant to subsections (e1) or (e3) of this section. The provisions of subsection (e) of this section shall also apply to seized motor vehicles pending trial in superior court. Where a motor vehicle was released pursuant to subsection (e) of this section pending trial in district court, the release of the motor vehicle continues, and the terms and conditions of the original bond remain the same as those required for the initial release of the motor vehicle under subsection (e) of this section, pending the resolution of the underlying offense involving impaired driving in superior court."

(d) G.S. 20-28.5(a), as amended by Section 5 of S.L. 1998-182, reads as rewritten:

"(a) Sale. -- A motor vehicle ordered forfeited and sold or a seized motor vehicle authorized to be sold pursuant to G.S. 20-28.3(i), shall be sold at a public sale conducted in accordance with the provisions of Article 12 of Chapter 160A of the General Statutes, applicable to sales authorized pursuant to G.S. 160A-266(a)(2), (3), or (4), subject to the notice requirements of this subsection, and shall be conducted by the county board of education or a person acting on its behalf. Notice of sale, including the date, time, location, and manner of sale, shall be given by first-class mail to all motor vehicle owners of the vehicle to be ~~sold~~ sold, at the address shown by the records of the Division and at any other address of the motor vehicle owner as may be found in the criminal file in which the forfeiture was ordered. Written notice of sale shall also be given to all lienholders on file with the Division. Notice of sale shall be given to the Division in accordance with the procedures established by the Division. Notices required to be given under this subsection shall be mailed at least ~~14~~ 10 days prior to the date of sale. A lienholder shall be permitted to purchase the motor vehicle at any such sale by bidding in the amount of its lien, if that should be the highest bid, without being required to tender any additional funds, other than the towing and storage fees. The county board of education, or its agent, shall not sell, give, or otherwise transfer possession of the forfeited motor vehicle to the defendant,

the motor vehicle owner who owned the motor vehicle immediately prior to forfeiture, or any person acting on the defendant's or motor vehicle owner's behalf."

(e) G.S. 20-4.01(33b) reads as rewritten:

"(33b) Reportable Accident. -- An accident or collision involving a motor vehicle that results in either of the following:

a. Death or injury of a human being.

b. Total property damage of one thousand dollars ($1,000) or ~~more.~~ more, or property damage of any amount to a vehicle seized pursuant to G. S. 20-28.3."

(f) Subsections (a), (c), and (e) of this section become effective December 1, 1998. Subsections (b) and (d) of this section are effective on and after October 15, 1998.

Section 63. Section 6 of S.L. 1998-169 reads as rewritten:

"Section 6. The Board of Transportation, with the assistance of the Secretary and the Department of Transportation, shall develop a plan to establish Rural Transportation Planning Organizations (RPOs) as a counterpart to the existing Metropolitan Planning Organizations (MPOs). The Board or its designee shall report its plan to establish these organizations to the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations on or before ~~December 31, 1998.~~ June 30, 1999."

Section 64. Section 12.5 of S.L. 1997-458 reads as rewritten:

"Section 12.5. The Utilities Commission, the Local Government Commission, and the Environmental Management Commission, with the assistance of other State agencies, shall jointly study issues relating to ~~publically~~ publicly owned treatment works that persistently fail to comply with Article 21 of Chapter 143 of the General Statutes, rules adopted pursuant to that Article, or other federal and State laws, regulations, and rules for the protection of public health and the environment. The Commissions shall make a specific finding as to whether a State agency should assume control of a persistently noncomplying treatment works and, if so, how the State agency would assume control and operate the treatment works. The Utilities Commission, the Local Government Commission, and the Environmental Management Commission shall jointly present their findings and recommendations, including any legislative proposals, to the 1998 Regular Session of the 1997 General Assembly."

Section 65. Senate Bill 1366 of the 1997 General Assembly, as enacted, is amended by rewriting the line above the heading to Section 17.22 to read:

"Requested by: Senators Gulley, Rand, Wellons, Representatives Justus, Kiser, Sexton."

Section 66. Section 20 of S.L. 1998-150 reads as rewritten:

"Section 20. This act becomes effective November 1, 1998, and applies to annexations for which the resolution of intent is adopted on or after that date. Sections 2 and 3 shall not apply to any incorporation proposal originally presented to the Joint Legislative Commission on Municipal Incorporations prior to the effective date. As to any incorporation petition submitted after October 31, 1998 but before

the deadline set by G.S. 120-163(e) for the 1999 Regular Session, which did not meet the requirement of Section 3 of this act, the petition may be amended by a majority of the members of the interim board named in the petition so as to comply. The amendment may be made either before or after the petition is submitted."

Section 67. Effective January 1, 1999, through June 30, 2003, G.S. 135-3(8)c., as rewritten by Section 28.24(a) of Senate Bill 1366 of the 1997 General Assembly, as enacted, reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed, or otherwise engaged to perform services, by an employer participating in the Retirement System on a part-time, temporary, interim, or on a fee-for-service basis, whether contractual or otherwise, and if such beneficiary earns an amount in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars ($20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, G.S 135-3(8)c., who has been retired at least 12 months and has not been employed in any capacity, except as a substitute teacher, with a public school for at least 12 months, shall not include earnings while:

1. The beneficiary is employed to teach on a substitute or interim basis, and not on a permanent basis, in a public school;
2. The beneficiary is employed to teach in the teacher's area of certification in a low-performing school. As used in this sub-subdivision, a low-performing school is a public elementary or middle school at which forty-eight percent (48%) or more of the students were below grade level during either of the prior two school years or a public high school identified by the

State Board of Education as low-performing. If the designation of low-performing is removed while the beneficiary is employed to teach at the school, the provisions of this sub-subdivision apply for the next two school years after the designation is removed; or

3. The beneficiary is employed to teach in a public school in the teacher's area of certification in a geographical area in which the State Board of Education determines that there is a shortage of teachers in the beneficiary's area of certification.

The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit under the provisions of this sub-subdivision and as a ~~probationary~~ retired teacher as the term is defined under the provisions of ~~G.S. 115C-325(a)(5).~~ G.S. 115C-325-(a)(5a).

Beneficiaries employed under this sub-subdivision are not entitled to any benefits otherwise provided under this Chapter as a result of this period of employment.

Section 67.1. Section 28.16B(c) of Senate Bill 1366, if it becomes law, is amended by deleting "1998" and substituting "1997".

Section 68. Except as otherwise provided herein, this act is effective when it becomes law.

11:00 AM.

VISITOR REGISTRATION SHEET

Rules, Calendar, and Operations of the House — 10-29-98
Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME	FIRM OR AGENCY AND ADDRESS
Dirk Zylman	NCAAT
Sam Markham	~~EGHS~~
Leanne Winner	NCSBA
Martha Glass	DOA
Joyce Peters	APPOSCOE
Jackie Street	PPAB
Stephanie Mansun	NCAR
David Simmons	ZDA, PA
David Ferrell	HMCC&C, PA
Laura DeVno	DENR
Starla McKenney	Insurance
Evelyn Hawthorne	UNC-CH
Tommy Worth	CHCS
Lu Ann Coe	FFF
John Bowdish	Zebulon D. Alley, P.A.
Deborah Ross	ACLU
Susan Schmidt	NCJCDC
John Rustin	NCFPC

Nancy Thompson	NCCBS
Lisa Piercy	Capitol Group
Jane Gray	DOJ
Chris Fitzsimon	Common Sense Foundation
Mark Marcus	CCNC
Mike Calhoun	Self-Help
Melissa Lowell	DOJ
Patrick Stanley	CLPP
Adam Searing	NCHAC
Mike Carnette	NCTSA
Pam Wilms	NCTSA
Steve Woodson	NCFB