2003-2004

HOUSE
RULES & OPERATIONS
OF THE HOUSE

COMMITTEE
MINUTES

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
APRIL 15, 2003
1:05 P.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE JOINT RESOLUTION 606 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CLARENCE LIGHTNER, PROMINENT CIVIC LEADER, POLITICIAN, AND BUSINESSMAN

HOUSE JOINT RESOLUTION 813 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF BONNIE E. CONE, FOUNDER OF THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE

HOUSE JOINT RESOLUTION 1161 – A JOINT RESOLUTION ENCOURAGING NASCAR TO RETAIN THE CURRENT FIVE WINSTON CUP RACES IN THIS STATE, TWO AT NORTH CAROLINA SPEEDWAY AND THREE AT LOWE'S MOTOR SPEEDWAY, AND COMMEMORATING NASCAR AND ITS PIONEERS AS NORTH CAROLINA IS THE STOCK CAR RACING CAPITAL OF THE WORLD

HOUSE JOINT RESOLUTION 69 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF THOMAS BELL HUNTER, FORMER MEMBER OF THE GENERAL ASSEMBLY

HOUSE JOINT RESOLUTION 231 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CHARLES BENNETT "C.B. DEAN", FORMER NORTH CAROLINA MEMBER OF CONGRESS

ADJOURNMENT

MINUTES OF THE house COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

April 15, 2003

The House Committee on Rules, Calendar and Operations of the House met on April 15, at 1:05 p.m. in Room 421 of the Legislative office Building. All members were present with Chairman Culpepper presiding.

The following resolutions were considered:

HOUSE JOINT RESOLUTION 606– A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CLARENCE LIGHTNER, PROMINENT CIVIC LEADER, POLITICIAN, AND BUSINESSMAN. A proposed committee substitute was offered, and Representative Yongue moved for its adoption for the purpose if discussion. The chairman so ordered. Representative Bernard Allen, sponsor, was recognized. Along with his other accomplishments, Representative Allen stated that Mr. Lightner was elected the first African-American mayor of a capital city in the southeast and was his mentor. Representative LaRoque made a motion that the proposed committee substitute be given a favorable report, unfavorable to the original resolution, which motion carried.

HOUSE JOINT RESOLUTION 813 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF BONNIE E. CONE, FOUNDER OF THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE. A proposed committee substitute was offered, and Representative Crawford moved for its adoption for the purpose of discussion. The chairman so ordered. Representative McMahan, sponsor, was recognized. He stated that Bonnie Cone was the original founder of UNC Charlotte. She started as a math teacher in Charlotte High School and at the same time served as a math instructor at a night school in Charlotte that opened to aid the World War II veterans. The night school became Charlotte College which eventually became part of the University System in 1965, at which time she served as an acting Vice Chancellor for Student Affairs. Representative Crawford moved that the proposed committee substitute be given a favorable report, unfavorable to the original resolution. The motion carried.

HOUSE JOINT RESOLUTION 1161 – A JOINT RESOLUTION ENCOURAGING NASCAR TO RETAIN THE CURRENT FIVE WINSTON CUP RACES IN THIS STATE, TWO AT NORTH CAROLINA SPEEDWAY AND THREE AT LOWE'S MOTOR SPEEDWAY, AND COMMEMORATING NASCAR AND ITS PIONEERS AS NORTH CAROLINA IS THE STOCK CAR RACING CAPITAL OF THE WORLD. Representative Goodwin, sponsor, was recognized to explain the resolution. He gave a history of stock car racing in North Carolina and stated that the resolution also honors the memory of drivers from North Carolina that are part of that heritage. He said that there has been discussion within the racing world that North Carolina might lose one or two races which would have a tremendous financial impact on the local governments where the races are held. The resolution encourages NASCAR to

remember that North Carolina is the stock car racing capital of the world. Representative Owens moved that the resolution be given a favorable report. The motion carried.

HOUSE JOINT RESOLUTION 69 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF THOMAS BELL HUNTER, FORMER MEMBER OF THE GENERAL ASSEMBLY. Representative Goodwin, sponsor, was recognized and stated that Thomas Hunter served in the General Assembly during his (Representative Goodwin's) formative years and taught him about constituent service. Representative Yongue made a motion that the resolution be given a favorable report, which motion carried.

HOUSE JOINT RESOLUTION 231 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CHARLES BENNETT "C.B." DEANE, FORMER NORTH CAROLINA MEMBER OF CONGRESS. Representative Goodwin was also sponsor of this resolution and was recognized to speak on the resolution. He stated that if there was ever a profile in courage, it was Congressman Deane who served from 1946 through 1956. Knowing that he would lose his seat, he refused to sign the "Southern Manifesto" and took a stand for civil rights at a time when that was not popular. Representative Yongue made a motion to give the resolution a favorable report. The motion carried.

The meeting recessed until after the session.

Representative Bill Culpepper,
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE JOINT RESOLUTION 606

Sponsors: Representatives B. Allen, Ross (Primary Sponsors); Adams, Bell, Bonner, Capps, Carney, Cunningham, Earle, Farmer-Butterfield, Goodwin, Gorman, Hall, Hunter, Jones, Lucas, Luebke, McAllister, Michaux, Munford, Parmon, Stam, Weiss, and Womble.

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

March 24, 2003

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CLARENCE LIGHTNER, PROMINENT CIVIC LEADER, POLITICIAN, AND BUSINESSMAN.

Whereas, Clarence Everett Lightner was born on August 15, 1921, in Raleigh, North Carolina, to Calvin Lightner and Mammie Blackmon Lightner; and

Whereas, Clarence Lightner was educated in the Raleigh public schools and graduated from North Carolina Central University, where he was an outstanding athlete, especially in football, and Echols College of Mortuary Science; and

Whereas, Clarence Lightner was a licensed mortician and funeral director and successfully ran Lightner Funeral Home and Hillcrest Cemetery for many years; and

Whereas, Clarence Lightner represented southeast Raleigh on the Raleigh City Council from 1967 to 1973; and

Whereas, on November 6, 1973, Clarence Lightner made history when he was elected Mayor of Raleigh making him the first African-American Mayor of a southern capital city and the first popularly elected Raleigh mayor since 1947; and

Whereas, on August 9, 1977, Clarence Lightner was appointed to the North Carolina State Senate by Governor James B. Hunt, Jr.; and

Whereas, Clarence Lightner was active in numerous local, State, and national organizations, serving as a charter member of the Southern Conference of Black Mayors, the parent organization of the National Conference of Black Mayors; President of the National Funeral Directors and Morticians Association; Chair of the National Life Membership Foundation of Omega Psi Phi Fraternity, Inc., and as a member of the Democratic National Committee and National Business League; and

Whereas, Clarence Lightner served as Chair of the Southeast Raleigh Improvement Commission from 1993 to 2001, and in that capacity played a significant role in completing the economic development study which serves as the current guideline for developing southeast Raleigh, implementing the Small Business Success

Program, and creating the small business incubation program, which led to building, opening, and operation of the Raleigh Business and Technology Center; and

Whereas, Clarence Lightner was a steadfast advocate for higher education, serving as Chair of the Board of Trustees of Saint Augustine's College and as a member of the Board of Trustees of North Carolina State University for 10 years; and

Whereas, Clarence Lightner was awarded honorary doctoral degrees from Shaw University, Saint Augustine's College, and North Carolina Central University; and

Whereas, Clarence Lightner honorably served his country as a member of the United States Army during World War II; and

Whereas, Clarence Lightner was active in the Davie Street Presbyterian Church, where he served as an elder; and

Whereas, Clarence Lightner's devotion to improving the lives of others earned him the respect and admiration of all who knew and worked with him; and

Whereas, Clarence Lightner's influence in his community and his keen ability to negotiate made him a favorite among politicians and civic leaders, who often sought his advice and counsel; and

Whereas, Clarence Lightner expressed many times his belief that no matter what goals we set, what is essential is not the things we do separately, but what we hold in common and what we get done together; and

Whereas, Clarence Lightner was a mentor to many African-American leaders, who through the years greatly benefited from his wise guidance; and

Whereas, Clarence Lightner died on July 8, 2001; and

Whereas, Clarence Lightner was a loving husband to Marguerite Massey Lightner and devoted father to Claire Lightner Sharpe, Debra Lightner Yancey, Bruce Lightner, and the late Lawrence Lightner; Now, therefore,

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

SECTION 1. The General Assembly honors the memory of Clarence Everett Lightner and expresses the appreciation of this State for his life, accomplishments, and service.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Clarence Everett Lightner for the loss of their beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Clarence Everett Lightner.

SECTION 4. This resolution is effective upon ratification.

Monday

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE JOINT RESOLUTION 606
PROPOSED COMMITTEE SUBSTITUTE H606-PCS60286-RW-21

Sponsors:

Referred to:

March 24, 2003

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CLARENCE LIGHTNER, PROMINENT CIVIC LEADER, POLITICIAN, AND BUSINESSMAN.

Whereas, Clarence Everett Lightner was born on August 15, 1921, in Raleigh, North Carolina, to Calvin Lightner and Mammie Blackmon Lightner; and

Whereas, Clarence Lightner was educated in the Raleigh public schools and graduated from North Carolina Central University, where he was an outstanding athlete, especially in football, and Echols College of Mortuary Science; and

Whereas, Clarence Lightner was a licensed mortician and funeral director and successfully operated Lightner Funeral Home and Hillcrest Cemetery for many years; and

Whereas, Clarence Lightner represented southeast Raleigh on the Raleigh City Council from 1967 to 1973; and

Whereas, on November 6, 1973, Clarence Lightner made history when he was elected Mayor of Raleigh, making him the first African-American Mayor of a southern capital city and the first popularly elected Raleigh mayor since 1947; and

Whereas, on August 9, 1977, Clarence Lightner was appointed to the North Carolina State Senate by Governor James B. Hunt, Jr.; and

Whereas, Clarence Lightner was active in numerous local, State, and national organizations, serving as a charter member of the Southern Conference of Black Mayors, the parent organization of the National Conference of Black Mayors; President of the National Funeral Directors and Morticians Association; Chair of the National Life Membership Foundation of Omega Psi Phi Fraternity, Inc., and as a member of the Democratic National Committee and National Business League; and

Whereas, Clarence Lightner served as Chair of the Southeast Raleigh Improvement Commission from 1993 to 2001, and in that capacity played a significant role in completing the economic development study which serves as the current guideline for developing southeast Raleigh, implementing the Small Business Success Program, and creating the small business incubation program, which led to building, opening, and operation of the Raleigh Business and Technology Center; and

Whereas, Clarence Lightner was a steadfast advocate for higher education, serving as Chair of the Board of Trustees of Saint Augustine's College and as a member of the Board of Trustees of North Carolina State University for 10 years; and

Whereas, Clarence Lightner was awarded honorary doctoral degrees from Shaw University, Saint Augustine's College, and North Carolina Central University; and

Whereas, Clarence Lightner honorably served his country as a member of the United States Army during World War II; and

Whereas, Clarence Lightner was active in the Davie Street Presbyterian Church, where he served as an elder; and

Whereas, Clarence Lightner's devotion to improving the lives of others earned him the respect and admiration of all who knew and worked with him; and

Whereas, Clarence Lightner's influence in his community and his keen ability to negotiate made him a favorite among politicians and civic leaders, who often sought his advice and counsel; and

Whereas, Clarence Lightner expressed many times his belief that no matter what goals we set, what is essential is not the things we do separately, but what we hold in common and what we get done together; and

Whereas, Clarence Lightner was a mentor to many African-American leaders, who through the years greatly benefited from his wise guidance; and

Whereas, Clarence Lightner died on July 8, 2001; and

Whereas, Clarence Lightner was a loving husband to Marguerite Massey Lightner and devoted father to Claire Lightner Sharpe, Debra Lightner Yancey, Bruce Lightner, and the late Lawrence Lightner; Now, therefore,

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

SECTION 1. The General Assembly honors the memory of Clarence Everett Lightner and expresses the appreciation of this State for his life, accomplishments, and service.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Clarence Everett Lightner for the loss of their beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Clarence Everett Lightner.

SECTION 4. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **Rules, Calendar and Operations of the House**.

☐ Committee Substitute for

H.J.R. 606 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CLARENCE LIGHTNER, PROMINENT CIVIC LEADER, POLITICIAN, AND BUSINESSMAN..

☐ 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 the committee substitute ~~bill~~ resolution, unfavorable as to the original ~~bill~~ resolution.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE JOINT RESOLUTION 813

Sponsors:	Representatives McMahan, Black (Primary Sponsors); Alexander, Barnhart, Blackwood, Carney, Cunningham, Earle, Goodwin, Gulley, McHenry, Mitchell, Ray, Rayfield, Rhodes, and Saunders.
Referred to:	Rules, Calendar, and Operations of the House.

March 31, 2003

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF BONNIE E. CONE, FOUNDER OF THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE.

Whereas, Bonnie E. Cone was born in Lodge, South Carolina, on June 22, 1907, to Charles Cone and Addie Harter Cone; and

Whereas, Bonnie Cone graduated magna cum laude from Coker College in 1928 and earned a masters degree in mathematics from Duke University in 1941; and

Whereas, Bonnie Cone spent much of her life as an educator, inspiring countless students to excel in science; and

Whereas, in 1943, Bonnie Cone was recruited to teach math at Duke University, where she was the only female teacher on Duke's west campus; and

Whereas, in 1945, Bonnie Cone worked in the Naval Ordinance Lab in Washington, D.C., as a statistical analyst studying mine detection reports; and

Whereas, Bonnie Cone returned to North Carolina in 1946 and began teaching at Central High School in Charlotte; and

Whereas, during this time, Bonnie Cone also served as a part-time math instructor at the University of North Carolina's Charlotte Center, a night school established to aid veterans of World War II; and

Whereas, in 1948, Bonnie Cone became the director of the Center; and

Whereas, Bonnie Cone worked diligently on behalf of the Center, aiding in the conversion of the Center into Charlotte College, a two-year institution; raising funds to buy land for a separate campus; obtaining support from the City's business community to support the College; garnering approval from the City's voters for a special tax to maintain the College; and lobbying for the expansion of the College's curriculum into a four-year college; and

Whereas, in 1965, Bonnie Cone's hard work on behalf of the College was recognized and rewarded when she made Charlotte College a member of the State's university system; and

Whereas, Bonnie Cone served as acting Chancellor of the University of North Carolina at Charlotte in 1966, and for a number of years served as Vice-Chancellor for student affairs and community relations; and

Whereas, after retiring, Bonnie Cone continued to work vigorously on behalf of the University, helping with fundraising and building alumni support; and

Whereas, Bonnie Cone was truly proud of the University she founded and was greatly honored when the University named its Student Union after her and established five Distinguished Professorships in her name; and

Whereas, Bonnie Cone served as a trustee of Coker College and Belmont Abbey College, as a member of the Board of Visitors at both Davidson College and Johnson C. Smith University, and as the first female President of the Southern Association of Junior Colleges; and

Whereas, Bonnie Cone was a supporter of various organizations, including the Charlotte Symphony, Charlotte Opera, Boys Scouts, YWCA, Children's Nature Museum, Habitat for Humanity, the United Arts Council, and the Charlotte Central Lions Club; and

Whereas, Bonnie Cone was the recipient of numerous awards and recognitions, including the National Conference of Christians and Jews Silver Medallion for citizenship in 1962; the 26th Judicial District Bar Association's Law Day Liberty Bell Award in 1966; and the North Carolina Award from the Board of Governors of The University of North Carolina in 1982, of which she was the first female recipient; and

Whereas, Bonnie Cone received honorary degrees from Davidson College, Coker College, Belmont Abbey College, Queens College, Mt. Holyoke College, Wake Forest University, Pfeiffer University, Duke University, Lander University, and the University of North Carolina at Charlotte; and

Whereas, Bonnie Cone lived by the motto: "I am only one, but I am one. I cannot do everything, but I can do something. What I can do, I ought to do, and what I ought to do, by the Grace of God, I will"; and

Whereas, Bonnie Cone died on March 8, 2003, leaving a legacy of commitment and dedication to the education of the people of this State and nation; Now, therefore,

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

SECTION 1. The General Assembly honors the memory of Bonnie E. Cone and expresses the gratitude of the citizens of this State for the service she rendered and the contributions she made in founding the University of North Carolina at Charlotte.

SECTION 2. The General Assembly expresses its deepest sympathy to the family of Bonnie E. Cone for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Bonnie E. Cone and to the Chancellor of the University of North Carolina at Charlotte.

SECTION 4. This resolution is effective upon ratification.

Wed.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE JOINT RESOLUTION 813
PROPOSED COMMITTEE SUBSTITUTE H813-PCS45059-RW-22

Sponsors:

Referred to:

March 31, 2003

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF BONNIE E. CONE, FOUNDER OF THE UNIVERSITY OF NORTH CAROLINA AT CHARLOTTE.

Whereas, Bonnie E. Cone was born in Lodge, South Carolina, on June 22, 1907, to Charles Cone and Addie Harter Cone; and

Whereas, Bonnie Cone graduated magna cum laude from Coker College in 1928 and earned a masters degree in mathematics from Duke University in 1941; and

Whereas, Bonnie Cone spent much of her life as an educator, inspiring countless students to excel in science; and

Whereas, in 1943, Bonnie Cone was recruited to teach math at Duke University, where she was the only female teacher on Duke's west campus; and

Whereas, in 1945, Bonnie Cone worked in the Naval Ordnance Lab in Washington, D.C., as a statistical analyst studying mine detection reports; and

Whereas, Bonnie Cone returned to North Carolina in 1946 and began teaching at Central High School in Charlotte; and

Whereas, during this time, Bonnie Cone also served as a part-time math instructor at the University of North Carolina's Charlotte Center, a night school established to aid veterans of World War II; and

Whereas, in 1948, Bonnie Cone became the director of the Center; and

Whereas, Bonnie Cone worked diligently on behalf of the Center, aiding in the conversion of the Center into Charlotte College, a two-year institution; raising funds to buy land for a separate campus; obtaining support from the City's business community to support the College; garnering approval from the City's voters for a special tax to maintain the College; and lobbying for the expansion of the College's curriculum into a four-year college; and

Whereas, in 1965, Bonnie Cone's hard work on behalf of the College was recognized and rewarded when Charlotte College was made a part of the State's university system; and

Whereas, Bonnie Cone served as acting Chancellor of the University of North Carolina at Charlotte in 1966, and for a number of years served as Vice-Chancellor for student affairs and community relations; and

Whereas, after retiring, Bonnie Cone continued to work vigorously on behalf of the University, helping with fundraising and building alumni support; and

Whereas, Bonnie Cone was truly proud of the University she founded and was greatly honored when the University named its Student Union after her and established five Distinguished Professorships in her name; and

Whereas, Bonnie Cone served as a trustee of Coker College and Belmont Abbey College, as a member of the Board of Visitors at both Davidson College and Johnson C. Smith University, and as the first female President of the Southern Association of Junior Colleges; and

Whereas, Bonnie Cone was a supporter of various organizations, including the Charlotte Symphony, the Charlotte Opera, the Boy Scouts, the YWCA, the Children's Nature Museum, Habitat for Humanity, the United Arts Council, and the Charlotte Central Lions Club; and

Whereas, Bonnie Cone was the recipient of numerous awards and recognitions, including the National Conference of Christians and Jews Silver Medallion for citizenship in 1962; the 26th Judicial District Bar Association's Law Day Liberty Bell Award in 1966; and the North Carolina Award from the Board of Governors of The University of North Carolina in 1982, of which she was the first female recipient; and

Whereas, Bonnie Cone received honorary degrees from Davidson College, Coker College, Belmont Abbey College, Queens College, Mt. Holyoke College, Wake Forest University, Pfeiffer University, Duke University, Lander University, and the University of North Carolina at Charlotte; and

Whereas, Bonnie Cone lived by the motto: "I am only one, but I am one. I cannot do everything, but I can do something. What I can do, I ought to do, and what I ought to do, by the Grace of God, I will"; and

Whereas, Bonnie Cone died on March 8, 2003, leaving a legacy of commitment and dedication to the education of the people of this State and nation; Now, therefore,

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

SECTION 1. The General Assembly honors the memory of Bonnie E. Cone and expresses the gratitude of the citizens of this State for the service she rendered and the contributions she made in founding the University of North Carolina at Charlotte.

SECTION 2. The General Assembly expresses its deepest sympathy to the family of Bonnie E. Cone for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Bonnie E. Cone and to the Chancellor of the University of North Carolina at Charlotte.

SECTION 4. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for

H.J.R. 813 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF BONNIE E. CONE, FOUNDER OF THE UNIVERSITY OF NORTH CAROLINA AT 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 the committee substitute ~~bill~~ resolution, unfavorable as to the original ~~bill.~~ resolution)

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

☐ 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)

03/19/03

HOUSE JOINT RESOLUTION 1161

Sponsors: Representatives Goodwin, McMahan, L. Johnson, Barnhart (Primary Sponsors); Creech, Ray, K. Williams, Moore, and Luebke.

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

April 10, 2003

A JOINT RESOLUTION ENCOURAGING NASCAR TO RETAIN THE CURRENT FIVE WINSTON CUP RACES IN THIS STATE, TWO AT NORTH CAROLINA SPEEDWAY AND THREE AT LOWE'S MOTOR SPEEDWAY, AND COMMEMORATING NASCAR AND ITS PIONEERS AS NORTH CAROLINA IS THE STOCK CAR RACING CAPITAL OF THE WORLD.

Whereas, "The Rock", the local name of The North Carolina Speedway, began as a dream of several local businessmen in the early 1960s; and

Whereas, North Carolina Speedway opened October 31, 1965, and was rebuilt in 1969; and

Whereas, today, the 1.017-mile superspeedway has become one of the most popular stops on the NASCAR Winston Cup Series and NASCAR Busch Series Grand National Division schedules; and

Whereas, The Rock currently hosts two NASCAR Winston Cup Series races: the Subway 400 in February and the Pop Secret Microwave Popcorn 400 in November; and

Whereas, located in the heart of stock car country, North Carolina Speedway is most noted for its fan-friendly atmosphere and Southern hospitality; and

Whereas, Richmond County, site of The Rock, is the fifth most economically depressed county in the State; and

Whereas, loss of a single NASCAR Winston Cup race at the North Carolina Speedway would reduce the speedway's economic impact on the region a minimum of $25 million per year; and

Whereas, the net decrease in tax revenue collections for the State and local governments would be significant; and

Whereas, Lowe's Motor Speedway opened in June of 1960 as Charlotte Motor Speedway; and

Whereas, that year saw the first running of the World 600 (now the Coca-Cola 600) and the National 500 (now the UAW-GM Quality 500); and

Whereas, those two races have been run at Lowe's Motor Speedway every year since; and

Whereas, the Winston All Star race has been run at Lowe's Motor Speedway every year since 1987; and

Whereas, loss of a single NASCAR Winston Cup race at Lowe's Motor Speedway would reduce the speedway's economic impact on the State of North Carolina a minimum of $80 million per year; and

Whereas, this loss would also result in a significant decrease in jobs and tax revenue collections for the State and local governments, in addition to the speedway itself; and

Whereas, job losses would occur in the local hotel, restaurant, retail and racing-related businesses in the vicinity of Lowe's Motor Speedway, estimated at 600 positions; and

Whereas, the net decrease in tax revenue collections for the State and local governments would be in excess of $3.2 million per year; and

Whereas, motorsports is becoming big business and its need for engineering professionals is increasing, and to that end the State of North Carolina has funded the William States Lee College of Engineering at UNC Charlotte to offer a concentration in Motorsports Engineering; and

Whereas, more NASCAR teams are located in North Carolina than in any other state, and North Carolina is the auto-racing capital of the United States; and

Whereas, after World War II, stock car racing evolved as a sport in the foothills and Piedmont of North Carolina, quickly becoming one of the deepest traditions in North Carolina popular culture; and

Whereas, several world-class tracks stretch across the State and provide fans a chance to watch the legends of the sport every year; and

Whereas, North Carolina was the birthplace or home of such NASCAR legends as the late Dale Earnhardt and the late Lee Petty, and the General Assembly desires to commemorate their memory; and

Whereas, NASCAR has expanded to a national sport; and

Whereas, discussions have been had about moving one or more NASCAR races out of North Carolina; and

Whereas, to be true to its roots, NASCAR should maintain a maximum racing presence in North Carolina; Now, therefore,

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

SECTION 1. The North Carolina General Assembly encourages NASCAR to retain the two Winston Cup Series races at North Carolina Speedway and the three Winston Cup Series races at Lowe's Motor Speedway.

SECTION 2. The North Carolina General Assembly commemorates the pioneers of NASCAR, such as the late Lee Petty and the late Dale Earnhardt.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the governing body and officers of NASCAR.

SECTION 4. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 1161 A JOINT RESOLUTION ENCOURAGING NASCAR TO RETAIN THE CURRENT FIVE WINSTON CUP RACES IN THIS STATE, TWO AT NORTH CAROLINA SPEEDWAY AND THREE AT LOWE'S MOTOR SPEEDWAY, AND COMMEMORATING NASCAR AND ITS PIONEERS AS NORTH CAROLINA IS THE STOCK CAR RACING CAPITAL OF THE WORLD.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

Monday

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE JOINT RESOLUTION 69

Sponsors: Representative Goodwin.

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

February 25, 2003

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF THOMAS BELL HUNTER, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Thomas Bell Hunter was born on October 20, 1916, in Rockingham, North Carolina, to Dr. N. C. Hunter and Carrie Jones Hunter; and

Whereas, Thomas Bell Hunter attended the Rockingham and Laurinburg City Schools and the University of North Carolina at Chapel Hill; and

Whereas, Thomas Bell Hunter served his country as a member of the United States Army from 1942 to 1946, achieving the rank of captain; and

Whereas, Thomas Bell Hunter married Florence Ledbetter on September 18, 1947, and was the father of three sons, Thomas B. Hunter, Jr., Henry L. Hunter, and John W. Hunter; and

Whereas, Thomas Bell Hunter made a living in the insurance industry; and

Whereas, Thomas Bell Hunter served as Mayor of Rockingham from 1957 to 1963; and

Whereas, Thomas Bell Hunter served with honor and distinction as a member of the House of Representatives during the 1962, 1967, 1971, 1973, and 1977 sessions of the General Assembly; and

Whereas, during his service in the General Assembly, Thomas Bell Hunter was a member of numerous committees and commissions, serving as Chair of Commissions and Institutions for the Blind and Deaf and Vice-Chair of Insurance, Local Government, Mental Health, and Wildlife Resources; and

Whereas, Thomas Bell Hunter was active in the Methodist church and the Shriners; Now, therefore,

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

SECTION 1. The General Assembly honors the memory of Thomas Bell Hunter and expresses the appreciation of this State and its citizens for his life and service.

SECTION 2. The General Assembly wishes to extend its sympathy to the family and friends of Thomas Bell Hunter for the loss of a beloved family member and friend.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Thomas Bell Hunter.

SECTION 4. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 69 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF THOMAS BELL HUNTER, 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

Monday

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE JOINT RESOLUTION 231

Sponsors: Representative Goodwin.

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

March 5, 2003

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CHARLES BENNETT "C.B." DEANE, FORMER NORTH CAROLINA MEMBER OF CONGRESS.

Whereas, Charles Bennett "C.B." Deane was born on November 1, 1898, in Anson County, North Carolina; and

Whereas, C.B. Deane attended Pee Dee Academy in Rockingham and Trinity Park School in Durham, and received a law degree from Wake Forest College; and

Whereas, C.B. Deane was admitted to the North Carolina State Bar in 1923 and engaged in the practice of law in Rockingham from 1923 through 1926; and

Whereas, C.B. Deane served as Register of Deeds of Richmond County from 1926 to 1934 and as an attorney in the Wage and Hour Division, Department of Labor, in Washington, D.C., from 1938 through 1939; and

Whereas, C.B. Deane later worked in administrative law and insurance; and

Whereas, C.B. Deane served as Chair of the Richmond County Democratic Executive Committee from 1932 to 1946; and

Whereas, C.B. Deane was elected to Congress in 1946, serving with honor and distinction through 1956; and

Whereas, C.B. Deane lost his congressional seat after taking a courageous public stand in favor of racial desegregation and refusing to sign the "Southern Manifesto," a document signed by many Southern members of Congress criticizing the U.S. Supreme Court's decision in the landmark school desegregation case, Brown v. Board of Education; and

Whereas, C.B. Deane was active in his Baptist church and was in favor of Baptist colleges and universities admitting African-Americans as students; and

Whereas, C.B. Deane served as a trustee of Wake Forest University and Meredith College; and

Whereas, C.B. Deane served as an example and instilled the desire to serve the people of North Carolina and many others, including his son, Charles B. Deane, Jr., a former member of the State Senate and long-time member of the Richmond County

Board of Education, and his grandson, Bennett Deane, current member of the Rockingham City Council; and

Whereas, C.B. Deane died on November 24, 1969; Now, therefore,

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

SECTION 1. The General Assembly honors the memory of Charles Bennett "C.B." Deane and expresses the gratitude and appreciation of this State and its citizens for his life and service.

SECTION 2. The General Assembly extends its sympathy to the family and friends of Charles Bennett "C.B." Deane for the loss of a beloved family member and friend.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Charles Bennett "C.B." Deane.

SECTION 4. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 231 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF CHARLES BENNETT "C.B." DEANE, FORMER NORTH CAROLINA MEMBER OF CONGRESS.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
APRIL 15, 2003
8:30 P.M.
AGENDA

CALL TO ORDER
CONSIDERATION OF BILLS

HOUSE RESOLUTION 699 – A HOUSE RESOLUTION EXPRESSING GRATITUDE TO THE NUCOR CORPORATION FOR ITS CONTRIBUTIONS TO THE STATE'S ECONOMY AND ENVIRONMENT

COMMITTEE SUBSTITUTE FOR HOUSE BILL 397 –AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

April 15, 2003

The Committee on Rules, Calendar and Operations of the House met on April 15, 2003 at 8:30 p.m. in Room 421 of the Legislative Office Building. All members were present:

The following bills were considered:

HOUSE RESOLUTION 699 –A HOUSE RESOLUTION EXPRESSING GRATITUDE TO THE NUCOR CORPORATION FOR ITS CONTRIBUTIONS TO THE STATE'S ECONOMY AND ENVIRONMENT. A proposed committee substitute was offered, and Representative Yongue moved for its adoption. Without objection, the chairman so ordered. Representative Hunter, sponsor, was recognized to speak on the resolution. He stated that the resolution is to thank Nucor for locating in Hertford County and for the contributions it has made to the State's economy. Representative Luebke raised questions concerning the tax credit given to Nucor by the State. Discussion followed after which Representative Miller moved that the proposed committee substitute be adopted, unfavorable to the original resolution. The motion carried. Representatives Luebke and Setzer wanted to be recorded as voting no.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 397 – A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES. A second proposed committee substitute was offered changing the title to AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES, AND TO IMPLEMENT A STATE BUDGET THAT ENABLES THE STATE TO PROVIDE TAX RELIEF FOR WORKING FAMILIES AND PROTECTS THE STATE'S TRIPLE-A BOND RATING. Representative Hackney moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. The chairman noted that the committee substitute is a merger of the appropriations bill that was reported by the Appropriations Committee with a favorable report and House Bill 593 reported favorably by the Finance Committee. He recognized Representatives Crawford, Sherrill, Owens, Howard and Miner, five of the Co-Chairs of the Appropriations Committee, and Representatives McComas, Luebke, two of the Co-Chairs of the Finance Committee, who spoke briefly on the proposed committee substitute. Representative Sherrill made a motion that the proposed committee substitute be given a favorable report, unfavorable to the first committee substitute. The motion carried.

The meeting adjourned at 9:30 p.m.

Representative Bill Culpepper,
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE RESOLUTION 699

Sponsors: Representative Hunter.

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

March 27, 2003

A HOUSE RESOLUTION EXPRESSING GRATITUDE TO THE NUCOR CORPORATION FOR ITS CONTRIBUTIONS TO THE STATE'S ECONOMY AND ENVIRONMENT.

Whereas, the Nucor Corporation, which is headquartered in Charlotte, North Carolina, became the largest steel recycler in the United States in 2001 with operating facilities in 14 states; and

Whereas, Nucor operates one steel-recycling facility in North Carolina and employs more than 385 workers in Hertford County; and

Whereas, Nucor's North Carolina facility produces carbon steel plates; and

Whereas, with its remarkable technology and high-level efficiency, Nucor's North Carolina facility recycles approximately one million tons of steel each year; and

Whereas, the Nucor facility in North Carolina produced more than 238 million dollars in total sales for the 2001-2002 fiscal year, making Nucor one of the most successful companies in the State; and

Whereas, Nucor has significantly helped to improve education through its contribution of over 25 million dollars in educational scholarships in 2002; and

Whereas, Nucor has again revolutionized steelmaking through the development of Castrip® technology, which will reshape the industry, making steel thinner, producing it faster at less cost and with fewer defects than conventional slab-casting. This would allow steel manufacturers to produce thin, flat-roll products with fewer steps, thus saving money on both capital outlay and operating expenses by casting steel at or near its final dimensions, allowing tremendous savings of time and energy; and

Whereas, the North Carolina House of Representatives is sincerely grateful for the fantastic investments made by the Nucor Corporation into North Carolina's economy and educational system; Now, therefore,

Be it resolved by the House of Representatives:

SECTION 1. The House of Representatives praises the Nucor Corporation for the tremendous success of its operations in North Carolina, expresses its gratitude to the Nucor Corporation for its contributions to the State's economy, and hopes that the

positive working relationship between the Nucor Corporation and the State of North Carolina will continue for many years to come.

SECTION 2. The Principal Clerk shall transmit a certified copy of this resolution to Daniel R. DiMicco, Vice-Chairman and Chief Executive Officer of the Nucor Corporation, and to Giff Daughtridge, General Manager of the Nucor Corporation's facility in Hertford County.

SECTION 3. This resolution is effective upon adoption.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE RESOLUTION 699
PROPOSED COMMITTEE SUBSTITUTE H699-PCS70298-LG-9

Sponsors:

Referred to:

March 27, 2003

A HOUSE RESOLUTION EXPRESSING GRATITUDE TO THE NUCOR CORPORATION FOR ITS CONTRIBUTIONS TO THE STATE'S ECONOMY AND ENVIRONMENT.

Whereas, the Nucor Corporation, which is headquartered in Charlotte, North Carolina, is the largest steel recycler in the United States with operating facilities in 12 states; and

Whereas, Nucor has invested over 500 million dollars to build a steel-recycling facility in North Carolina, producing carbon steel plates and employing 390 workers in Hertford County; and

Whereas, 23 other associated industries, employing approximately 200 employees, have invested approximately 30 million dollars in North Carolina as a direct result of Nucor's locating in Hertford County; and

Whereas, with its remarkable technology and high-level efficiency, Nucor's North Carolina steel-producing facility recycles approximately one million tons of steel each year; and

Whereas, the Nucor facility in North Carolina produced more than 238 million dollars in total sales for the 2001-2002 fiscal year, making Nucor one of the most successful companies in the State; and

Whereas, Nucor has significantly helped to improve education through its contribution of over 25 million dollars in educational scholarships in 2002; and

Whereas, Nucor has again revolutionized steelmaking through the development of Castrip® technology, which will reshape the industry by making steel thinner and producing it faster, at less cost, and with fewer defects than conventional slab-casting. This new technology will allow steel manufacturers to produce thin, flat-rolled products with fewer steps, thus saving money on both capital outlay and operating expenses by casting steel at or near its final dimensions, allowing tremendous savings of time and energy; and

Whereas, the North Carolina House of Representatives is sincerely grateful for the fantastic investments made by the Nucor Corporation into North Carolina's economy and educational system; Now, therefore,

Be it resolved by the House of Representatives:

SECTION 1. The House of Representatives praises the Nucor Corporation for the tremendous success of its operations in North Carolina, expresses its gratitude to the Nucor Corporation for its contributions to the State's economy, and hopes that the positive working relationship between the Nucor Corporation and the State of North Carolina will continue for many years to come.

SECTION 2. The Principal Clerk shall transmit a certified copy of this resolution to Daniel R. DiMicco, Vice-Chairman and Chief Executive Officer of the Nucor Corporation, and to Giff Daughtridge, General Manager of the Nucor Corporation's facility in Hertford County.

SECTION 3. This resolution is effective upon adoption.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H. .R. 699 A HOUSE RESOLUTION EXPRESSING GRATITUDE TO THE NUCOR CORPORATION FOR ITS CONRIBUTIONS TO THE STATE'S ECONOMY AND ENVIRONMENT.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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~~ The committee substitute resolution be be adopted. (HOUSE RESOLUTION ONLY)

adopted, unfavorable to original resolution 03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 397
Committee Substitute Favorable 4/15/03

Short Title: 2003 Appropriations Act. (Public)

Sponsors:

Referred to:

March 11, 2003

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

INTRODUCTION

SECTION 1.1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

TITLE OF ACT

SECTION 1.2. This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2003."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. 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 biennium ending June 30, 2005, according to the following schedule:

Current Operations – General Fund	**2003-2004**	**2004-2005**

EDUCATION		
Community Colleges System Office	659,110,455	662,184,769
Department of Public Instruction	6,017,691,217	6,025,509,098
University System	1,761,408,589	1,796,324,529
HEALTH AND HUMAN SERVICES		
Department of Health and Human Services		
Office of the Secretary	81,783,833	80,583,833
Division of Aging	27,535,838	27,535,838
Division of Blind Services/Deaf/HH	9,302,670	9,387,008
Division of Child Development	250,943,174	250,943,174
Division of Education Services	31,606,862	31,470,076
Division of Facility Services	9,442,530	9,442,530
Division of Medical Assistance	2,270,544,822	2,558,592,984
Division of Mental Health	577,021,583	580,154,434
NC Health Choice	45,057,907	45,057,907
Division of Public Health	123,425,475	122,421,895
Division of Social Services	176,728,674	186,579,268
Division of Vocation Rehabilitation	39,798,384	40,591,118
Total	3,643,191,752	3,942,760,065
NATURAL AND ECONOMIC RESOURCES		
Department of Agriculture and Consumer Services	49,214,757	49,237,156
Department of Commerce		
Commerce	32,925,728	33,165,487
Commerce State-Aid	10,999,731	10,999,731
NC Biotechnology Center	5,883,395	5,883,395
Rural Economic Development Center	4,425,677	4,425,677
Department of Environment and Natural Resources		
Environment and Natural Resources	146,337,419	153,052,962
Clean Water Management Trust Fund	25,000,000	25,000,000
Office of the Governor – Housing Finance Agency	4,750,945	4,750,945
Department of Labor	13,265,001	13,273,651
JUSTICE AND PUBLIC SAFETY		
Department of Correction	940,840,075	960,172,282
Department of Crime Control and Public Safety	29,034,326	28,139,010
Judicial Department	303,251,883	310,448,697
Judicial Department – Indigent Defense	72,578,130	70,645,094
Department of Justice	70,673,310	71,459,312
Department of Juvenile Justice and		

Delinquency Prevention	130,313,473	130,505,498
GENERAL GOVERNMENT		
Department of Administration	55,733,844	56,312,231
Office of Administrative Hearings	2,409,683	2,411,797
Department of State Auditor	10,243,471	10,243,471
Office of State Controller	9,694,464	9,719,451
Department of Cultural Resources		
Cultural Resources	54,193,964	53,915,314
Roanoke Island Commission	1,500,000	1,500,000
State Board of Elections	7,439,982	4,915,939
General Assembly	41,561,463	44,971,305
Office of the Governor		
Office of the Governor	4,856,503	4,826,503
Office of State Budget and Management	4,176,537	4,180,842
OSBM – Reserve for Special Appropriations	3,130,000	3,130,000
Department of Insurance		
Insurance	21,735,135	21,766,272
Insurance – Volunteer Safety Workers' Compensation	4,500,000	4,500,000
Office of Lieutenant Governor	601,722	601,722
Department of Revenue	73,501,897	73,501,897
Rules Review Commission	310,454	310,454
Department of Secretary of State	7,754,229	7,453,229
Department of State Treasurer		
State Treasurer	19,941,830	19,944,585
State Treasurer – Retirement for Fire and Rescue Squad Workers	7,181,179	7,181,179
TRANSPORTATION		
Department of Transportation	11,429,525	11,460,101
RESERVES, ADJUSTMENTS AND DEBT SERVICE		
Reserve for Compensation Increases	132,350,000	126,250,000
Statewide Reserve for State Health Plan	72,000,000	96,000,000
Reserve for Teachers' and State Employees' Retirement Rate Adjustment	26,546,000	154,200,000

Retiree Health Benefits	36,800,000	36,800,000
Contingency and Emergency	5,000,000	5,000,000
Reserve for Salary Adjustments	500,000	500,000
Mental Health, Developmental Disabilities and Substance Abuse Services Trust Fund	10,000,000	0
Reserve to Implement HIPAA	2,000,000	0
Economic Incentives Reserve	2,600,000	0
Judicial Staffing/Salary Reserve	461,198	461,198
State Surplus Real Property System	250,000	0
Blue Ribbon Commission on Medicaid Reform	500,000	0
Debt Service		
General Debt Service	387,785,920	474,479,452
Federal Reimbursement	1,155,948	1,155,948
TOTAL CURRENT OPERATIONS – GENERAL FUND	14,940,740,811	15,535,630,248

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) The General Fund availability used in developing the 2003-2005 biennial budget is shown below:

	FY 2003-2004	**FY 2004-2005**
Unappropriated Balance	103,885	0
Beginning Unreserved Credit Balance	375,000,000	0
Revenues Based on Existing Tax Structure	13,398,700,000	14,203,160,000
Nontax Revenues		
Investment Income	126,266,801	132,056,801
Judicial Fees	137,520,000	144,430,000
Disproportionate Share	100,000,000	100,000,000
Insurance	51,900,000	53,900,000
Other Nontax Revenues	116,050,000	120,100,000
Highway Trust Fund Transfer	252,422,125	231,774,330
Highway Fund Transfer	16,379,000	16,166,400
Subtotal Nontax Revenues	800,537,926	798,427,531
Total General Fund Availability	**14,574,341,811**	**15,001,587,531**
Adjustments to Availability: 2003 Session		
Finance Committee Revenue Initiatives	384,000,000	480,900,000
Tobacco Settlement Funds – Tobacco Trust Fund	40,000,000	40,000,000

Tobacco Settlement Funds – Health & Wellness Trust Fund	20,000,000	20,000,000
Transfer from Disaster Reserve	100,000,000	0
Credit Savings Reserve Account	(100,000,000)	0
Credit to Repairs and Renovations Account	(50,000,000)	0
Subtotal Adjustments to Availability: 2003 Session	394,000,000	540,900,000
General Fund Availability for 2003-2005 Biennium	14,968,341,811	15,542,487,531
Total General Fund Appropriations 2003-2005 Biennium	(14,968,341,811)	(15,535,630,248)
Unappropriated Balance	0	6,857,283

SECTION 2.2.(b) Notwithstanding G.S. 143-16.4(a2), of the funds credited to the Tobacco Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1999-2 during the 2003-2004 and 2004-2005 fiscal years, the sum of forty million dollars ($40,000,000) shall be transferred from the Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2004 and 2004-2005 fiscal years.

SECTION 2.2.(c) Notwithstanding G.S. 143-16.4(a1), of the funds credited to the Health Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1999-2 during the 2003-2004 and 2004-2005 fiscal years, the sum of twenty million dollars ($20,000,000) that would otherwise be deposited in the Fund Reserve established by G.S. 147-86.30(c) shall be transferred from the Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2004 and 2004-2005 fiscal years.

SECTION 2.2.(d) On July 1, 2003, the State Controller shall transfer one hundred million dollars ($100,000,000) from the Disaster Reserve Fund, Budget Code 13017, to Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2004 fiscal year.

SECTION 2.2.(e) Notwithstanding G.S. 105-187.9(b)(1), the sum to be transferred to the General Fund for each of the fiscal years 2003-2004 and 2004-2005 is two hundred fifty million dollars ($250,000,000).

SECTION 2.2.(f) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, the State Controller shall transfer only one hundred million dollars ($100,000,000) from the unreserved credit balance to the Savings Reserve Account on June 30, 2003. This is not an "appropriation made by law", as that phrase is used in Article V, Section 7(1) of the North Carolina Constitution. This subsection becomes effective June 30, 2003.

SECTION 2.2.(g) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the State Controller shall transfer only fifty million dollars ($50,000,000) from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2003. This subsection becomes effective June 30, 2003.

SECTION 2.2.(h) Notwithstanding G.S. 147-86.30(c), the Health and Wellness Trust Fund Commission may expend the balance of funds remaining from funds transferred from the Fund Reserve to Health and Wellness Trust Fund nonreserved funds pursuant to Section 2.2(h) of S.L. 2002-126. These funds shall be expended in accordance with G.S. 147-86.30(d) during the 2003-2005 fiscal biennium.

PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 2005, according to the following schedule:

Current Operations – Highway Fund	**2003-2004**	**2004-2005**
(1) Transportation Admin. (84210)	$70,917,203	$69,242,486
(2) Transportation Operations (84220)	28,190,393	28,150,605
(3) Transportation programs (84230)		
State Construction		
Secondary	89,600,000	90,590,000
Urban	14,000,000	14,000,000
Public access	2,000,000	2,000,000
Spot safety	9,100,000	9,100,000
Contingency	10,000,000	10,000,000
Federal Aid Match	4,160,000	4,280,000
Maintenance	600,933,217	576,859,889
Asphalt plant/OSHA	425,000	425,000
Capital	7,000,000	0
Ferry Operations	19,677,283	19,677,283
Aid to municipalities	89,600,000	90,590,000
Rail	15,090,919	15,531,153
Public transit	76,232,576	78,475,484
(4) Governor's highway safety (84240)	292,449	293,118
(5) Transportation regulation (84260)	100,255,703	100,323,363
(6) Reserves, transfers, other agencies (84270)	213,455,257	218,670,347
TOTAL	**1,350,930,000**	**1,328,208,728**

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund availability used in developing the 2003-2005 biennial budget is shown below:

Highway Fund Budget Reform Statement	**2003-2004**	**2004-2005**
Beginning Credit Balance		-
Estimated Revenue	$ 1,350,930,000	$ 1,373,080,000
Estimated Reversions		-
Total Highway Fund Availability	**$ 1,350,930,000**	**$ 1,373,080,000**

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 2005, according to the following schedule:

Current Operations – Highway Trust Fund	2003-2004	2004-2005
Intrastate System	$ 423,993,831	$ 459,363,570
Urban Loops	79,689,271	84,350,953
Aid to Municipalities	171,445,448	185,747,496
Total for Secondary Roads	44,486,843	48,197,953
Program Administration	38,001,482	39,636,698
Transfer to General Fund	252,422,125	231,774,330
GRAND TOTAL CURRENT OPERATIONS AND EXPANSION	**$ 1,010,039,000**	**$ 1,049,071,000**

PART V. BLOCK GRANTS

Requested by: Representatives Barnhart, Nye

DHHS BLOCK GRANTS

SECTION 5.1.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2004, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT		
01.	Community Action Agencies	$ 15,266,973
02.	Limited Purpose Agencies	848,165
03.	Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	848,165
TOTAL COMMUNITY SERVICES BLOCK GRANT		$ 16,963,303
SOCIAL SERVICES BLOCK GRANT		
01.	County departments of social services (Transfer from TANF - $4,500,000)	$ 28,868,189
02.	Allocation for in-home services provided by county departments of social services	2,101,113
03.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	3,234,601
04.	Division of Services for the Blind	3,105,711
05.	Division of Facility Services	426,836
06.	Division of Aging - Home and Community Care Block Grant	1,840,234
07.	Child Care Subsidies	3,000,000
08.	Division of Vocational Rehabilitation -	

	United Cerebral Palsy	71,484
09.	State administration	1,693,368
10.	Child Medical Evaluation Program	238,321
11.	Adult day care services	2,155,301
12.	Comprehensive Treatment Services Program	422,003
13.	Department of Administration for the N.C. State Commission of Indian Affairs In-Home Services Program for the Elderly	203,198
14.	Division of Vocational Rehabilitation Services - Easter Seals Society	116,779
15.	UNC-CH CARES Program for training and consultation services	247,920
16.	Office of the Secretary - Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
17.	Division of Social Services - Child Caring Agencies	1,500,000
18.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services - Developmentally Disabled Waiting List for services	5,000,000
19.	Transfer to Preventive Health Services Block Grant for HIV/AIDS education, counseling, and testing	145,819
20.	Division of Facility Services - Mental Health Licensure	213,128
21.	Transfer to the Division of Aging for training provided through Alzheimer's Associations	150,000
TOTAL SOCIAL SERVICES BLOCK GRANT		$ 54,775,307
LOW-INCOME ENERGY BLOCK GRANT		
01.	Energy Assistance Programs	$ 12,775,323
02.	Crisis Intervention	9,192,927
03.	Administration	2,957,339
04.	Weatherization Program	4,212,740

05.	Department of Administration - N.C. State Commission of Indian Affairs	54,840
06.	Heating Air Repair and Replacement Program	1,966,153
TOTAL LOW-INCOME ENERGY BLOCK GRANT		$ 31,159,322
MENTAL HEALTH SERVICES BLOCK GRANT		
01.	Provision of community-based services for severe and persistently mentally ill adults	$ 5,442,798
02.	Provision of community-based services to children	2,513,141
03.	Comprehensive Treatment Services Program for Children	1,500,000
04.	Administration	783,911
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT		$ 10,239,850
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		
01.	Provision of community-based alcohol and drug abuse services, tuberculosis services, and services provided by the Alcohol and Drug Abuse Treatment Centers	$ 18,901,711
02.	Continuation of services for pregnant women and women with dependent children	8,069,524
03.	Continuation of services to IV drug abusers and others at risk for HIV diseases	4,616,378
04.	Provision of services to children and adolescents	7,740,611
05.	Juvenile Services - Family Focus	851,156
06.	Allocation to the Division of Public Health for HIV/STD Risk Reduction Projects	383,980
07.	Allocation to the Division of Public Health for HIV/STD Prevention by County Health Departments	209,576
08.	Allocation to the Division of Public Health for the Maternal and Child Health Hotline	37,779

09.	Administration	2,596,307
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		$ 43,407,022
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
01.	Child care subsidies	$154,713,475
02.	Quality and availability initiatives	16,449,256
03.	Administrative expenses	6,969,533
04.	Transfer from TANF Block Grant for child care subsidies	79,562,189
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		$257,694,453
TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		
01.	Work First Cash Assistance	$129,396,275
02.	Work First County Block Grants	94,653,315
03.	Transfer to the Child Care and Development Fund Block Grant for child care subsidies	79,562,189
04.	Child Care Subsidies for TANF Recipients	26,621,241
05.	Child Welfare Workers for local DSS	10,382,391
06.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
07.	Support Our Students – Department of Juvenile Justice and Delinquency Prevention	1,925,000
08.	Residential Substance Abuse Services for Women With Children	2,000,000
09.	Domestic Violence Services for Work First Families	1,200,000
10.	After-School Services for At-Risk Children	1,925,000
11.	Division of Social Services - Administration	400,000

12.	Child Welfare Training	1,600,000
13.	TANF Automation Projects	592,500
14.	Work First/ Boys and Girls Clubs	1,000,000
15.	Work Central Career Advancement Center	550,000
16.	WCH-Teen Pregnancy Prevention	570,000
17.	Transfer to Social Services Block Grant for Child Caring Institutions	1,500,000
18.	Special Children's Adoption Fund	2,000,000
19.	NC Fast Implementation	630,000
20.	Maternity Homes	838,000
21.	Pregnancy Prevention Coalition of North Carolina	127,500
22.	Individual Development Accounts	180,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		$362,153,411
MATERNAL AND CHILD HEALTH BLOCK GRANT		
01.	Healthy Mothers/Healthy Children Block Grants to Local Health Departments	9,838,074
02.	High-Risk Maternity Clinic Services, Perinatal Education and Training, Childhood Injury Prevention, Public Information and Education, and Technical Assistance to Local Health Departments	2,307,918
03.	Services to Children With Special Health Care Needs	5,078,647
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT		$ 17,224,639
PREVENTIVE HEALTH SERVICES BLOCK GRANT		
01.	Statewide Health Promotion Programs	$3,282,810
02.	Rape Crisis/Victims' Services Program - Council for Women	197,112
03.	Transfer from Social Services Block Grant -	

	HIV/AIDS education, counseling, and testing	145,819
04.	Office of Minority Health	159,459
05.	Administrative Costs	108,546
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		$3,893,746

SECTION 5.1.(b) Decreases in Federal Fund Availability. – If the United States Congress reduces federal fund availability in the Social Services Block Grant below the amounts appropriated in this section, then the Department of Health and Human Services shall allocate these decreases giving priority first to those direct services mandated by State or federal law, then to those programs providing direct services that have demonstrated effectiveness in meeting the federally and State-mandated services goals established for the Social Services Block Grant. The Department shall not include transfers from TANF for specified purposes in any calculations of reductions to the Social Services Block Grant.

If the United States Congress reduces the amount of TANF funds below the amounts appropriated in this section after the effective date of this act, then the Department shall allocate the decrease in funds after considering any underutilization of the budget and the effectiveness of the current level of services. Any TANF Block Grant fund changes shall be reported to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Decreases in federal fund availability shall be allocated for the Maternal and Child Health and Preventive Health Services federal block grants by the Department of Health and Human Services after considering the effectiveness of the current level of services.

SECTION 5.1.(c) Increases in Federal Fund Availability. – Any block grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Health and Human Services, with the approval of the Office of State Budget and Management, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly.

SECTION 5.1.(d) Changes to the budgeted allocations to the block grants appropriated in this act and new allocations from the block grants not specified in this act shall be submitted to the Joint Legislative Commission on Governmental Operations for review prior to the change and shall be reported immediately to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(e) The Department of Health and Human Services may allow no-cost contract extensions for up to six months for nongovernmental grant recipients under the TANF Block Grant.

SECTION 5.1.(f) If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2003-2004 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

The Department of Health and Human Services shall contract for the follow-up testing involved with the Newborn Screening Program. The Department may contract for these services with an entity within or outside of the State; however, the Department may only contract with an out-of-state entity if it can be demonstrated that there is a cost-savings associated with contracting with the out-of-state entity. The contract amount shall not exceed twenty-five thousand dollars ($25,000). The amount of the contract shall be covered by funds in the Maternal and Child Health Block Grant.

SECTION 5.1.(g) The sum of four hundred thousand dollars ($400,000) appropriated in this section to the Department of Health and Human Services in the Child Care and Development Fund Block Grant shall be used to develop and implement a Medical Child Care Pilot open to children throughout the State.

SECTION 5.1.(h) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 5.1.(i) The sum of four hundred thousand dollars ($400,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 5.1.(j) The sum of two million dollars ($2,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2003-2004 fiscal year shall be used to provide regional residential substance abuse treatment and services for women with children. The Department of Health and Human Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in consultation with local departments of social services, area mental health programs, and other State and local agencies or organizations, shall coordinate this effort in order to facilitate the expansion of regionally based substance abuse services for women with children. These services shall be culturally appropriate and designed for the unique needs of TANF women with children.

In order to expedite the expansion of these services, the Secretary of the Department of Health and Human Services may enter into contracts with service providers.

The Department of Health and Human Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall report on their progress in complying with this subsection no later than October 1, 2003, and March 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. These reports shall include all of the following:

(1) The number and location of additional beds created.
(2) The types of facilities established.
(3) The delineation of roles and responsibilities at the State and local levels.
(4) Demographics of the women served, the number of women served, and the cost per client.
(5) Demographics of the children served, the number of children served, and the services provided.
(6) Job placement services provided to women.
(7) A plan for follow-up and evaluation of services provided with an emphasis on outcomes.
(8) Barriers identified to the successful implementation of the expansion.
(9) Identification of other resources needed to appropriately and efficiently provide services to Work First recipients.
(10) Other information as requested.

SECTION 5.1.(k) The sum of one million nine hundred twenty-five thousand dollars ($1,925,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services and transferred to the Department of Juvenile Justice and Delinquency Prevention for the 2003-2004 fiscal year shall be used to support the existing Support Our Students Program and to expand the Program statewide, focusing on low-income communities in unserved areas. These funds shall not be used for administration of the Program.

SECTION 5.1.(l) The sum of one million two hundred thousand dollars ($1,200,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars ($75,000) in TANF funds to establish one administrative position within the Division of Social Services to implement this subsection.

Each county department of social services and the local domestic violence shelter program serving the county shall jointly develop a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2003. The Division of Social Services, in consultation with the Council for Women, shall review the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of five thousand dollars ($5,000) and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2003, and the county's proportion of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2003. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

The Department of Health and Human Services shall report on the uses of these funds no later than March 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(m) The sum of one million nine hundred twenty-five thousand dollars ($1,925,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy and school dropout. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to establish one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State administration. The Department shall report no later than March 1, 2003, on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(n) The sum of ten million three hundred eighty-two thousand three hundred ninety-one dollars ($10,382,391) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2003-2004 fiscal year for Child Welfare Improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

SECTION 5.1.(o) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this section in the Mental Health Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2003-2004 fiscal year and the sum of four hundred twenty-two thousand three dollars ($422,003) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to continue a Comprehensive Treatment Services Program for Children in accordance with Section 21.60 of S.L. 2001-424, as amended.

SECTION 5.1.(p) The sum of one million six hundred thousand dollars ($1,600,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for fiscal year 2003-2004 shall be used to support various child welfare training projects as follows:

(1) Provide a regional training center in southeastern North Carolina.
(2) Support the Masters Degree in Social Work/Baccalaureate Degree in Social Work Collaborative.
(3) Provide training for residential child care facilities.
(4) Provide for various other child welfare training initiatives.

SECTION 5.1.(q) If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

SECTION 5.1.(r) The sum of eight hundred thirty-eight thousand dollars ($838,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services shall be used to purchase services at maternity homes throughout the State.

SECTION 5.1.(s) The sum of two million dollars ($2,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 2003-2004 fiscal year shall be used to implement this subsection. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

SECTION 5.1.(t) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this act in the TANF Block Grant and transferred to the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for child caring agencies for the 2003-2004 fiscal year shall be allocated to the State Private Child Caring Agencies Fund. These funds shall be combined with all other funds allocated to the State Private Child Caring Agencies Fund for the reimbursement of the State's portion of the cost of care for the placement of

certain children by the county departments of social services who are not eligible for federal IV-E funds. These funds shall not be used to match other federal funds.

SECTION 5.1.(u) The sum of one million dollars ($1,000,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce school dropout and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate.

Requested by: Representatives Fox, West

NER BLOCK GRANT FUNDS

SECTION 5.2.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2004, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	$1,000,000
02.	Urgent Needs and Contingency	50,000
03.	Scattered Site Housing	13,200,000
04.	Economic Development	
	a. Administered by Rural Economic Development Center, Inc.	2,250,000
	b. Administered by Finance Center of the Department of Commerce	8,710,000
05.	Community Revitalization	12,200,000
06.	State Technical Assistance	450,000
07.	Housing Development	2,000,000
08.	Infrastructure	5,140,000
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2004 Program Year		$45,000,000

SECTION 5.2.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

SECTION 5.2.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as follows: Each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

SECTION 5.2.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development

Block Grant, the following shall be allocated in each category for each program year: up to one million dollars ($1,000,000) may be used for State administration; not less than fifty thousand ($50,000) may be used for Urgent Needs and Contingency; up to thirteen million two hundred thousand dollars ($13,200,000) may be used for Scattered Site Housing; up to ten million nine hundred sixty thousand dollars ($10,960,000) may be used for Economic Development, including Urban Redevelopment grants; not less than twelve million two hundred thousand dollars ($12,200,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars ($450,000) may be used for State Technical Assistance; up to two million dollars ($2,000,000) may be used for Housing Development; up to five million one hundred forty thousand dollars ($5,140,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

SECTION 5.2.(e) Increase Capacity for Nonprofit Organizations. – Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity building grants may be made from funds available within program categories, program income, or unobligated funds.

SECTION 5.2.(f) Up to four million dollars ($4,000,000) of funds for Economic Development may be used for Urgent Needs and Contingency for drought recovery.

PART VI. GENERAL PROVISIONS

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL RECEIPTS, AND AUTHORIZATION FOR EXPENDITURES

SECTION 6.1. There is appropriated out of the cash balances, federal receipts, and departmental receipts available to each department, sufficient amounts to carry on authorized activities included under each department's operations. All these cash balances, federal receipts, and departmental receipts shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by statute, and shall be expended at the level of service authorized by the General Assembly. If the receipts, other than gifts and grants that are unanticipated and are for a specific purpose only, collected in a fiscal year by an institution, department, or agency exceed the receipts certified for it in General Fund Codes or Highway Fund Codes, then the Director of the Budget shall decrease the amount he allots to that institution, department, or agency from appropriations from that Fund by the amount of the excess, unless the Director of the Budget finds that the appropriations from the Fund are necessary to maintain the function that generated the receipts at the level anticipated in the certified Budget Codes for that Fund.

Funds that become available from overrealized receipts in General Fund Codes and Highway Fund Codes may be used for new permanent employee positions or to raise the salary of existing employees only as follows:

(1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4; or

(2) If the Director of the Budget finds that the new permanent employee positions are necessary to maintain the function that generated the receipts at the level anticipated in the certified budget codes for that Fund. The Director of the Budget shall notify the President Pro Tempore of the Senate, the Speakers of the House of Representatives, the Chairs of the Appropriations Committees of the Senate and the House of Representatives, and the Fiscal Research Division of the

Legislative Services Office that he intends to make such a finding at least 10 days before he makes the finding. The notification shall set out the reason the positions are necessary to maintain the function.

The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office within 30 days after the end of each quarter the General Fund Codes or Highway Fund Codes that did not result in a corresponding reduced allotment from appropriations from that Fund.

This section shall expire June 30, 2004.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

NO EXPENDITURE OF UNBUDGETED RECEIPTS

SECTION 6.2. Effective July 1, 2004, G.S. 143-27 reads as rewritten:

"**§ 143-27. Appropriations to educational, charitable and correctional institutions are in addition to receipts by them.**

All appropriations now or hereafter made to the educational institutions, and to the charitable and correctional institutions, and to such other departments and agencies of the State as receive moneys available for expenditure by them are declared to be in addition to such receipts of said institutions, departments or agencies, and are to be available as and to the extent that such receipts are insufficient to meet the costs anticipated in the budget authorized by the General Assembly, of maintenance of such institutions, departments, and agencies; Provided, however, that if the receipts, other than gifts and grants that are unanticipated and are for a specific purpose only, collected in a fiscal year by an institution, department, or agency exceed the receipts certified for it in General Fund Codes, Highway Fund Codes, or Wildlife Fund Codes, the Director of the Budget shall decrease the amount he allots to that institution, department, or agency from appropriations from that Fund by the amount of the ~~excess, unless the Director of the Budget has consulted with the Joint Legislative Commission on Governmental Operations and unless the Director of the Budget finds that (i) the appropriations from that Fund are necessary to maintain the function that generated the receipts at the level anticipated in the certified Budget Codes for that Fund and (ii) the funds may be expended in accordance with G.S. 143-23.~~excess. Notwithstanding the foregoing provisions of this section, receipts within The University of North Carolina realized in excess of budgeted levels shall be available, up to a maximum of ten percent (10%) above budgeted levels, for each Budget Code, in addition to appropriations, to support the operations generating such receipts, as approved by the Director of the Budget.

The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office within 30 days after the end of each quarter on expenditures of receipts in excess of the amounts certified in General Fund Codes, Highway Fund Codes, or Wildlife Fund Codes, that did not result in a corresponding reduced allotment from appropriations from that Fund."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

PREPARE TO BUDGET PAYROLL AT ACTUAL COST

SECTION 6.3. The Office of State Budget and Management shall prepare and present to the General Assembly no later than 10 days after the convening of the 2004 Regular Session of the 2003 General Assembly such adjustments as are necessary to rebudget the payroll costs of State departments, agencies, and institutions in fiscal year 2004-2005 at levels that reflect actual payroll requirements. Proposed adjustments shall include changes in related expenditure lines that have been underbudgeted with the expectation that shortfalls could be met with lapsed salary funds.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CONTINGENCY AND EMERGENCY FUND ALLOCATIONS

SECTION 6.4. Funds in the amount of five million dollars ($5,000,000) for the 2003-2004 fiscal year and five million dollars (5,000,000) for the 2004-2005 fiscal year appropriated in this act to the Contingency and Emergency Fund may be expended only for the purposes outlined in G.S. 143-23(a1)(2).

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CHANGE EFFECTIVE DATE - PRIVATE PLATES ON PUBLIC VEHICLES

SECTION 6.5.(a) The introductory language to Section 6.14(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 6.14.(b)** Effective October 1, ~~2003,~~ 2004, G.S. 20-39.1(b), as enacted in subsection (a) of this section, reads as rewritten:".

SECTION 6.5.(b) Section 6.14(h) of S.L. 2001-424 reads as rewritten:

"**SECTION 6.14.(h)** Subsection (b) of this section becomes effective October 1, ~~2003.~~ 2004. Except as provided in subsection (c) of this section, the remainder of this section is effective when it becomes law."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

HIPAA RESERVE

SECTION 6.6. Funds in the amount of two million dollars ($2,000,000) are appropriated in this act to the Reserve to Implement HIPAA. This reserve shall be located in the Office of State Budget and Management.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

HIPAA IMPLEMENTATION

SECTION 6.7. The Governor or the Governor's designee shall coordinate the State's implementation of the federal Health Insurance Portability and Accountability Act ("HIPAA"), Title II Subtitle F (Administrative Simplification). Specifically, the scope of coordination shall include the following:

(1) Coordinating correspondence between the State and the United States government on all matters relating to HIPAA Administrative Simplification requirements under Subtitle F of Title II of HIPAA.

(2) Coordinating official State comments on proposed federal regulations and the federal rule-making process pertaining to HIPAA Administrative Simplification.

(3) Obtaining from the North Carolina Attorney General legal interpretations of federal rules pertaining to HIPAA Administrative Simplification compliance, implementation, and enforcement.

(4) Establishing deadlines and benchmarks for State agencies to provide the necessary data required to monitor compliance with HIPAA Administrative Simplification requirements.

The Information Resource Management Commission ("IRMC") shall cooperate with the Governor to ensure that IRMC policies and activities and State HIPAA implementation are complementary to ensure effective and efficient monitoring of HIPAA Administrative Simplification requirements.

SECTION 6.7. The University of North Carolina System and the Teachers' and State Employees' Comprehensive Major Medical Plan may develop and implement HIPAA Administrative Simplification compliance and shall report bimonthly to the Governor on the status of implementation.

SECTION 6.7. Funds appropriated to the Reserve for Health Insurance Portability and Accountability Compliance that are unexpended and unencumbered at the end of the fiscal year shall not revert to the General Fund but shall remain in the Reserve for use in accordance with the purposes of the Reserve.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

STATE SURPLUS REAL PROPERTY SYSTEM

SECTION 6.8.(a) The Department of Administration, in consultation with the Office of State Budget and Management and other affected State departments, shall develop and implement a uniform real property disposal system that will continuously identify, evaluate, and dispose of all unused or underused State-owned land and buildings. In order to comply with this section, the Department of Administration, in consultation with the Office of State Budget and Management and other affected State departments, shall do all of the following:

(1) Review the current inventory of State-owned land and buildings for accuracy and completeness.

(2) Determine how and when State-owned land and buildings should be declared surplus.

(3) Determine whether State agencies have the authority to retain funds from the disposal of surplus real property and whether this is consistent among agencies and conducive to the disposal of unneeded property.

(4) Consider the use of private real estate brokers, auction, and any other method determined to be suitable in order to efficiently and effectively dispose of surplus real property.

(5) Review the real property held by a selected number of State agencies to determine whether the agency has any property that meets the criteria as set forth in this section.

(6) Assess the need for additional staff to effectively administer the system.

(7) Examine current State law to assess the need for changes in order to support a uniform system to identify, evaluate, and dispose of all unused or underused State-owned land and buildings.

The Department may retain consultants to assist the accomplishment of the objectives set forth in subdivisions (1) through (7) of this subsection. The Department shall report its findings and recommendations to the General Assembly no later than March 1, 2004.

SECTION 6.8.(b) There is established the Real Property Management Advisory Council in the Department of Administration. The Advisory Council shall examine the use of State-owned real property and shall advise the Secretary of Administration as to the identification of those properties that are unneeded or underutilized. The Advisory Council shall consist of the following members:

(1) Four members appointed by the Speaker of the House of Representatives, including one member who shall be designated as House cochair.

(2) Four members appointed by the President Pro Tempore of the Senate, including one member who shall be designated as Senate cochair.

(3) Four members appointed by the Governor.

The Advisory Council shall meet upon the call of the cochairs.

Members of the Advisory Council shall serve for a term of two years beginning July 1, 2003, and shall receive subsistence and travel expenses as provided in G.S. 138-5. Staff support to the Advisory Council shall be provided by the Department of Administration.

SECTION 6.8.(c) Of funds appropriated in this act to the Department of Administration, a sum not exceeding two hundred fifty thousand dollars ($250,000) shall be used to accomplish the purposes set forth in this section.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

EXPEDITE SALE OF SURPLUS LAND

SECTION 6.9. The Department of Administration shall work with all State departments, agencies, and institutions, including the Department of Transportation and The University of North Carolina, to identify surplus state-owned real property and to expedite the sale of that property. Unless otherwise provided by law, the clear proceeds of the sale of surplus real property shall be credited to the General Fund. It is the intent of the General Assembly that these proceeds shall partially offset debt service costs occasioned by the use of Certificates of Participation to finance the repair and renovation of State buildings. The Department of Administration shall report to the Joint Legislative Commission on Governmental Operations no later than December 1, 2003, regarding the extraordinary measures being taken to comply with this provision.

Requested by: Representatives Culpepper, Crawford, Earle, Owens, Wright

GOVERNMENT AGENCIES TO USE PRODUCTS OF RECYCLED STEEL

SECTION 6.10. G.S. 130A-309.14 is amended by adding a new subsection to read:

"(l) Any State agency or agency of a political subdivision of the State that is using State funds, or any person contracting with any agency with respect to work performed under contract, shall procure products of recycled steel if all of the following conditions are satisfied:

(1) The product must be acquired competitively within a reasonable time frame.

(2) The product must meet appropriate performance standards.

(3) The product must be acquired at a reasonable price."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

IMPLEMENT A PILOT PROJECT FOR LONG-TERM CARE COMMUNITY SERVICE COORDINATION

SECTION 6.11.(a) In accordance with the recommendations in the final report from the Institute of Medicine Task Force on Long-Term Care and the study report recommendations resulting from S.L. 2001-491, Part XXII, the Department of Health and Human Services shall implement a communications and coordination initiative to support local coordination of long-term care and shall pilot the establishment of local lead agencies to facilitate the long-term care coordination process at the county or regional level. For those counties that voluntarily participate, the local long-term care coordination initiative shall aid in the development of core services, coordinate local services, and streamline access to services. The initiative shall eliminate fragmentation and barriers to information and services; provide a seamless connection among State agencies and local entities, regardless of funding sources; and allow consumers to efficiently and effectively navigate among long-term care services.

SECTION 6.11.(b) The Department shall submit an interim report on the pilot project for local long-term care coordination to the North Carolina Study Commission on Aging by October 1, 2004, and a final report by October 1, 2005.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

JOINT COMMITTEE ON EXECUTIVE BUDGET ACT REVISIONS

SECTION 6.12.(a) There is created a Joint Committee on Executive Budget Act Revisions. The Committee shall be composed of 12 members, six of whom shall be Representatives appointed by the Speaker of the House of Representatives and six of whom shall be Senators appointed by the President Pro Tempore of the Senate. The Speaker of the House of Representatives shall designate one member as cochair and the President Pro Tempore of the Senate shall designate one member as cochair. The Committee shall meet upon call of the cochairs.

SECTION 6.12.(b) The Committee shall consider contemporary financial management practices in reviewing the current budget process. The Committee shall recommend any changes to the Executive Budget Act that are needed to modernize and improve the processes of budget preparation, budget adoption, budget execution, and program evaluation. The Committee shall report its recommendations to the 2003 General Assembly on or before April 1, 2004.

SECTION 6.12.(c) The Legislative Services Office shall assign professional and clerical staff to assist the Committee in its work. Members of the Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

ISSUE REQUEST FOR INFORMATION/ENERGY MANAGEMENT

SECTION 6.13. The Department of Administration (Department) shall issue a Request for Information (RFI) to identify companies interested in providing, and qualified to provide, comprehensive energy management services to State departments, agencies, and institutions. The Department shall evaluate information collected through the RFI to determine the:

(1) Number of qualified companies interested in doing energy management business with State government.
(2) Types of energy management services available and applicable to State-owned facilities.
(3) Long-term cost savings potentially available to the State from the implementation of various energy management services.
(4) Modifications to State law or regulations that may be necessary to acquire and utilize successfully energy management services.

By March 1, 2004, the Department shall report its findings, conclusions, and recommendations to the Chairs of the Senate and House of Representatives Appropriations Committees.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

BLUE RIBBON COMMISSION ON MEDICAID REFORM

SECTION 6.14.(a) There is established the North Carolina Blue Ribbon Commission on Medicaid Reform (Commission). The Commission shall examine the State's Medicaid program and make comprehensive recommendations for fundamental reform. The Commission shall consider:

(1) Methods to responsibly restrain the growth in Medicaid spending.
(2) Best practices in both the public and private sectors in managing and administering health care.
(3) Options for maximizing existing resources while controlling Medicaid program costs.
(4) Current array of services available within the State Medicaid program to determine the appropriateness of the type, frequency, and duration of those services.
(5) Opportunities for long-term, systemic change in the Medicaid program through the use of federal waivers and other management tools.

(6) Any other matter relating to reform of the State Medicaid program.

SECTION 6.14.(b) The Commission shall consist of 12 members appointed as follows:

(1) Six members appointed by the Speaker of the House of Representatives, including one member who shall be designated as House Cochair. No more than three may be legislators.

(2) Six members appointed by the President Pro Tempore of the Senate, including one member who shall be designated as Senate Cochair. No more than three may be legislators.

The appointing officer shall fill vacancies. The Commission shall meet at the call of the Cochairs. Members of the Commission shall receive per diem, subsistence, and travel expenses as provided in G.S. 120-3.1, G.S. 138-5, or G.S. 138-6, as appropriate. The Commission may contract for consultant services as provided in G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and Senate Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may exercise all of the powers provided under G.S. 120-19 through G.S. 120-19.4 while in the discharge of its official duties.

SECTION 6.14.(c) By April 1, 2004, the Commission shall make an interim report to the 2003 General Assembly. The Commission shall make its final report to the 2005 General Assembly by February 1, 2005, and shall expire upon submitting that report.

Requested by: Representatives Howard, Crawford, Sherrill, Baker

COMPETITIVELY BID BEVERAGES CONTRACTS

SECTION 6.15.(a) Article 3 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"**§ 143-64. Beverages contracts.**

Notwithstanding any other provision of law, local school administrative units, community colleges, and constituent institutions of The University of North Carolina shall competitively bid contracts that involve the sale of juice or bottled water. The local school administrative units, community colleges, and constituent institutions may set quality standards for these beverages, and these standards may be used to accept or reject a bid."

SECTION 6.15.(b) This section is effective when it becomes law and applies to contracts bid on or after that date.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND

SECTION 6.16.(a) G.S. 116-41.15 reads as rewritten:

"**§ 116-41.15. Distinguished Professors Endowment Trust Fund; allocation; administration.**

(a) As used in this Part, "focused growth institution" means Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical University, North Carolina Central University, the University of North Carolina at Pembroke, Western Carolina University, and Winston-Salem State University. As used in this Part, "special needs institution" means the North Carolina School of the Arts and the University of North Carolina at Asheville.

(b) For constituent institutions other than focused growth institutions and special needs institutions, ~~The~~the amount appropriated to the trust shall be allocated by the Board as follows:

(1) On the basis of one three hundred thirty-four thousand dollar ($334,000) challenge grant for each six hundred sixty-six thousand dollars ($666,000) raised from private sources; or

(2) On the basis of one one hundred sixty-seven thousand dollar ($167,000) challenge grant for each three hundred thirty-three thousand dollars ($333,000) raised from private sources.

If an institution chooses to pursue the use of the allocated challenge grant funds described in either subdivision (1) or subdivision (2) of this ~~section,~~subsection, the funds shall be matched on a two-to-one basis.

(c) For focused growth institutions and special needs institutions, subsection (b) of this section shall be applied such that the amount appropriated to the trust shall be allocated by the Board on a one-to-one basis instead of a one-to-two basis.

(d) Matching funds shall come from contributions made after July 1, 1985, and pledged for the purposes specified by G.S. 116-41.14. Each participating constituent institution's board of trustees shall establish its own Distinguished Professors Endowment Trust Fund, and shall maintain it pursuant to the provision of G.S. 116-36 to function as a depository for private contributions and for the State matching funds for the challenge grants. The State matching funds shall be transferred to the constituent institution's Endowment Fund upon notification that the institution has received and deposited the appropriate amount required by this section in its own Distinguished Professors Endowment Trust Fund. Only the net income from that account shall be expended in support of the distinguished professorship thereby created."

SECTION 6.16.(b) G.S. 116-41.16 reads as rewritten:

"**§ 116-41.16. Distinguished Professors Endowment Trust Fund; contribution commitments.**

(a) For constituent institutions other than focused growth institutions and special needs institutions, ~~Contributions~~ contributions may also be eligible for matching if there is:

(1) A commitment to make a donation of at least six hundred sixty-six thousand dollars ($666,000), as prescribed by G.S. 143-31.4, and an initial payment of one hundred eleven thousand dollars ($111,000) to receive a grant described in G.S. 116-41.15(b)(1); or

(2) A commitment to make a donation of at least three hundred thirty-three thousand dollars ($333,000), as prescribed by G.S. 143-31.4, and an initial payment of fifty-five thousand five hundred dollars ($55,500) to receive a grant described in G.S. 116-41.15(b)(2);

and if the initial payment is accompanied by a written pledge to provide the balance within five years after the date of the initial payment. Each payment on the balance shall be no less than the amount of the initial payment and shall be made on or before the anniversary date of the initial payment. Pledged contributions may not be matched prior to the actual collection of the total funds. Once the income from the institution's Distinguished Professors Endowment Trust Fund can be effectively used pursuant to G.S. 116-41.17, the institution shall proceed to implement plans for establishing an endowed chair.

(b) For focused growth institutions and special needs institutions, subsection (a) of this section is modified such that contributions may be eligible for matching based on a schedule to be adopted by the Board of Governors such that at least one-sixth of the commitment will be donated each year."

PART VII. PUBLIC SCHOOLS

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

TEACHER SALARY SCHEDULES

SECTION 7.1.(a) Effective for the 2003-2004 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for

Teachers and Principals in Public Schools for the 2003-2004 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 and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) 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, 2003, 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. The longevity payment shall be paid in a lump sum once a year.

SECTION 7.1.(b) For the 2003-2004 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.

2003-2004 MONTHLY SALARY SCHEDULE
"A" TEACHERS

Years of Experience	"A" Teachers	NBPTS Certification
0	$2,525	N/A
1	$2,567	N/A
2	$2,611	N/A
3	$2,764	$3,096
4	$2,904	$3,252
5	$3,036	$3,400
6	$3,164	$3,544
7	$3,266	$3,658
8	$3,314	$3,712
9	$3,362	$3,765
10	$3,412	$3,821
11	$3,461	$3,876
12	$3,511	$3,932
13	$3,561	$3,988
14	$3,614	$4,048
15	$3,667	$4,107
16	$3,722	$4,169
17	$3,777	$4,230
18	$3,834	$4,294
19	$3,892	$4,359
20	$3,950	$4,424
21	$4,011	$4,492
22	$4,072	$4,561
23	$4,136	$4,632
24	$4,200	$4,704
25	$4,264	$4,776
26	$4,330	$4,850
27	$4,398	$4,926
28	$4,467	$5,003
29	$4,538	$5,083
30+	$4,538	$5,083

2003-2004 MONTHLY SALARY SCHEDULE
"M" TEACHERS

Years of Experience	"M" Teachers	NBPTS Certification

0	$2,778	N/A
1	$2,824	N/A
2	$2,872	N/A
3	$3,040	$3,405
4	$3,194	$3,577
5	$3,340	$3,741
6	$3,480	$3,898
7	$3,593	$4,024
8	$3,645	$4,082
9	$3,698	$4,142
10	$3,753	$4,203
11	$3,807	$4,264
12	$3,862	$4,325
13	$3,917	$4,387
14	$3,975	$4,452
15	$4,034	$4,518
16	$4,094	$4,585
17	$4,155	$4,654
18	$4,217	$4,723
19	$4,281	$4,795
20	$4,345	$4,866
21	$4,412	$4,941
22	$4,479	$5,016
23	$4,550	$5,096
24	$4,620	$5,174
25	$4,690	$5,253
26	$4,763	$5,335
27	$4,838	$5,419
28	$4,914	$5,504
29	$4,992	$5,591
30+	$4,992	$5,591

SECTION 7.1.(c) 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 "M" 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 "M" teachers.

SECTION 7.1.(d) Effective for the 2003-2004 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 "M" 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.

SECTION 7.1.(e) Effective for the 2003-2004 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.

SECTION 7.1.(f) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 7.1.(g) As used in this section, the term "teacher" shall also include instructional support personnel.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 7.2.(a) Effective for the 2003-2004 school year, the Director of the Budget shall transfer from Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools for the 2003-2004 fiscal year funds necessary to implement the salary schedule for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

SECTION 7.2.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2003-2004 fiscal year, commencing July 1, 2003, is as follows:

2003-2004

PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES

CLASSIFICATION

Yrs of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	$3,226	-	-	-	-
5	$3,373	-	-	-	-
6	$3,515	-	-	-	-
7	$3,629	-	-	-	-
8	$3,681	$3,681	-	-	-
9	$3,735	$3,735	-	-	-
10	$3,791	$3,791	$3,845	-	-
11	$3,845	$3,845	$3,901	-	-
12	$3,901	$3,901	$3,956	$4,015	-
13	$3,956	$3,956	$4,015	$4,074	$4,135
14	$4,015	$4,015	$4,074	$4,135	$4,197
15	$4,074	$4,074	$4,135	$4,197	$4,259
16	$4,135	$4,135	$4,197	$4,259	$4,324
17	$4,197	$4,197	$4,259	$4,324	$4,388
18	$4,259	$4,259	$4,324	$4,388	$4,456
19	$4,324	$4,324	$4,388	$4,456	$4,524
20	$4,388	$4,388	$4,456	$4,524	$4,596
21	$4,456	$4,456	$4,524	$4,596	$4,666
22	$4,524	$4,524	$4,596	$4,666	$4,737
23	$4,596	$4,596	$4,666	$4,737	$4,811
24	$4,666	$4,666	$4,737	$4,811	$4,886

25	$4,737	$4,737	$4,811	$4,886	$4,963
26	$4,811	$4,811	$4,886	$4,963	$5,042
27	$4,886	$4,886	$4,963	$5,042	$5,143
28	$4,963	$4,963	$5,042	$5,143	$5,246
29	$5,042	$5,042	$5,143	$5,246	$5,351
30	$5,143	$5,143	$5,246	$5,351	$5,458
31	$5,246	$5,246	$5,351	$5,458	$5,567
32	-	$5,351	$5,458	$5,567	$5,678
33	-	-	$5,567	$5,678	$5,792
34	-	-	$5,678	$5,792	$5,908
35	-	-	-	$5,908	$6,026
36	-	-	-	$6,026	$6,147
37	-	-	-	-	$6,270

2003-2004
PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES
CLASSIFICATION

Yrs of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
14	$4,259	-	-	-
15	$4,324	-	-	-
16	$4,388	$4,456	-	-
17	$4,456	$4,524	$4,666	-
18	$4,524	$4,596	$4,737	$4,811
19	$4,596	$4,666	$4,811	$4,886
20	$4,666	$4,737	$4,886	$4,963
21	$4,737	$4,811	$4,963	$5,042
22	$4,811	$4,886	$5,042	$5,143
23	$4,886	$4,963	$5,143	$5,246
24	$4,963	$5,042	$5,246	$5,351
25	$5,042	$5,143	$5,351	$5,458
26	$5,143	$5,246	$5,458	$5,567
27	$5,246	$5,351	$5,567	$5,678
28	$5,351	$5,458	$5,678	$5,792
29	$5,458	$5,567	$5,792	$5,908
30	$5,567	$5,678	$5,908	$6,026
31	$5,678	$5,792	$6,026	$6,147
32	$5,792	$5,908	$6,147	$6,270
33	$5,908	$6,026	$6,270	$6,395
34	$6,026	$6,147	$6,395	$6,523
35	$6,147	$6,270	$6,523	$6,653
36	$6,270	$6,395	$6,653	$6,786
37	$6,395	$6,523	$6,786	$6,922
38	$6,523	$6,653	$6,922	$7,060
39	-	$6,786	$7,060	$7,201
40	-	$6,922	$7,201	$7,345
41	-	-	$7,345	$7,492

SECTION 7.2.(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.

SECTION 7.2.(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. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and the 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

SECTION 7.2.(e) 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.

SECTION 7.2.(f) 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 1992-1993 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 1992-1993 fiscal year.

SECTION 7.2.(g) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 7.2.(h)

(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 subsection 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 subsection for one calendar year following the date of the merger.

SECTION. 7.2.(i) 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. The stipend shall not exceed the difference between the beginning salary of an assistant principal

and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time masters in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

SECTION 7.2.(j) During the 2003-2004 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

CENTRAL OFFICE SALARIES

SECTION 7.3.(a) The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2003-2004 fiscal year, beginning July 1, 2003. The top of these ranges shall be increased by one and sixth-tenths percent (1.6%) annually for full-time employees.

School Administrator I	$2,932	$5,266
School Administrator II	$3,112	$5,586
School Administrator III	$3,303	$5,925
School Administrator IV	$3,436	$6,162
School Administrator V	$3,574	$6,410
School Administrator VI	$3,792	$6,799
School Administrator VII	$3,945	$7,072

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, 2003.

SECTION 7.3.(b) The monthly salary ranges that follow apply to public school superintendents for the 2003-2004 fiscal year, beginning July 1, 2003. The top of these ranges shall be increased by one and sixth-tenths percent (1.6%) annually for full-time employees.

Superintendent I	$4,187	$7,503
Superintendent II	$4,445	$7,956
Superintendent III	$4,716	$8,441
Superintendent IV	$5,005	$8,953
Superintendent V	$5,312	$9,499

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 7.2.(f) of this act.

SECTION 7.3.(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

SECTION 7.3.(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 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.

SECTION 7.3.(e). The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

SECTION 7.3.(f). The Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act for fiscal year 2003-2004, beginning July 1, 2003, funds necessary to provide an average annual salary increase of one and six-tenths percent (1.6%), including funds for the employer's retirement and social security contributions, commencing July 1, 2003, 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.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

NONCERTIFIED PERSONNEL

SECTION 7.4.(a) The Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act for fiscal year 2003-2004, commencing July 1, 2003, funds necessary to provide a salary increase of one and six-tenths percent (1.6%), including funds for the employer's retirement and social security contribution, commencing July 1, 2003, for all noncertified public school employees whose salaries are supported from the State's General Fund.

SECTION 7.4.(b) Local boards of education shall increase the rates of pay for all such employees who were employed for all or part of fiscal year 2002-2003 and who continue their employment for fiscal year 2003-2004 by at least one and six-tenths percent (1.6%), commencing July 1, 2003. For part-time employees, the pay increase shall be pro rata based on the number of hours worked.

SECTION 7.4.(c) These funds shall not be used for any purpose other than for the salary increases and necessary employer contributions provided by this section.

SECTION 7.4.(d) The State Board of Education may adopt salary ranges for noncertified personnel to support increases of one and six-tenths percent (1.6%) for the 2003-2004 school year.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

RESERVE FOR EXPERIENCE STEP INCREASE FOR TEACHERS AND PRINICPALS IN PUBLIC SCHOOLS

SECTION 7.5.(a) Funds in the Reserve for Experience Step Increase for Teachers and Principals in Public Schools shall be used for experience step increases for employees of schools operated by a local board of education, the Department of Health and Human Services, the Department of Correction, or the Department of Juvenile Justice and Delinquency Prevention, who are paid on the teacher salary schedule or the principal and assistant principal salary schedule.

SECTION 7.5.(b) Effective July 1, 2003, any permanent certified personnel employed on July 1, 2003, and paid on the teacher salary schedule with 29+ years of experience shall receive a one-time bonus equivalent to the average increase of the 26 to 29 year steps. Effective July 1, 2003, any permanent personnel employed on July 1, 2003, and paid at the top of the principal and assistant principal salary schedule shall receive a one-time bonus equivalent to two percent (2%). For permanent part-time personnel, the one-time bonus shall be adjusted pro rata. Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

SECTION 7.6.(a) Funds for Supplemental Funding. – The General Assembly finds that it is appropriate to provide supplemental funds in low-wealth counties to allow those counties to enhance the instructional program and student achievement. Therefore, funds are appropriated to State Aid to Local School Administrative Units for the 2003-2004 fiscal year and the 2004-2005 fiscal year to be used for supplemental funds for the schools.

SECTION 7.6.(b) Use of Funds for Supplemental Funding. – All funds received pursuant to this section shall be used only: (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians, instructional supplies and equipment, staff development, and textbooks; (ii) for salary supplements for instructional personnel and instructional support personnel; and (iii) to pay an amount not to exceed ten thousand dollars ($10,000) of the plant operation contract cost charged by the Department of Public Instruction for services.

Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds received pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose, and the State Board shall report this information to the Joint Legislative Education Oversight Committee. These reports shall specify how these funds were targeted and used to implement specific improvement strategies of each local school administrative unit and its schools, such as teacher recruitment, closing the achievement gap, improving student accountability, addressing the needs of at-risk students, and establishing and maintaining safe schools.

SECTION 7.6.(c) Definitions. – As used in this section:

(1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.

(2) "Anticipated total county revenue availability" means the sum of the:
   a. Anticipated county property tax revenue availability,
   b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes,
   c. Food stamp exemption reimbursement received by the county under G.S. 105-164.44C,
   d. Homestead exemption reimbursement received by the county under G.S. 105-277.1A,
   e. Inventory tax reimbursement received by the county under G.S. 105-275.1 and G.S. 105-277.001,
   f. Intangibles tax distribution and reimbursement received by the county under G.S. 105-275.2, and
   g. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.

(3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.

(4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.

(5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily

membership of that county includes all students who reside within the county and attend that local school administrative unit.

(6) "County-adjusted property tax base" shall be computed as follows:
- a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county,
- b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies,
- c. Add to the resulting amount the:
  1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2,
  2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes, and
  3. Personal property value for the county.

(7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.

(8) "County wealth as a percentage of State average wealth" shall be computed as follows:
- a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths,
- b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State average revenue availability per student and weight the resulting percentage by a factor of four-tenths,
- c. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth,
- d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.

(9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.

(10) "Effective State average tax rate" means the average of effective county tax rates for all counties.

(10a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(11) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.

(12) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(13) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(14) "State average adjusted property tax base per square mile" means the sum of the county-adjusted property tax bases for all counties divided by the number of square miles of land area in the State.

(14a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(15) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

SECTION 7.6.(d) Eligibility for Funds. – Except as provided in subsection (h) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a percentage of the State average wealth is less than one hundred percent (100%).

SECTION 7.6.(e) Allocation of Funds. – Except as provided in subsection (g) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county wealth as a percentage of State average wealth by the State average current expense appropriations per student.)

The funds for the local school administrative units located in whole or in part in the county shall be allocated to each local school administrative unit located in whole or in part in the county based on the average daily membership of the county's students in the school units.

If the funds appropriated for supplemental funding are not adequate to fund the formula fully, each local school administrative unit shall receive a pro rata share of the funds appropriated for supplemental funding.

SECTION 7.6.(f) Formula for Distribution of Supplemental Funding Pursuant to This Section Only. – The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

SECTION 7.6.(g) Minimum Effort Required. – Counties that had effective tax rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall receive reduced funding under this section. This reduction in funding shall be determined by subtracting the amount that the county would have received pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten percent (10%). This method of calculating reduced funding shall apply one time only.

This method of calculating reduced funding shall not apply in cases in which the effective tax rate fell below the statewide average effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

If the county documents that it has increased the per student appropriation to the school current expense fund in the current fiscal year, the State Board of Education shall include this additional per pupil appropriation when calculating minimum effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

SECTION 7.6.(h) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2003-2005 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show: (i) that it has remedied the deficiency in funding, or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

SECTION 7.6.(i) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2004, if it determines that counties have supplanted funds.

SECTION 7.6.(j) Department of Revenue Reports. – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

SECTION 7.7.(a) Funds for Small School Systems. – Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,175 to 4,000 students. The allocation formula shall:

(1) Round all fractions of positions to the next whole position.

(2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four, and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.

(3) Provide additional program enhancement teachers adequate to offer the standard course of study.

(4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.

(5) Provide a base for the consolidated funds allotment of at least five hundred seventy-seven thousand one hundred eleven dollars ($577,111), excluding textbooks.

(6) Allot vocational education funds for grade 6 as well as for grades 7-12.

If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fund fully the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units.

SECTION 7.7.(b) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2003-2005 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show: (i) that it has remedied the deficiency in funding, or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

SECTION 7.7.(c) Phase-Out Provisions. – If a local school administrative unit becomes ineligible for funding under this formula solely because of an increase in the county-adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be phased out over a two-year period. For the first year of ineligibility, the unit shall receive the same amount it received for the prior fiscal year. For the second year of ineligibility, it shall receive one-half of that amount.

If a local school administrative unit becomes ineligible for funding under this formula solely because of an increase in the population of the county in which the local school administrative unit is located, funding for that unit shall be continued for five years after the unit becomes ineligible.

SECTION 7.7.(d) Definitions. – As used in this section:

(1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education.

(2) "County-adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.

(2a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards

of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(3) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(4) "State-adjusted property tax base per student" means the sum of all county adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.

(4a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(5) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued during the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

SECTION 7.7.(e) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2004, if it determines that counties have supplanted funds.

SECTION 7.7.(f) Use of Funds. – Local boards of education are encouraged to use at least twenty percent (20%) of the funds they receive pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose and the State Board shall report this information to the Joint Legislative Education Oversight Committee. These reports shall specify how these funds were targeted and used to implement specific improvement strategies of each local school administrative unit and its schools such as teacher recruitment, closing the achievement gap, improving student accountability, addressing the needs of at-risk students, and establishing and maintaining safe schools.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

APPROPRIATIONS FOR CONTINUALLY LOW-PERFORMING SCHOOLS

SECTION 7.8. Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of one million nine hundred fifty-six thousand one hundred fifteen dollars ($1,956,115) for the 2003-2004 and 2004-2005 fiscal years shall be used to provide the State's chronically low-performing schools with tools needed to dramatically improve student achievement. These funds shall be used to implement any of the following strategies at the schools that have not previously been implemented with State or other funds:

(1) The sum of one million six hundred fifty-seven thousand three hundred forty-five dollars ($1,657,345) for the 2003-2004 and 2004-2005 fiscal years shall be used to reduce class size at a continually low-performing school to ensure that the number of teachers allotted for students in grades four and five is one for every 17 students, and that the number of teachers allotted in grades six through eight is one for every 17 students, and that the number of teachers allotted in grades nine through twelve is one for every 20 students; and

(2) The sum of two hundred ninety-eight thousand seven hundred seventy dollars ($298,770) for the 2003-2004 and 2004-2005 fiscal years shall be used to extend teachers' contracts for a total of 10 days, including

five days of additional instruction with related costs for other than teachers' salaries for the 2003-2004 and 2004-2005 school years.

Notwithstanding any other provision of law, the State Board of Education may implement intervention strategies for the 2003-2004 and 2004-2005 school years that it deems appropriate.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

IMMEDIATE ASSISTANCE TO THE HIGHEST PRIORITY ELEMENTARY SCHOOLS

SECTION 7.9. Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of ten million one hundred thirty-four thousand six hundred seven dollars ($10,134,607) for the 2003-2004 and 2004-2005 fiscal years shall be budgeted to provide the State's lowest performing elementary schools with the tools needed to dramatically improve student achievement. These funds shall be used for the 37 elementary schools at which, for the 1999-2000 school year over eighty percent (80%) of the students qualified for free or reduced-price lunches, and no more than fifty-five percent (55%) of the students performed at or above grade level. Of these funds:

(1) The sum of six million ninety-three thousand one hundred eighty-one dollars ($6,093,181) for the 2003-2004 and 2004-2005 fiscal years shall be used to reduce class size at each of these schools to ensure that no class kindergarten through third grade has more than 15 students;

(2) The sum of two million two hundred sixty-six thousand twenty-six dollars ($2,266,026) for the 2003-2004 and 2004-2005 fiscal years shall be used to extend all teachers' contracts at these schools for a total of 10 days, with five days for staff development, including staff development on methods to individualize instruction in smaller classes, and preparation for the 2003-2004 and 2004-2005 school years, and five additional days of instruction with related costs for other than teachers' salaries; and

(3) The sum of one million seven hundred seventy-five thousand four hundred dollars ($1,775,400) for the 2003-2004 and 2004-2005 fiscal years shall be used to provide one additional instructional support position at each priority school.

No funds from the teacher assistant allotment category may be allotted to the local school administrative units for students assigned to these schools. Any teacher assistants displaced from jobs in these high-priority elementary schools shall be given preferential consideration for vacant teacher assistant positions at other schools, provided their job performance has been satisfactory. Nothing in this section prevents the local school administrative unit from placing teacher assistants in these schools.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

EVALUATION OF INITIATIVES TO ASSIST HIGH-PRIORITY SCHOOLS

SECTION 7.10.(a) In order for the high-priority schools identified in Section 7.9 of this act to remain eligible for the additional resources provided in this section, the schools must meet the expected growth for each year and must achieve high growth for at least two out of three years based on the State Board of Education's annual performance standards set for each school. No adjustment in the allotment of resources based on performance shall be made until the 2004-2005 school year.

SECTION 7.10.(b) All teaching positions allotted for students in high-priority schools and continually low-performing schools in those grades targeted for smaller class sizes shall be assigned to and teach in those grades and in those schools. The maximum class size in grades K-3 in high-priority schools and in grades K-5 in continually low-performing schools shall be no more than one student above the allotment ratio in that grade. The Department of Public Instruction shall monitor class

sizes at these schools at the end of the first month of school and report to the State Board of Education on the actual class sizes at these schools. If the local school administrative unit notifies the State Board of Education that they do not have sufficient resources to adhere to the class size maximum requirements and requests additional teaching positions, the State Board shall verify the need for additional positions. If the additional resources are determined necessary, the State Board of Education may allocate additional teaching positions to the unit from the Reserve for Average Daily Membership adjustments.

SECTION 7.10.(c) Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of five hundred thousand dollars ($500,000) for fiscal year 2003-2004 and the sum of five hundred thousand dollars ($500,000) for fiscal year 2004-2005 shall be used by the State Board of Education to contract with an outside organization to evaluate the initiatives set forth in this section. The evaluation shall include:

(1) An assessment of the overall impact these initiatives have had on student achievement;

(2) An assessment of the effectiveness of each individual initiative set for this section in improving student achievement;

(3) An identification of changes in staffing patterns, instructional methods, staff development, and parental involvement as a result of these initiatives;

(4) An accounting of how funds and personnel resources made available for these schools were utilized and the impact of varying patterns of utilization on changes in student achievement;

(5) An assessment of the impact of bonuses for mathematics, science, and special education teachers on (i) the retention of these teachers in the targeted schools, (ii) the recruitment of teachers in these specialties into targeted schools, (iii) the recruitment of teachers certified in these disciplines, and (iv) student achievement in schools at which these teachers receive these bonuses; and

(6) Recommendations for the continuance and improvement of these initiatives.

The State Board of Education shall make a report to the Joint Legislative Education Oversight Committee regarding the results of this evaluation by December 1 of each year. The State Board of Education shall submit its recommendations for changes to these initiatives to the Committee at anytime.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

AT-RISK STUDENT SERVICES/ALTERNATIVE SCHOOLS

SECTION 7.11. The State Board of Education may use up to two hundred thousand dollars ($200,000) of the funds in the Alternative Schools/At-Risk Student allotment each year for the 2003-2004 fiscal year and for the 2004-2005 fiscal year to implement G.S. 115C-12(24).

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

ADDITIONAL TEACHER POSITIONS FOR SECOND GRADE

SECTION 7.12.(a) The maximum class size limits for second grade established by the State Board of Education for the 2003-2004 school year shall be reduced by two from the 2002-2003 limits, based on an allotment ratio of one teacher for every 18 students.

SECTION 7.12.(b) For the 2003-2004 school year, local school administrative units shall use these additional teacher positions to reduce class size in second grade.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

CHILDREN WITH DISABILITIES

SECTION 7.13. The State Board of Education shall allocate funds for children with disabilities on the basis of two thousand six hundred seventy dollars and twenty-eight cents ($2,670.28) per child for a maximum of 165,266 children for the 2003-2004 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of the 2003-2004 allocated average daily membership in the local school administrative unit.

The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 7.14. The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of eight hundred eighty-four dollars and fifty-five cents ($884.55) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2003-2004 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 53,712 children for the 2003-2004 school year.

The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

STUDENTS WITH LIMITED ENGLISH PROFICIENCY

SECTION 7.15.(a) The State Board of Education shall develop guidelines for identifying and providing services to students with limited proficiency in the English language.

The State Board shall allocate these funds to local school administrative units and to charter schools under a formula that takes into account the average percentage of students in the units or the charters over the past three years who have limited English proficiency. The State Board shall allocate funds to a unit or a charter school only if (i) average daily membership of the unit or the charter school includes at least 20 students with limited English proficiency or (ii) students with limited English proficiency comprise at least two and one-half percent (2.5%) of the average daily membership of the unit or charter school. For the portion of the funds that is allocated on the basis of the number of identified students, the maximum number of identified students for whom a unit or charter school receives funds shall not exceed 10 and six-tenths percent (10.6%) of its average daily membership.

Local school administrative units shall use funds allocated to them to pay for classroom teachers, teacher assistants, tutors, textbooks, classroom materials/instructional supplies/equipment, transportation costs, and staff development of teachers for students with limited English proficiency.

A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds.

SECTION 7.15.(b) The Department of Public Instruction shall prepare a current head count of the number of students classified with limited English proficiency by December 1 of each year.

Students in the head count shall be assessed at least once every three years to determine their level of English proficiency. A student who scores "superior" on the

standard English language proficiency assessment instrument used in this State shall not be included in the head count of students with limited English proficiency.

SECTION 7.15.(c) The State Board of Education shall review the allotment formula for funding for students with limited English proficiency. In its review, the Board shall consider whether the proportion of funds allotted on the basis of concentration of students with limited English proficiency in a local school administrative unit is at the proper level or should be revised. The Board shall report the results of its review and its recommendations to the Joint Legislative Education Oversight Committee by November 15, 2003.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION

SECTION 7.16.(a) The State Board of Education shall use funds appropriated for State Aid to Local School Administrative Units for the 2003-2004 fiscal year to provide incentive funding for schools that met or exceeded the projected levels of improvement in student performance during the 2002-2003 school year, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy:

(1) Incentive awards in schools that achieve higher than expected improvements may be up to:
   a. One thousand five hundred dollars ($1,500) for each teacher and for certified personnel; and
   b. Five hundred dollars ($500.00) for each teacher assistant.

(2) Incentive awards in schools that meet the expected improvements may be up to:
   a. Seven hundred fifty dollars ($750.00) for each teacher and for certified personnel; and
   b. Three hundred seventy-five dollars ($375.00) for each teacher assistant.

SECTION 7.16.(b) The State Board of Education may use funds appropriated to State Aid to Local School Administrative Units for assistance teams to low-performing schools.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

LEA ASSISTANCE PROGRAM

SECTION 7.17. Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of five hundred thousand dollars ($500,000) for fiscal year 2003-2004 shall be used to provide assistance to the State's low-performing Local School Administrative Units (LEAs) and to assist schools in meeting adequate yearly progress in each subgroup identified in the No Child Left Behind Act of 2001. The State Board of Education shall report to the Office of State Budget and Management, the Fiscal Research Division, and the Joint Legislative Education Oversight Committee on the expenditure of these funds by May 15, 2004, and by December 15, 2005. The report shall contain: (1) the criteria for selecting LEAs and schools to receive assistance, (2) measurable goals and objectives for the assistance program, (3) an explanation of the assistance provided, (4) findings from the assistance program, (5) actual expenditures by category, (6) recommendations for the continuance of this program, and (7) any other information the State Board deems necessary.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY

SECTION 7.18.(a) Funds appropriated for the 2003-2004 and 2004-2005 fiscal years for Student Accountability Standards shall be used to assist students to perform at or above grade level in reading and mathematics in grades 3-8 as measured by the State's end-of-grade tests. The SBE shall allocate these funds to LEAs based on

the number of students who score at Level I or Level II on either reading or mathematics end-of-grade tests in grades 3-8. Funds in the allocation category shall be used to improve the academic performance of (i) students who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 or (ii) students who are performing at Level I or II on the writing tests in grades 4 and 7. These funds may also be used to improve the academic performance of students who are performing at Level I or II on the high school end-of-course tests. These funds shall not be transferred to other allocation categories or otherwise used for other purposes. Except as otherwise provided by law, local boards of education may transfer other funds available to them into this allocation category.

The principal of a school receiving these funds, in consultation with the faculty and the site-based management team, shall implement plans for expending these funds to improve the performance of students.

Local boards of education are encouraged to use federal funds such as Title I Comprehensive School Reform Development Funds and to examine the use of State funds to ensure that every student is performing at or above grade level in reading and mathematics.

These funds shall be allocated to local school administrative units for the 2003-2004 fiscal year within 30 days of the date this act becomes law.

SECTION 7.18.(b) Funds appropriated for Student Accountability Standards shall not revert at the end of each fiscal year but shall remain available for expenditure until August 31 of the subsequent fiscal year.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

FUNDS FOR TEACHER RECRUITMENT INITIATIVES

SECTION 7.19. The State Board of Education may use up to two hundred thousand dollars ($200,000) of the funds appropriated for State Aid to Local School Administrative Units each year for the 2003-2004 fiscal year and for the 2004-2005 fiscal year to enable teachers who have received NBPTS certification or who have otherwise received special recognition to advise the State Board of Education on teacher recruitment and other strategic priorities of the State Board.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

RECRUITMENT AND RETENTION INITIATIVE TO ADDRESS TEACHER SHORTAGE

SECTION 7.20.(a) Of the funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of two million eight hundred ninety thousand dollars ($2,890,000) for the 2003-2004 and 2004-2005 fiscal years shall be used to provide annual bonuses of one thousand eight hundred dollars ($1,800) to teachers certified in and teaching in the fields of mathematics, science, or special education in grades 6 through 12 at middle and high schools with eighty percent (80%) or more of the students eligible for free or reduced lunch or with fifty percent (50%) or more of students performing below grade level in Algebra I and Biology. The bonus shall be paid monthly with matching benefits. Teachers shall remain eligible for the bonuses so long as they continue to teach in one of these disciplines at a school that was eligible for the bonus program when the teacher first received this bonus.

SECTION 7.20.(b) In accordance with G.S. 115C-325 and by way of clarification, it shall not constitute a demotion as that term is defined in G.S. 115C-325(a)(4) if:

(1) A teacher who receives a bonus pursuant to this section is reassigned to a school at which there is no such bonus;

(2) A teacher who receives a bonus pursuant to this section is reassigned to teach in a field for which there is no such bonus; or

(3) A teacher receives a bonus pursuant to this section and the bonus is subsequently discontinued or reduced.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW STUDENT INFORMATION SYSTEM

SECTION 7.21.(a) The State Board of Education may transfer up to one million dollars ($1,000,000) in funds appropriated for the Uniform Education Reporting System for the 2003-2004 fiscal year and up to one million dollars ($1,000,000) in funds appropriated for the Uniform Education Reporting System for the 2004-2005 fiscal year to the Department of Public Instruction to lease or purchase equipment necessary for the testing and implementation of NC WISE, the new student information system in the public schools.

Testing shall include an emphasis on the security of the system.

SECTION 7.21.(b) Funds appropriated for the Uniform Education Reporting System shall not revert at the end of the 2003-2004 and 2004-2005 fiscal years, but shall remain available until expended.

SECTION 7.21.(c) This section becomes effective June 30, 2003.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

LITIGATION RESERVE FUNDS

SECTION 7.22. The State Board of Education may expend up to five hundred thousand dollars ($500,000) each year for the 2003-2004 and 2004-2005 fiscal years from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

LOCAL EDUCATION AGENCY FLEXIBILITY

SECTION 7.23. Within 14 days of the date this act becomes law, the State Board of Education shall notify each local school administrative unit of the amount the unit must reduce from State General Fund appropriations. The State Board shall determine the amount of the reduction for each unit on the basis of average daily membership.

Each unit shall report to the Department of Public Instruction on the discretionary budget reductions it has identified for the unit within 30 days of the date this act becomes law. No later than December 31, 2003, the State Board of Education shall make a summary report to the Office of State Budget and Management and the Fiscal Research Division on all reductions made by the LEAs to achieve this reduction.

For fiscal year 2003-2004, the Governor urges local school administrators to make every effort to reduce spending whenever and wherever such budget reductions are appropriate as long as the targeted reductions do not directly impact classroom services or any services for students at risk or children with special needs, including those services or supports that are called for in students' Personal Education Plans (PEP) and/or Individual Education Plans (IEP). If reductions to the allotment categories listed in this paragraph are necessary in order to meet the reduction target, the local board of education shall submit an explanation of the anticipated impact of the reductions to student services along with the budget reductions to the Department of Public Instruction. By February 15, 2004, for fiscal year 2004-2005, the State Board of Education will determine the changes to the allotment categories to make such reductions permanent.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

BASE BUDGET REDUCTION TO DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 7.24. Notwithstanding any other provision of law, the Department of Public Instruction may use salary reserve funds and other funds, and may

transfer funds within the Department's continuation budget to implement budget reductions for the 2003-2004 fiscal year.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

REPLACEMENT SCHOOL BUSES FUNDS

SECTION 7.25.(a) Of the funds appropriated to the State Board of Education, the Board may use up to fifteen million dollars ($15,000,000) for the 2003-2004 fiscal year and up to forty-seven million seven hundred fifty-two thousand eight hundred thirteen dollars ($47,752,813) for the 2004-2005 fiscal year for allotments to local boards of education for replacement school buses under G.S. 115C-249(c) and (d). In making these allotments, the State Board of Education may impose any of the following conditions:

(1) The local board of education must use the funds only to make the first or second year's payment on a financing contract entered into pursuant to G.S. 115C-528.

(2) The term of a financing contract entered into under this section shall not exceed three years.

(3) The local board of education must purchase the buses only from vendors selected by the State Board of Education and on terms approved by the State Board of Education.

(4) The State Board of Education shall solicit bids for the direct purchase of buses and for the purchasing of buses through financing. The State Board of Education may solicit separate bids for financing if the Board determines that multiple financing options are more cost-efficient.

(5) A bus financed pursuant to this section must meet all federal motor vehicle safety regulations for school buses.

(6) Any other condition the State Board of Education considers appropriate.

SECTION 7.25.(b) Any term contract for the purchase or lease-purchase of school buses or school activity buses shall not require vendor payment of the electronic procurement transaction fee of the North Carolina E-Procurement Service.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

EXPENDITURES FOR DRIVING ELIGIBILITY CERTIFICATES

SECTION 7.26. The State Board of Education may use funds appropriated for drivers education for the 2003-2004 fiscal year and for the 2004-2005 fiscal year for driving eligibility certificates.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM

SECTION 7.27.(a) If the State Board of Education does not have sufficient resources in the ADM Contingency Reserve line item to make allotment adjustments in accordance with the Allotment Adjustments for ADM Growth provisions of the North Carolina Public Schools Allotment Policy Manual, the State Board of Education may use funds appropriated to State Aid for Public Schools for this purpose.

SECTION 7.27.(b) If the higher of the first or second month average daily membership in a local school administrative unit is at least two percent (2%) or 100 students lower than the anticipated average daily membership used for allotments for the unit, the State Board of Education shall reduce allotments for the unit. The reduced allotments shall be based on the higher of the first or second month average daily membership plus one-half of the number of students overestimated in the anticipated average daily membership.

The allotments reduced pursuant to this subsection shall include only those allotments that may be increased pursuant to the Allotment Adjustments for ADM Growth provisions of the North Carolina Public Schools Allotment Policy Manual.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL EVALUATION

SECTION 7.28. The State Board of Education may spend up to fifty thousand dollars ($50,000) a year from the State Aid to Local School Administrative Units for the 2003-2004 and 2004-2005 fiscal years to continue support of a charter school advisory committee and to continue to evaluate charter schools.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

STUDY OF ISSUES RELATED TO RAPID GROWTH IN STUDENT POPULATION

SECTION 7.29. The Joint Legislative Education Oversight Committee shall study the effects of rapid growth in student population on local school administrative units. In the course of the study, the Committee shall consider issues related to rapid growth and strategies for addressing these issues. The Committee shall report to the 2004 Regular Session of the General Assembly on its findings and recommendations.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

MENTOR TEACHER FUNDS MAY BE USED FOR FULL-TIME MENTORS

SECTION 7.30.(a) The State Board of Education shall grant flexibility to a local board of education regarding the use of mentor funds to provide mentoring support, provided the local board submits a detailed plan on the use of the funds to the State Board and the State Board approves that plan. The plan shall include information on how all mentors in the local school administrative unit have been or will be adequately trained to provide mentoring support.

Local boards of education shall use funds allocated for mentor teachers to provide mentoring support to all State-paid newly certified teachers, second-year teachers who were assigned mentors during the prior school year, and entry-level instructional support personnel who have not previously been teachers.

SECTION 7.30.(b) The State Board of Education, after consultation with the Professional Teaching Standards Commission, shall adopt standards for mentor training.

SECTION 7.30.(c) Each local board of education with a plan approved pursuant to subsection (a) of this section shall report to the State Board of Education on the impact of its mentor program on teacher retention. The State Board of Education shall report to the Joint Legislative Education Oversight Committee by October 1, 2004, on the characteristics of mentor programs that are most effective in retaining teachers.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

EXPLORNET AUDIT

SECTION 7.31. No State funds appropriated for distribution to ExplorNet, Incorporated, shall be disbursed until the State Auditor and the Office of State Budget and Management certify that ExplorNet, Incorporated, has received an audit report for the 2001-2002 fiscal year that is free of audit exceptions. A copy of the certification by the State Auditor and the Office of State Budget and Management shall be sent to the Joint Legislative Education Oversight Committee and to the Joint Legislative Commission on Governmental Operations.

PART VIII. COMMUNITY COLLEGES

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

COMMUNITY COLLEGE FUNDING FLEXIBILITY

SECTION 8.1. A local community college may use all State funds allocated to it, except for Literacy Funds and Funds for New and Expanding Industries, for any

authorized purpose that is consistent with the college's Institutional Effectiveness Plan. Each local community college shall include in its Institutional Effectiveness Plan a section on how funding flexibility allows the college to meet the demands of the local community and to maintain a presence in all previously funded categorical programs.

No more than two percent (2%) systemwide shall be transferred from faculty salaries without the approval of the State Board of Community Colleges. The State Board shall report on any such transfers above two percent (2%) systemwide to the Office of State Budget and Management and the Joint Legislative Commission on Governmental Operations at its next meeting.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

FLEXIBILITY TO IMPLEMENT BUDGET REDUCTIONS

SECTION 8.2. Notwithstanding G.S. 143-23 or any other provision of law, the State Board of Community Colleges may use salary reserve funds and other funds, and may transfer funds within the Community College System Office continuation budget to the extent necessary to implement budget reductions for the 2003-2004 fiscal year.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

STATE BOARD OF COMMUNITY COLLEGE MANAGEMENT FLEXIBILITY

SECTION 8.3. Within 30 days of the date this act becomes law, the State Board of Community Colleges shall notify each college of the amount the college must reduce from State General Fund appropriations. The State Board shall determine the amount of the reduction for each unit on the basis of FTE or another method that accounts for the unique needs of specific colleges.

Each college shall report to the State Board of Community Colleges on the discretionary budget reductions it has identified for the college within 60 days of the date this act becomes law. No later than December 31, 2003, the State Board of Community Colleges shall make a summary report to the Office of State Budget and Management and the Fiscal Research Division on all reductions made by the colleges to achieve this reduction.

For fiscal year 2003-2004, the General Assembly urges local college administrators to make every effort to reduce spending whenever and wherever such budget reductions are appropriate and as long as the targeted reductions do not directly impact classroom services or those services that are identified in this act as a high-need area for the State. If reductions to the allotment categories listed in this paragraph are necessary in order to meet the reduction target, the local college administration shall submit an explanation of the anticipated impact of the reductions to student services along with the budget reductions to the State Board of Community Colleges.

By February 15, 2004, for fiscal year 2004-2005, the State Board of Community Colleges will determine the changes to the allotment categories to make such reductions permanent.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

REGISTRATION FEES FOR OCCUPATIONAL CONTINUING EDUCATION OR FOCUSED INDUSTRIAL TRAINING

SECTION 8.4. Of the funds appropriated to the North Carolina Community College System for the 2003-2005 biennium, the State Board of Community Colleges may use up to one hundred thousand dollars ($100,000) each year to pay registration fees and material costs for Occupational Continuing Education or Focused Industrial Training safety courses provided to companies that (i) are eligible to participate in the Focused Industrial Training Program, (ii) have less than 150 employees, and (iii) are found by community college representatives and regional customized training directors to face challenges in paying these fees and costs. These funds shall not be expended

without the prior approval of the North Carolina Community College System Office, Division of Economic and Workforce Development.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

SUMMER SCHOOL FUNDING

SECTION 8.5. The General Assembly encourages the North Carolina Community Colleges System to use funds appropriated to support summer term curriculum FTE to address issues associated with worker shortages in high-needs industries such as (i) Business Technology, (ii) Health Sciences, (iii) Child Care Training, and (iv) Public Service Technologies including law enforcement, fire protection, and education.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

CARRY FORWARD FOR EQUIPMENT

SECTION 8.6.(a) Subject to cash availability, the North Carolina Community Colleges System may carry forward an amount not to exceed fifteen million dollars ($15,000,000) of the operating funds held in reserve that were not reverted in fiscal year 2002-2003 to be reallocated to the State Board of Community Colleges' Equipment Reserve Fund. These funds should be distributed to colleges consistent with G.S. 115D-31.

SECTION 8.6.(b) This section becomes effective June 30, 2003.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

HOSIERY CENTER FUNDS

SECTION 8.7. Notwithstanding any other provision of law, all fees collected by the Hosiery Technology Center of Catawba Valley Community College for the testing of hosiery products shall be retained by the Center and used for the operations of the Center. Purchases made by the Center using these funds are not subject to the provisions of Article 3 of Chapter 143 of the General Statutes.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

SCHOLARSHIPS FOR PROSPECTIVE TEACHERS

SECTION 8.8. Of the funds appropriated in this act to the State Board of Community Colleges, the State Board may use up to one million dollars ($1,000,000) for a nonrecurring grant to the North Carolina Community College Foundation. These funds shall be used to match the Glaxo Smith Kline Foundation challenge grant establishing a two million dollar ($2,000,000) endowment for the creation of a new scholarship program for prospective teachers enrolled in baccalaureate completion programs at State community college campuses and for the development of teacher preparation courses.

This provision is contingent upon receipt of one million dollars ($1,000,000) for this purpose from the Glaxo Smith Kline Foundation and applies only to the 2003-2004 fiscal year.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

MANAGEMENT INFORMATION SYSTEM FUNDS

SECTION 8.9.(a) Funds appropriated for the Community Colleges System Office Management Information System shall not revert at the end of the 2002-2003 and 2003-2004 fiscal years but shall remain available until expended.

SECTION 8.9.(b) This section becomes effective June 30, 2003.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

USE OF LITERACY FUNDS FOR LITERACY LABS

SECTION 8.10. Notwithstanding any other provision of law, a local community college may use up to five percent (5%) of the Literacy Funds allocated to it by the State Board of Community Colleges to procure computers for literacy labs.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

FACULTY AND PROFESSIONAL STAFF SALARIES

SECTION 8.11. Three million two hundred fifty thousand dollars ($3,250,000) in the Reserve for Compensation Increases in Section 2.1 of this act shall be used to increase faculty and professional staff salaries by an average of one-half percent (0.5%). These increases are in addition to the one and six-tenths percent (1.6%) provided by Section 30.11 of this act. Colleges may provide additional increases from funds available.

The State Board of Community Colleges shall adopt rules to ensure that these funds are used only to move faculty and professional staff to the respective national averages. The funds shall not be transferred by the State Board or used for any other budget purpose by the community colleges.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

EVALUATION OF THE COMPREHENSIVE ARTICULATION AGREEMENT

SECTION 8.12.(a) The General Assembly finds that (i) there is a general sentiment expressed by students that the Comprehensive Articulation Agreement adopted by the Board of Governors of The University of North Carolina and the State Board of Community Colleges should be improved and (ii) over the past five years, there have been many suggestions for improving the Comprehensive Articulation Agreement as well as recommendations for new directions in which the Comprehensive Articulation Agreement should be developed.

SECTION 8.12.(b) The Joint Legislative Education Oversight Committee shall contract with a credible independent source, individual, or organization, to study the Comprehensive Articulation Agreement. The contractor shall not be (i) a current employee of The University of North Carolina, Office of the President, the North Carolina Community College System, or any of the North Carolina independent schools/colleges participating in the Comprehensive Articulation Agreement or (ii) a current or past member of the Transfer Advisory Committee.

SECTION 8.12.(c) The study by the contractor shall:

(1) Be consistent with the standards of Southern Association of Colleges and Schools, Commission on Colleges, on educational quality and institutional effectiveness;
(2) Be designed to provide an accurate and credible assessment of the effectiveness of the Comprehensive Articulation Agreement during its initial five years of existence relative to the intent of its authorizing legislation;
(3) Be based on qualitative as well as quantitative information and data;
(4) Take no more than four months from initiation to completion.
(5) Include input from college transfer students, counselors, faculty, and administration from both systems.

SECTION 8.12.(d) The contractor's report shall:

(1) Adequately reflect the study's methodology, sources of information, purpose and scope, analyses, evaluative assessments, recommendations, and conclusions;
(2) State any known deficiencies or limitations of the study;
(3) Be presented in both a printed form and an electronic version; and
(4) Provide recommendations for improving the Comprehensive Articulation Agreement.

SECTION 8.12.(e) The contractor shall submit a written progress report every four weeks to the vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochairs of the Transfer Advisory Committee. The contractor shall complete the report within four months. At the completion of the study, the contractor shall submit a draft of the report document to the vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochairs of the Transfer Advisory Committee for review.

SECTION 8.12.(f) The vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochairs of the Transfer Advisory Committee shall respond to the draft report within 30 days of receiving the draft.

SECTION 8.12.(g) Within 60 days of completing the study, the contractor shall submit a final report to the vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochairs of the Transfer Advisory Committee. The vice-president of academic affairs of The University of North Carolina, Office of the President, and the vice-president of academic affairs of the North Carolina Community College System Office may, in their discretion, schedule a formal presentation of the report when it is submitted.

SECTION 8.12.(h) Designees of the vice-president of academic affairs of The University of North Carolina, Office of the President, and the vice-president of academic affairs of the North Carolina Community College System Office shall be the liaisons for matters related to the execution of the study.

SECTION 8.12.(i) The University of North Carolina, Office of the President, and the North Carolina Community College System shall provide the contractor with access and use of information databases to the extent that such access and use is necessary for the study and does not violate legal and ethical codes or create disruptions of normal operations.

SECTION 8.12.(j) The University of North Carolina, Office of the President, and the North Carolina Community College System shall each transfer thirty-five thousand dollars ($35,000) to the Joint Legislative Education Oversight Committee to carry out this study.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

AUTOMOTIVE TRAINING INCENTIVE

SECTION 8.13. Of the funds appropriated in this act for the State Board of Community Colleges for the 2003-2004 fiscal year, the sum of one hundred twenty-five thousand dollars ($125,000) shall be used for a nonrecurring grant to the North Carolina Community College Foundation provided that a like amount is provided by the North Carolina Automotive Dealers Association to match these funds on a dollar-for-dollar basis. The North Carolina Community College Foundation shall use these funds to provide incentive programming at the colleges that offer Automotive Systems Technology. The funds shall be used to:

(1) Increase awareness of careers available in the franchised automobile and truck industry in North Carolina;

(2) Increase awareness within North Carolina's middle school and high school guidance counselors and workforce development coordinators;

(3) Increase public awareness of teaching opportunities in North Carolina's high schools and community colleges in the area of automotive technology;

(4) Increase opportunities in continuing education for automotive technology high school and community college instructors;
(5) Provide a program coordinator to work with the franchised car and truck dealers and with community college and high school automotive professionals to ensure that the automotive curriculum is uniform and appropriate; and
(6) Increase resources to assist high schools and community colleges in gaining and maintaining certification for their respective automotive technology programs.

PART IX. UNIVERSITIES

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

UNC FLEXIBILITY GUIDELINES

SECTION 9.1. The Chancellor of each constituent institution shall report to the Board of Governors of The University of North Carolina on the reductions made to the General Fund budget codes in order to meet the reduction reserve amounts for that institution. The President of The University of North Carolina shall report to the Board of Governors of The University of North Carolina on the reductions made to the General Fund budget codes controlled by the Board in order to meet the reduction reserve amounts for those entities. The Board of Governors shall make a summary report to the Office of State Budget and Management and the Fiscal Research Division by December 31, 2003, on all reductions made by these entities and constituent institutions in order to reduce the budgets by the targeted amounts.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

ESCHEAT FUNDS

SECTION 9.2.(a) There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of eighteen million six hundred seven thousand two hundred ninety-three dollars ($18,607,293) for each year of the 2003-2005 fiscal biennium and to the State Board of Community Colleges the sum of seven million sixty-two thousand eight hundred six dollars ($7,062,806) for each year of the 2003-2005 fiscal biennium. These funds shall be allocated by the State Educational Assistance Authority for need-based student financial aid in accordance with G.S. 116B-7.

SECTION 9.2.(b) The Director of the Budget shall include General Fund appropriations in the amounts provided in subsection (a) of this section in the proposed 2005-2007 fiscal biennium continuation budget for the purposes provided in G.S. 116B-7.

SECTION 9.2.(c) The State Education Assistance Authority (SEAA) shall perform all of the administrative functions necessary to implement the program of financial aid. The SEAA shall conduct periodic evaluations of expenditures of the scholarship programs to determine if allocations are utilized to ensure access to institutions of higher learning and to meet the goals of the respective programs. The SEAA may make recommendations for redistribution of funds to The University of North Carolina and the President of the Community College System regarding their respective scholarship programs, who then may authorize redistribution of unutilized funds for a particular fiscal year.

SECTION 9.2.(d) All obligations to students for uses of the funds set out in subsection (a) of this section that were made prior to the effective date of this section shall be fulfilled as to students who remain eligible under the provisions of the respective programs.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

UNC BOND PROJECT MODIFICATIONS

SECTION 9.3.(a) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Elizabeth City State University by substituting a project entitled "Campus Infrastructure Improvements" for "Doles Residence Hall – Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, as a residence hall that has been provided for from housing receipts and campus infrastructure improvements will allow energy conservation and savings. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Elizabeth City State University by deleting "Doles Residence Hall – Comprehensive Renovation...$1,722,500" and by substituting "Campus Infrastructure Improvements...$1,722,500".

SECTION 9.3.(b) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at North Carolina Central University, due to increasing enrollment growth, by substituting a project entitled "Pearson Cafeteria – Expansion" for "Pearson Cafeteria – Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, by deleting a project entitled "Old Senior Dorm – Conversion to Academic Use" as contained in Section 2(a) of S.L. 2000-3 and by transferring the funds of two million one hundred thirty thousand seven hundred dollars ($2,130,700) from the project entitled "Old Senior Dorm – Conversion to Academic Use", as contained in Section 2(a) of S.L. 2000-3, and by transferring a portion of the funds from a project entitled "Farrison-Newton Building – Comprehensive Renovation of Classroom Building", as contained in Section 2(a) of S.L. 2000-3, to this substitute project. Section 2(a) of S.L. 2000-3 is therefore amended as follows:

(1) In the portion entitled "Pearson Cafeteria – Comprehensive Renovation" under North Carolina Central University, by deleting "Comprehensive Renovation" and by substituting "Expansion" and by adding $7,730,700 for the project so that it reads "Pearson Cafeteria – Expansion...$8,994,300".

(2) In the portion under North Carolina Central University, by deleting "Old Senior Dorm – Conversion to Academic Use...$2,130,700".

(3) In the portion entitled "Farrison-Newton Building – Comprehensive Renovation of Classroom Building" under North Carolina Central University, by decreasing by $5,600,000 the $7,048,700 for the project so that it reads "Farrison-Newton Building – Comprehensive Renovation of Classroom Building...$1,448,700".

SECTION 9.3.(c) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at the University of North Carolina at Asheville by substituting a project entitled "Carmichael Hall Classroom Building – Demolition and New Construction" for "Carmichael Hall Classroom Building – Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, as it has been determined that it is more cost-effective to replace this facility than to renovate it. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of North Carolina at Asheville by deleting "Carmichael Hall Classroom Building – Comprehensive Renovation" and by adding "Carmichael Hall Classroom Building – Demolition and New Construction".

SECTION 9.3.(d) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at the University of North Carolina at Pembroke, due to enrollment growth higher than projected, by adding a project entitled "General Purpose Classroom Building" to Section 2(a) of S.L. 2000-3 and by transferring a portion of the funds from the project entitled "Residence/Dining Hall – Replacement of Jacobs & Wellons Halls", as contained in Section 2(a) of S.L. 2000-3, to this substitute project. Section 2(a) of S.L. 2000-3 is therefore amended in the portion

under the University of North Carolina at Pembroke by substituting "Residence/Dining Hall – Replacement of Jacobs & Wellons Halls...$325,300" and by adding "General Purpose Classroom Building...$7,375,000".

SECTION 9.3.(e) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Winston-Salem State University by substituting a project entitled "Anderson Center – Comprehensive Renovation" for "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs", as contained in Section 2(a) of S.L. 2000-3, by adding a project entitled "Coltrane Hall – Renovation to House Gerontology", by transferring a portion of the funds from the project entitled "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs", as contained in Section 2(a) of S.L. 2000-3, to the new project entitled "Coltrane Hall – Renovation to House Gerontology", by adding a project entitled "New Facility for the Early Childhood Program", and by transferring a portion of the funds from the project entitled "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs", as contained in Section 2(a) of S.L. 2000-3, to the new project entitled "New Facility for the Early Childhood Program". Section 2(a) of S.L. 2000-3 is therefore amended as follows:

(1) In the portion entitled "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs" under Winston-Salem State University, by deleting "& Change of Use for Early Childhood/Gerontology Programs" and by decreasing by $1.9 million the $6,917,900 for the project so that it reads "Anderson Center – Comprehensive Renovation...$5,017,900".

(2) In the portion under Winston-Salem State University, by adding a new project "Coltrane Hall – Renovation to House Gerontology...$400,000".

(3) In the portion under Winston-Salem State University, by adding a new project "New Facility for the Early Childhood Program...$1,500,000".

SECTION 9.3.(f) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Winston-Salem State University by substituting a project entitled "New Student Health Center" for "Health Center Bldg. & Old Nursing Bldg. – Comprehensive Renovation for Student Health", as contained in Section 2(a) of S.L. 2000-3, and by using the existing project budget for a new health facility, as it has been determined that the two existing buildings are in poor condition and have been recommended for future demolition. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Winston-Salem State University by deleting "Health Center Bldg. and Old Nursing Bldg. – Comprehensive Renovation for Student Health" and by substituting "New Student Health Center".

SECTION 9.3.(g) Nothing in this section is intended to supersede any other requirement of law or policy for approval of the substituted capital improvement projects.

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBPART 1. ADMINISTRATION

Requested by: Representatives Barnhart, Nye

PETROLEUM OVERCHARGE FUNDS ALLOCATION

SECTION 10.1.(a) There is appropriated from funds and interest thereon received from the case of United States v. Exxon that remain in the Special Reserve for Oil Overcharge Funds to the Department of Health and Human Services the sum of one

million dollars ($1,000,000) for the 2003-2004 fiscal year to be allocated for the Weatherization Assistance Program.

SECTION 10.1.(b) Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocation made pursuant to subsection (a) of this section may be expended only as authorized by the General Assembly. All interest or income accruing from all deposits or investments of cash balances shall be credited to the Special Reserve for Oil Overcharge Funds.

Requested by: Representatives Barnhart, Nye

OFFICE OF POLICY AND PLANNING

SECTION 10.2.(a) To promote coordinated policy development and strategic planning for the State's health and human services systems, the Secretary of Health and Human Services shall establish an Office of Policy and Planning from existing resources across the Department. The Director of the Office of Policy and Planning shall report directly to the Secretary and shall have the following responsibilities:

(1) Coordinate the development of departmental policies, plans, and rules, in consultation with the Divisions of the Department.

(2) Development of a departmental process for the development and implementation of new policies, plans, and rules.

(3) Development of a departmental process for the review of existing policies, plans, and rules to ensure that departmental policies, plans, and rules are relevant.

(4) Coordination and review of all departmental policies before dissemination to ensure that all policies are well-coordinated within and across all programs.

(5) Implementation of ongoing strategic planning that integrates budget, personnel, and resources with the mission and operational goals of the Department.

(6) Review, disseminate, monitor, and evaluate best practice models.

SECTION 10.2.(b) Under the direction of the Secretary of Health and Human Services, the Director of the Office of Policy and Planning shall have the authority to direct Divisions, offices, and programs within the Department to conduct periodic reviews of policies, plans, and rules and shall advise the Secretary when it is determined to be appropriate or necessary to modify, amend, and repeal departmental policies, plans, and rules. All policy and management positions within the Office of Policy and Planning are exempt positions as that term is defined in G.S. 126-5.

Requested by: Representatives Barnhart, Nye

WEATHERIZATION ASSISTANCE PROGRAM

SECTION 10.3. Article 2 of Chapter 108A of the General Statutes is amended by adding the following new Part to read:

"Part 9. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.

"**§ 108A-70.30. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.**

The Department may administer the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program functions. Nothing in this Part shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to services under the Program."

Requested by: Representatives Barnhart, Nye

NONMEDICAID REIMBURSEMENT CHANGES

SECTION 10.4. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

The Department of Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in nonmedicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its nonmedicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

Family Size	Medical Eye Care Adults	Rehabilitation Except DSB Over 55 Grant	Other
1	$4,860	$8,364	$4,200
2	5,940	10,944	5,300
3	6,204	13,500	6,400
4	7,284	16,092	7,500
5	7,821	18,648	7,900
6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults 55 years of age or older who qualify for services through the Division of Services for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent (200%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

Income (% of poverty)	State Participation	Client Participation
0-150%	100%	0%
151-200%	75%	25%
201-250%	50%	50%
251-300%	25%	75%

300% and over 0% 100%

The Department of Health and Human Services shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department.

Requested by: Representatives Barnhart, Nye

SENIOR CARES PROGRAM ADMINISTRATION

SECTION 10.5. The Department of Health and Human Services may administer the "Senior Cares" prescription drug access program approved by the Health and Wellness Trust Fund Commission and funded from the Health and Wellness Trust Fund.

Requested by: Representatives Barnhart, Nye

PHYSICIAN SERVICES

SECTION 10.6. With the approval of the Office of State Budget and Management, the Department of Health and Human Services may use funds appropriated in this act for across-the-board salary increases and performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician services to clients in facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with the constituent institutions of The University of North Carolina.

Requested by: Representatives Barnhart, Nye

LIABILITY INSURANCE

SECTION 10.7.(a) The Secretary of the Department of Health and Human Services, the Secretary of the Department of Environment and Natural Resources, and the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars ($1,000,000) per incident on behalf of employees of the Departments licensed to practice medicine or dentistry, all licensed physicians who are faculty members of The University of North Carolina who work on contract for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs, and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

SECTION 10.7.(b) The coverage provided under this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States, or that arises out of any sexual, fraudulent, criminal, or malicious act, or out of any act amounting to willful or wanton negligence.

SECTION 10.7.(c) The coverage provided pursuant to this section shall not require any additional appropriations and shall not apply to any individual providing contractual service to the Department of Health and Human Services, the Department of Environment and Natural Resources, or the Department of Correction, with the exception that coverage may include physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services and licensed physicians who are faculty members of The University of North Carolina who work for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

Requested by: Representatives Barnhart, Nye

BUTNER COMMUNITY LAND RESERVATION

SECTION 10.8. The Department of Health and Human Services shall reserve and dedicate the following described land for the construction of a community building and related facilities to serve the Butner Reservation:

"Approximately 2 acres, on the east side it borders Central Avenue with a line running along the Wallace Bradshur property on the north back to the tree line next to the ADATC. From there it follows the tree line south and west to and including the softball field. From the softball field it turns east to the State Employees Credit Union and follows the Credit Union property on the south side back to Central Avenue."

This land shall be reserved and dedicated for the project which shall be funded with contributions from Granville County, contributions from the residents of the Butner Reservation, the use of cablevision franchise rebate funds received by the Department of Health and Human Services on behalf of the Butner Reservation, and other public and private sources.

SUBPART 2. DIVISION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

Requested by: Representatives Barnhart, Nye

MENTAL HEALTH, DEVELOPMENTAL DISABILITY, AND SUBSTANCE ABUSE SERVICES TRUST FUND FOR SYSTEM REFORM BRIDGE AND CAPITAL FUNDING NEEDS AND OLMSTEAD

SECTION 10.9. Moneys in the Trust Fund established pursuant to G.S. 143-15.3D shall be used to establish or expand community-based services only if sufficient recurring funds can be identified within the Department of Health and Human Services from funds currently budgeted for mental health, developmental disabilities, and substance abuse services, area mental health programs or county programs, or local government.

Requested by: Representatives Barnhart, Nye

EXTEND MENTAL HEALTH CONSUMER ADVOCACY PROGRAM CONTINGENT UPON FUNDS APPROPRIATED BY THE 2005 GENERAL ASSEMBLY

SECTION 10.10. Section 4 of S.L. 2001-437, as amended by Section 10.30 of S.L. 2002-126, reads as rewritten:

"**SECTION 4.** Sections 1.1 through 1.21(b) of this act become effective July 1, 2002. Section 2 of this act becomes effective only if funds are appropriated by the ~~2003~~ 2005 General Assembly for that purpose. Section 2 of this act becomes effective July 1 of the fiscal year for which funds are appropriated by the ~~2003~~ 2005 General Assembly for that purpose. The remainder of this act is effective when it becomes law."

Requested by: Representatives Barnhart, Nye

SUBSTANCE ABUSE PREVENTION SERVICES REPORTING

SECTION 10.11. The Department of Health and Human Services shall report on its activities under Section 10.24 of S.L. 2002-126 to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than December 1, 2003.

Requested by: Representatives Barnhart, Nye

DOROTHEA DIX HOSPITAL

SECTION 10.12.(a) In keeping with the United States Supreme Court decision in Olmstead vs. L.C. & E.W. and State policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall develop and implement a plan for the construction of a replacement facility for Dorothea Dix Hospital and for the transition of patients to the

community or to other long-term care facilities, as appropriate. The goal is to develop mechanisms and identify resources needed to enable patients and their families to receive the necessary services and supports based on the following guiding principles:

(1) Individuals shall be provided acute psychiatric care in non-State facilities when appropriate.

(2) Individuals shall be provided acute psychiatric care in State facilities only when non-State facilities are unavailable.

(3) Individuals shall receive evidenced-based psychiatric services and care that are cost-efficient.

(4) The State shall minimize cost shifting to other State and local facilities or institutions.

SECTION 10.12.(b) The Department of Health and Human Services shall conduct an analysis of the individual patient service needs and shall develop and implement an individual transition plan, as appropriate, for patients in each hospital. The State shall ensure that each individual transition plan, as appropriate, shall take into consideration the availability of appropriate alternative placements based on the needs of the patient and within resources available for the mental health, developmental disabilities, and substance abuse services system. In developing each plan, the Department shall consult with the patient and the patient's family or other legal representative.

SECTION 10.12.(c) In accordance with the plan established in subsections (a) and (b) of this section, any nonrecurring savings in State appropriations that result from reductions in beds or services shall be placed in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs. These funds shall be used to facilitate the transition of clients into appropriate community-based services and supports in accordance with G.S. 143-15.3D. Recurring savings realized through implementation of this section shall be retained by the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (i) for implementation of subsections (a) and (b) of this section, and (ii) to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead vs. L.C. & E.W.

SECTION 10.12.(e) The Department of Health and Human Services shall submit reports on the status of implementation of this section to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. These reports shall be submitted on December 1, 2003, and May 1, 2004.

Requested by: Representatives Barnhart, Nye

COMPREHENSIVE TREATMENT SERVICES PROGRAM

SECTION 10.13. The Department of Health and Human Services shall report on its continuing implementation of the Comprehensive Treatment Services Program established pursuant to Section 21.60 of S.L. 2001-424. The Department shall submit an interim report on December 1, 2003, and a final report not later than April 1, 2004, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representatives Barnhart, Nye

MENTAL RETARDATION CENTER DOWNSIZING

SECTION 10.14.(a) In accordance with the Department of Health and Human Services' plan for downsizing the State's regional mental retardation facilities by four percent (4%) each year, the Department shall implement cost-containment and reduction strategies to ensure the corresponding financial and staff downsizing of each facility. The Department shall manage the client population of the mental retardation

centers in order to ensure that placements for ICF/MR level of care shall be made in non-State facilities. Admissions to State ICF/MR facilities are permitted only as a last resort and only upon approval of the Department. The corresponding budgets for each of the State mental retardation centers shall be reduced, and positions shall be eliminated as the census of each facility decreases. At no time shall mental retardation center positions be transferred to other units within a facility or assigned nondirect care activities such as outreach.

SECTION 10.14.(b) Any savings in State appropriations in each year of the 2003-2005 fiscal biennium that result from reductions in beds or services shall be applied as follows:

(1) Nonrecurring savings shall be placed in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs and shall be used to facilitate the transition of clients into appropriate community-based services and support in accordance with G.S. 143-15.3D, and

(2) Recurring savings realized through implementation of this section shall be retained by the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead vs. L.C. & E.W. In determining the savings in this section, savings shall include all savings realized from the downsizing of the State mental retardation centers including both the savings in direct State appropriations in the budgets of the State mental retardation centers as well as the savings in the State matching portion of reduced Medicaid payments associated with downsizing.

SECTION 10.14.(c) The Department of Health and Human Services shall report on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The progress report shall be submitted not later than January 15, 2004, and a final report submitted not later than May 1, 2004.

SECTION 10.14.(d) Downsizing of mental retardation centers which occurs in the 2003-2004 fiscal year shall be maintained for the 2004-2005 fiscal year. Effective July 1, 2003, downsizing shall be accomplished in accordance with this section and the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services. All savings resulting from downsizing occurring on and after July 1, 2003, shall be utilized as set forth in subsection (b) of this section.

Requested by: Representatives Barnhart, Nye

MENTAL RETARDATION CENTER OUTREACH PLAN

SECTION 10.15.(a) The Department of Health and Human Services shall develop and implement a plan for the reorganization of outreach services performed by the State mental retardation centers. The plan shall include the following:

(1) The elimination of all activities in the State mental retardation centers centered on the identification and referral of persons in the community in need of specialized services to the mental retardation centers.

(2) The transfer of responsibility to area and county mental health programs for all community referral functions for specialized services at the mental retardation centers.

(3) The method for allocating savings in State appropriations from the mental retardation centers across the area and county mental health programs.

(4) The retention in the mental retardation centers of community transition activities currently performed as part of outreach. These activities

include coordinating for transition of residents from the mental retardation centers to the area and county mental health programs and technical assistance for community service providers and families who will care for the transitioned residents.

SECTION 10.15.(b) In accordance with the plan established in subsection (a) of this section, any recurring and nonrecurring savings in State appropriations in excess of five hundred thirty-seven thousand three hundred twenty-eight dollars ($537,328) in each year of the 2003-2005 fiscal biennium that result from reductions in outreach activities in the mental retardation centers shall be transferred from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to area and county mental health programs for the purpose of performing community referral activities designated in subsection (a) of this section.

SECTION 10.15.(c) The Department of Health and Human Services shall report on the implementation of this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. This report shall be submitted on February 1, 2004.

Requested by: Representatives Barnhart, Nye

SERVICES TO MULTIPLY-DIAGNOSED ADULTS

SECTION 10.16.(a) In order to ensure that multiply-diagnosed adults are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these adults:

(1) Implement the following guiding principles for the provision of services:
   a. Service delivery system must be outcome oriented and evaluation based.
   b. Services should be delivered as close as possible to the consumer's home.
   c. Services selected should be those that are most efficient in terms of cost and effectiveness.
   d. Services should not be provided solely for the convenience of the provider or the client.
   e. Families and consumers should be involved in decision making throughout treatment planning and delivery; and
(2) Provide those treatment services that are medically necessary.
(3) Implement utilization review of services provided.

SECTION 10.16.(b) The Department of Health and Human Services shall implement all of the following cost-reduction strategies:

(1) Preauthorization for all services except emergency services.
(2) Criteria for determining medical necessity.
(3) Clinically appropriate services.
(4) Not later than May 1, 2004, conduct a State review of (i) individualized service plans for former Thomas S. class members and for adults whose service plan exceeds one hundred thousand dollars ($100,000) to ensure that service plans focus on delivery of appropriate services rather than optimal treatment and habilitation plans, and (ii) staffing patterns of residential services.

SECTION 10.16.(c) No State funds shall be used for the purchase of single-family or other residential dwellings to house multiply-diagnosed adults.

SECTION 10.16.(d) The Department shall submit a progress report on implementation of this section not later than February 1, 2004, and a final report not later than May 1, 2004, to the Senate Appropriations Committee on Health and Human

Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representatives Barnhart, Nye

AREA MENTAL HEALTH ADMINISTRATIVE COSTS

SECTION 10.17.(a) Area mental health, developmental disabilities, and substance abuse authorities or counties administering mental health, developmental disabilities, and substance abuse services shall develop and implement plans to reduce local administrative costs. The plans shall be developed in accordance with guidelines adopted by the Secretary, in consultation with the Local Government Commission and the North Carolina Association of County Commissioners, and in accordance with the following:

(1) Administrative costs for area mental health, developmental disabilities, and substance abuse services programs shall not exceed thirteen percent (13%).

(2) Administrative costs for counties administering mental health, developmental disabilities, and substance abuse services through a county program shall not exceed thirteen percent (13%).

SECTION 10.17.(b) The Department of Health and Human Services shall report its progress in complying with this section not later than January 1, 2004, and April 15, 2004. The reports shall be submitted to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division and shall include:

(1) A description of the process used and the participants involved in complying with subsection (a) of this section.

(2) The guidelines developed under subsection (a) of this section.

(3) A description of local compliance initiatives and efforts including program or function consolidation.

(4) A list of area programs at or below the targeted thirteen percent (13%) for the 2003-2004 fiscal year.

(5) Projected savings in administrative costs as a result of implementation of the targeted limits required under this section.

SECTION 10.17.(c) The Department may implement alternative approaches to establish reasonable administrative cost limitations for Local Management Entities (LMEs), including both county programs and area authority models, and service providers in accordance with system reform and changes in system funding structures.

Requested by: Representatives Barnhart, Nye

PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT

SECTION 10.18.(a) To ensure uniformity in rates charged to area programs and funded with State-allocated resources, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services may require a private agency that provides services under contract with an area program or county program, except for hospital services that have an established Medicaid rate, to complete an agency-wide uniform cost finding in accordance with G.S.122C-147.2. The resulting cost shall be the maximum included for the private agency in the contracting area program's unit cost finding.

SECTION 10.18.(b) If a private agency fails to timely and accurately complete the required agency-wide uniform cost finding in a manner acceptable to the Department's controller's office, the Department may suspend all Department funding and payment to the private agency until such time as an acceptable cost finding has been completed by the private agency and approved by the Department's controller's office.

SUBPART 3. DIVISION OF MEDICAL ASSISTANCE

Requested by: Representatives Barnhart, Nye

MEDICAID

SECTION 10.19.(a) Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection.

Services and payment bases:

(1) Hospital-Inpatient. – Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of Health and Human Services.

(2) Hospital-Outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.

(3) Nursing Facilities. – Payment for nursing facility services will be prescribed in the State Plan as established by the Department of Health and Human Services. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare certified bed. Medicaid shall cover facility services only after the appropriate services have been billed to Medicare. The Division of Medical Assistance shall allow nursing facility providers sufficient time from the effective date of this act to certify additional Medicare beds if necessary. In determining the date that the requirements of this subdivision become effective, the Division of Medical Assistance shall consider the regulations governing certification of Medicare beds and the length of time required for this process to be completed.

(4) Intermediate Care Facilities for the Mentally Retarded. – As prescribed in the State Plan as established by the Department of Health and Human Services.

(5) Drugs. – Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (h) of this section and to the provisions at the end of subsection (a) of this section, or in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents ($5.60) per prescription for generic drugs and four dollars ($4.00) per prescription for brand name drugs. Adjustments to the professional services fee shall be established by the General Assembly.

(6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services, Nurse Practitioners. – Fee schedules as developed by the Department of Health and Human Services.

Payments for dental services are subject to the provisions of subsection (g) of this section.

(7) Community Alternative Program, EPSDT Screens. – Payment to be made in accordance with rate schedule developed by the Department of Health and Human Services.

(8) Home Health and Related Services, Private Duty Nursing, Clinic Services, Prepaid Health Plans, Durable Medical Equipment. – Payment to be made according to reimbursement plans developed by the Department of Health and Human Services.

(9) Medicare Buy-In. – Social Security Administration premium.

(10) Ambulance Services. – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.

(11) Hearing Aids. – Actual cost plus a dispensing fee.

(12) Rural Health Clinic Services. – Provider-based, reasonable cost; nonprovider-based, single-cost reimbursement rate per clinic visit.

(13) Family Planning. – Negotiated rate for local health departments. For other providers, see specific services, for instance, hospitals, physicians.

(14) Independent Laboratory and X-Ray Services. – Uniform fee schedules as developed by the Department of Health and Human Services.

(15) Optical Supplies. – One hundred percent (100%) of reasonable wholesale cost of materials.

(16) Ambulatory Surgical Centers. – Payment as prescribed in the reimbursement plan established by the Department of Health and Human Services.

(17) Medicare Crossover Claims. – An amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services.

(18) Physical Therapy and Speech Therapy. – Services limited to EPSDT eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services. Physical therapy (including occupational therapy) and speech therapy services are subject to prior approval and utilization review.

(19) Personal Care Services. – Payment in accordance with the State Plan approved by the Department of Health and Human Services.

(20) Case Management Services. – Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.

(21) Hospice. – Services may be provided in accordance with the State Plan developed by the Department of Health and Human Services.

(22) Other Mental Health Services. – Unless otherwise covered by this section, coverage is limited to:

a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, and reimbursement is made in accordance with a State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal regulations, and

b. For children eligible for EPSDT services:

1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, when Medicaid-eligible children are referred by the Carolina ACCESS primary care physician or the area mental health program, and
2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department.

Notwithstanding G.S. 150B-121.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes further defining the qualifications of providers and referral procedures in order to implement this subdivision. Coverage policy for services defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services under paragraphs a. and b.2 of this subdivision shall be established by the Division of Medical Assistance.

(23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible Children. – Reimbursement in accordance with the State Plan approved by the Department of Health and Human Services.

(24) Health Insurance Premiums. – Payments to be made in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal regulations.

(25) Medical Care/Other Remedial Care. – Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates. Services addressed by this paragraph are limited to those prescribed in the State Plan as established by the Department of Health and Human Services.

(26) Pregnancy Related Services. – Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits by maternity care coordinators and public health nurses.

Services and payment bases may be changed with the approval of the Director of the Budget.

Payment is limited to Medicaid enrolled providers that purchase a performance bond in an amount not to exceed one hundred thousand dollars ($100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may waive or limit the requirements of this paragraph for one or more classes of Medicaid enrolled providers based on the provider's dollar amount of monthly billings to Medicaid or the length of time the provider has been licensed in this State to provide services. In waiving or limiting requirements of this paragraph the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement this provision.

Reimbursement is available for up to 24 visits per recipient per year to any one or combination of the following: physicians, clinics, hospital outpatient, optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children, emergency rooms, and mental health services subject to independent utilization review are exempt from the visit limitations contained in this paragraph. Exceptions may be authorized by the Department of Health and Human Services where the life of the patient would be threatened without such additional care. Any person who is determined by the Department to be exempt from the 24-visit limitation may also be exempt from the six-prescription limitation.

SECTION 10.19.(b) Allocation of Nonfederal Cost of Medicaid. – The State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section.

SECTION 10.19.(c) Copayment for Medicaid Services. – The Department of Health and Human Services may establish copayment up to the maximum permitted by federal law and regulation.

SECTION 10.19.(d) Medicaid and Work First Family Assistance, Income Eligibility Standards. – The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

	Categorically Needy	Medically Needy	
	WFFA*		
Family Size	Standard of Need	Families and Children Income Level	AA, AB, AD*
1	$4,344	$2,172	$2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need.

These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

SECTION 10.19.(e) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines, as revised each April 1.

SECTION 10.19.(f) ICF and ICF/MR Work Incentive Allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in work activities as part of their developmental plan and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

Monthly Net Wages	Monthly Incentive Allowance
$1.00 to $100.99	Up to $50.00

$101.00 to $200.99	$80.00
$201.00 to $300.99	$130.00
$301.00 and greater	$212.00.

SECTION 10.19.(g) Dental Coverage Limits. – Dental services shall be provided on a restricted basis in accordance with rules adopted by the Department to implement this subsection.

SECTION 10.19.(h) Dispensing of Generic Drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand name drug is medically necessary and has written on the prescription order the phrase "medically necessary". An initial prescription order for an atypical antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs. As used in this subsection, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and "established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

SECTION 10.19.(i) The Department of Health and Human Services shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of : (i) mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, and major depressive disorder, or (ii) HIV/AIDS.

SECTION 10.19.(j) Exceptions to Service Limitations, Eligibility Requirements, and Payments. – Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, contracting for services, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services, or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient. The Department of Health and Human Services may proceed with planning and development work on the Program of All-Inclusive Care for the Elderly.

SECTION 10.19.(k) Volume Purchase Plans and Single Source Procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

SECTION 10.19.(l) Cost-Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost containment programs in accordance with Section 3 of S.L. 2001-395, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

SECTION 10.19.(m) For all Medicaid eligibility classifications for which the federal poverty level is used as an income limit for eligibility determination, the

income limits will be updated each April 1 immediately following publication of federal poverty guidelines.

SECTION 10.19.(n) The Department of Health and Human Services shall provide coverage to pregnant women and to children according to the following schedule:

(1) Pregnant women with incomes equal to or less than one hundred fifty percent (150%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits. In determining income eligibility under this subdivision, the income of a minor's parents shall be counted if the minor is residing in the home.

(2) Infants under the age of one with family incomes equal to or less than one hundred fifty percent (150%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(3) Children aged one through five with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(4) Children aged six through 18 with family incomes equal to or less than the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(5) The Department of Health and Human Services shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other conditions determined by the Department as conditions that may complicate pregnancy. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children described in subdivisions (3) and (4) of this subsection, no resources test shall be applied.

SECTION 10.19.(o) Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

SECTION 10.19.(p) The Division of Medical Assistance, Department of Health and Human Services, may provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

SECTION 10.19.(q) If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Health and Human Services, may use funds that are identified to support the cost of development and acquisition of equipment and software through contractual means to improve and enhance information systems that provide management information and claims processing. The Department of Health and Human Services shall identify adequate funds to support the implementation and first year's operational costs that exceed the currently allocated funds for the new contract for the fiscal agent for the Medicaid Management Information System.

SECTION 10.19.(r) The Department of Health and Human Services may adopt temporary rules according to the procedures established in G.S. 150B-21.1 when it finds that these rules are necessary to maximize receipt of federal funds within existing State appropriations, to reduce Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these temporary rules with the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary rule and its effect on State appropriations and local governments.

SECTION 10.19.(s) The Department shall report to the Fiscal Research Division of the Legislative Services Office and to the House of Representatives

Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services or the Joint Legislative Health Care Oversight Committee on any change it anticipates making in the Medicaid program that impacts the type or level of service, reimbursement methods, or waivers, any of which require a change in the State Plan or other approval by the Centers for Medicare and Medicaid Services (CMS). The reports shall be provided at the same time they are submitted to CMS for approval.

SECTION 10.19.(t) Upon approval of a demonstration waiver by the Centers for Medicare and Medicaid Services (CMS), the Department of Health and Human Services may provide Medicaid coverage for family planning services to men and women of child-bearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty level. Coverage shall be contingent upon federal approval of the waiver and shall begin no earlier than January 1, 2001.

SECTION 10.19.(u) The Department of Health and Human Services, Division of Medical Assistance, shall use the latest audited cost reporting data available when establishing Medicaid provider rates or when making changes to the reimbursement methodology. For hospital services, the division shall use the latest audited cost reporting data available, supplemented by additional financial information available to the Division if and to the extent that the Division concludes that the information is reliable and relevant, when establishing rates or when making changes to the reimbursement methodology.

SECTION 10.19.(v) The Department of Health and Human Services, Division of Medical Assistance, shall implement a new coding system for therapeutic mental health services as required by the Health Insurance Portability and Accountability Act of 1996. In implementing the new coding system, the Division shall ensure that the new coding system does not discriminate between providers of therapeutic mental health services with similar qualifications and training. In meeting the requirements of this subsection, the Division shall consult with the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and the professional licensing boards responsible for licensing the affected professionals.

SECTION 10.19.(w) The Department of Health and Human Services may apply federal transfer of assets policies, as described in Title XIX, section 1917(c) of the Social Security Act, including the attachment of liens, to real property excluded as "income producing", tenancy-in-common, or as nonhomesite property made "income producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer of assets policy shall apply only to an institutionalized individual or the individual's spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset policies and attachment of liens to properties excluded as tenancy-in-common or as nonhomesite property made "income producing" in accordance with this subsection shall become effective not earlier than November 1, 2002.

SECTION 10.19.(x) When implementing the Supplemental Security Income (SSI) method for considering equity value of income producing property, the Department shall, to the maximum extent possible, employ procedures to mitigate the hardship to Medicaid enrollees occurring from application of the Supplemental Security Income (SSI) method.

SECTION 10.19.(y) The Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for Departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds three million dollars ($3,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not

implement any proposed medical policy change exceeding three million dollars ($3,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. The Department shall provide the Office of State Budget and Management and the Fiscal Research Division a quarterly report itemizing all medical policy changes with total requirements of less than three million dollars ($3,000,000).

Requested by: Representatives Barnhart, Nye

MEDICAID RESERVE FUND TRANSFER

SECTION 10.20. Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of thirty million dollars ($30,000,000) for the 2003-2004 fiscal year and the sum of thirty million dollars ($30,000,000) for the 2004-2005 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for Medicaid Programs. Notwithstanding the prescription in G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act.

Requested by: Representatives Barnhart, Nye

DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS

SECTION 10.21.(a) Disproportionate share receipts reserved at the end of the 2003-2004 and 2004-2005 fiscal years shall be deposited with the Department of State Treasurer as nontax revenue for each of those fiscal years.

SECTION 10.21.(b) For each year of the 2003-2005 fiscal biennium, as it receives funds associated with Disproportionate Share Payments from State hospitals, the Department of Health and Human Services, Division of Medical Assistance, shall deposit up to one hundred million dollars ($100,000,000) of these Disproportionate Share Payments to the Department of State Treasurer for deposit as nontax revenue. Any Disproportionate Share Payments collected in excess of one hundred million dollars ($100,000,000) shall be reserved by the State Treasurer for future appropriations.

Requested by: Representatives Barnhart, Nye

COUNTY MEDICAID COST SHARE

SECTION 10.22.(a) Effective July 1, 2000, the county share of the cost of Medicaid services currently and previously provided by area mental health authorities shall be increased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010.

SECTION 10.22.(b) Effective July 1, 2000, the county share of the cost of Medicaid Personal Care Services paid to adult care homes shall be decreased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010.

Requested by: Representatives Barnhart, Nye

MEDICAID COST CONTAINMENT ACTIVITIES

SECTION 10.23. The Department of Health and Human Services may use not more than three million dollars ($3,000,000) in each year of the 2003-2005 fiscal biennium in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services or hiring additional staff. Medicaid cost-containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, and other cost-containment activities. Funds may be expended under this section only after the Office of State Budget and Management has

approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost-containment activity and documentation of the amount of savings expected to be realized from the cost-containment activity. The Department shall provide a copy of proposals for expenditures under this section to the Fiscal Research Division.

Requested by: Representatives Barnhart, Nye

INCREASES IN FEDERAL MEDICAID FUNDS

SECTION 10.24.(a) Notwithstanding any other provision of law to the contrary, the total amount of State funds that become available to the Department of Health and Human Services for the 2003-2004 fiscal year due to an increase in federal Medicaid funds resulting from increases in the Federal Financial Participation rate shall be used to increase funds appropriated to the Department for the 2003-2004 fiscal year for the Medicaid program without any reduction in what is otherwise allocated to the Department from appropriated funds.

SECTION 10.24.(b) The Department of Health and Human Services, Division of Medical Assistance, may reinstate eligibility policies changed by this act when all of the following conditions are met:

(1) Congress approves enhanced Federal Financial Participation for State Medicaid programs.

(2) Receipt of the enhanced Federal Financial Participation is dependent on a State's maintenance of effort in Medicaid eligibility.

(3) The Department has concluded that the enacted policy changes render the State ineligible for the enhanced Federal Financial Participation.

(4) Enhanced Federal Financial Participation receipts exceed the anticipated savings in State funds from the enacted policy changes.

Requested by: Representatives Barnhart, Nye

PUBLIC ASSISTANCE AND SOCIAL SERVICES APPEALS AND ACCESS TO RECORDS

SECTION 10.25. G.S. 108A-79 reads as rewritten:

"**§ 108A-79. Appeals.**

(a) A public assistance applicant or recipient shall have a right to appeal the decision of the county board of social services, county department of social services, or the board of county commissioners granting, denying, terminating, or modifying assistance, or the failure of the county board of social services or county department of social services to act within a reasonable time under the rules and regulations of the Social Services Commission or the Department. Each applicant or recipient shall be notified in writing of his right to appeal upon denial of his application for assistance and at the time of any subsequent action on his case.

(b) In cases involving termination or modification of assistance, no action shall become effective until 10 workdays after notice of this action and of the right to appeal is mailed or delivered by hand to the recipient; provided, however, termination or modification of assistance may be effective immediately upon the mailing or delivery of notice in the following circumstances:

(1) When the modification is beneficial to the recipient; or

(2) When federal regulations permit immediate termination or modification upon mailing or delivery of notice and the Social Services Commission or the Department of Health and Human Services promulgates regulations adopting said federal law or regulations. When federal and State regulations permit immediate termination or modification, the recipient shall have no right to continued assistance at the present level pending a hearing, as would otherwise be provided by subsection (d) of this section.

(c) The notice of action and the right to appeal shall comply with all applicable federal and State law and regulations; provided, such notice shall, at a minimum contain a clear statement of:

(1) The action which was or is to be taken;
(2) The reasons for which this action was or is to be taken;
(3) The regulations supporting this action;
(4) The applicant's or recipient's right to both a local and State level hearing, or to a State level hearing in the case of the food stamp ~~program,~~ program and cases involving disability, on the decision to take this action and the method for obtaining these hearings;
(5) The right to be represented at the hearings by a personal representative, including an attorney obtained at the applicant's or recipient's expense;
(6) In cases involving termination or modification of assistance, the recipient's right upon timely request to continue receiving assistance at the present level pending an appeal hearing and decision on that hearing.

An applicant or recipient may give notice of appeal by written or oral statement to the county department of social services, which shall record such notice by completing a form developed by the Department.

Such notice of appeal must be given within 60 days from the date of the action, or 90 days from the date of notification in the case of the food stamp program. Failure to give timely notice of appeal constitutes a waiver of the right to a hearing except that, for good cause shown, the county department of social services may permit an appeal notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits.

(d) If there is such timely appeal in cases not involving disability, in the first instance the hearing shall consist of a local appeal hearing before the county director or a designated representative of the county director, provided whoever hears the local appeal shall not have been involved directly in the initial decision giving rise to the appeal. If there is such timely appeal in cases involving disability, the county director or a designated representative of the county director shall within five days of the request for an appeal forward the request to the Department of Health and Human Services, and the Department shall designate a hearing officer who shall promptly hold a hearing in the county according to the provisions of subsections (i) and (j) of this section. The issue of disability determination is governed by federal law as codified in 42 § C.F.R. 435.541. In cases involving termination or modification of assistance (other than cases of immediate termination or modification of assistance pursuant to subsection (b)(2) of this section), the recipient shall continue to receive assistance at the present level pending the decision at the initial hearing, whether that be the local appeal hearing decision or, in cases involving questions of disability, the Department of Health and Human Services hearing decision, provided that in order to continue receiving assistance pending the initial hearing decision the recipient must request a hearing on or before the effective date of the termination or modification of assistance.

(e) The local appeal hearing shall be held not more than five days after the request for it is received. The recipient may, for good cause shown as defined by rule or regulation of the Social Services Commission or the Department, petition the county department of social services, in writing, for a delay, but in no event shall the local appeal hearing be held more than 15 days after the receipt of the request for hearing. At the local appeal hearing:

(1) The appellant and the county department may be represented by personal representatives, including attorneys, obtained at their expense.
(2) The appellant or his personal representative and the county department shall present such sworn evidence and law or regulations as bear upon the case. The hearing need not be recorded or transcribed, but the

director or his representative shall summarize in writing the substance of the hearing.

(3) The appellant or his personal representative and the county department may cross-examine witnesses and present closing arguments summarizing their views of the case and the law.

(4) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine the contents of his case file for the matter pending together with those portions of other public assistance or social services case files which pertain to the appeal, and all documents and records which the county department of social services intends to use at the hearing. Those portions of the public assistance or social services case file which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to the public assistance or social services case file the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules and regulations promulgated pursuant to G.S. 108A-80.

(f) The director or his designated representative shall make the decision based upon the evidence presented at the hearing and all applicable regulations, and shall prepare a written statement of his decision citing the regulations and evidence to support it. This written statement of the decision will be served by certified mail on the appellant within five days of the local appeal hearing. If the decision terminating or modifying the appellant's benefits is affirmed, the assistance shall be terminated or modified, not earlier than the date the decision is mailed, and any assistance received during the time of the appeal is subject to recovery.

(g) If the appellant is dissatisfied with the decision of the local appeal hearing, he may within 15 days of the mailing notification of the decision take a further appeal to the Department. However, assistance may not be received pending this further appeal. Failure to give timely notice of further appeal constitutes a waiver of the right to a hearing before an official of the Department except that, for good cause shown, the Department may issue an order permitting a review of the local appeal hearing notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits.

(h) Subsections (d)-(g) of this section shall not apply to the food stamp program. The first appeal for a food stamp recipient or his representative shall be to the Department. Pending hearing, the recipient's assistance shall be continued at the present level upon timely request.

(i) If there is an appeal from the local appeal hearing decision, or from a food stamp recipient or his representative where there is no local hearing, or if there is an appeal of a case involving questions of disability the county director shall notify the Department according to its rules and regulations. The Department shall designate a hearing officer who shall promptly hold a de novo administrative hearing in the county after giving reasonable notice of the time and place of such hearing to the appellant and the county department of social services. Such hearing shall be conducted according to ~~applicable federal law and regulations and Article 3, Chapter 150B, of the General Statutes of North Carolina; provided the~~ federal law as codified in 42 C.F.R. § 431, Subpart E and Article 3 of Chapter 150B of the General Statutes. Appeals from local evidentiary hearings shall be de novo. The Department shall adopt rules and regulations to ensure the following:

(1) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine his case file and all documents and records which the county department of social services intends to use at the hearing together with those portions of other public assistance or social services case files which pertain to the appeal. Those portions of the public assistance or social services case files which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to portions of the public assistance or social services case file, the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules or regulations promulgated pursuant to G.S. 108A-80.

(2) At the appeal hearing, the appellant and personnel of the county department of social services may present such sworn evidence, law and regulations as bear upon the case.

(3) The appellant and county department shall have the right to be represented by the person of his choice, including an attorney obtained at his own expense.

(4) The appellant and county department shall have the right to cross-examine the other party as well as make a closing argument summarizing his view of the case and the law.

(5) The appeal hearing shall be recorded; however, no transcript will be prepared unless a petition for judicial review is filed pursuant to subsection (k) herein, in which case, the transcript will be made a part of the official record. In the absence of the filing of a petition for a judicial review, the recording of the appeal hearing may be erased or otherwise destroyed 180 days after the final decision is mailed.

(6) Notwithstanding G.S. 150B-28 or any other provision of State law, discovery shall be no more extensive or formal than that required by federal law and regulations applicable to such hearings.

(j) After the administrative hearing, the hearing officer shall prepare a proposal for decision, citing pertinent law, regulations, and evidence, which shall be served upon the appellant and the county department of social services or their personal representatives. The appellant and the county department of social services shall have the opportunity to present oral and written arguments in opposition to or in support of the proposal for decision to the designated official of the Department who is to make the final decision. The final decision shall be based on, conform to, and set forth in detail the relevant evidence, pertinent State and federal law and regulations, and matters officially noticed. The decision shall be rendered not more than 90 days, or 45 days in the case of the food stamp program, from the date of request for the hearing, unless the hearing was delayed at the request of the appellant. If the hearing was delayed at the appellant's request, the decision may only be delayed for the length of time the appellant requested a delay. The final decision shall be served upon the appellant and upon the county department of social services by certified mail, with a copy furnished to either party's attorney of record. In the absence of a petition for judicial review filed pursuant to subsection (k) herein, the final decision shall be binding upon the appellant, the county department of social services, the county board of social services, and the board of county commissioners.

(k) Any applicant or recipient who is dissatisfied with the final decision of the Department may file, within 30 days of the receipt of notice of such decision, a petition for judicial review in superior court of the county from which the case arose. Failure to file a petition within the time stated shall operate as a waiver of the right of such party to review, except that, for good cause shown, a judge of the superior court resident in the district or holding court in the county from which the case arose may issue an order permitting a review of the agency decision under this Chapter notwithstanding such waiver. The hearing shall be conducted according to the provisions of Article 4, Chapter 150B, of the North Carolina General Statutes. The court shall, on request, examine the evidence excluded at the hearing under G.S. 108A-79(e)(4) or G.S. 108A-79(i)(1) and if the evidence was improperly excluded, the court shall consider it. Notwithstanding the foregoing provisions, the court may take testimony and examine into the facts of the case, including excluded evidence, to determine whether the final decision is in error under federal and State law, and under the rules and regulations of the Social Services Commission or the Department of Health and Human Services. Furthermore, the court shall set the matter for hearing within 15 days from the filing of the record under G.S. 150B-47 and after reasonable written notice to the Department of Health and Human Services and the applicant or recipient. Nothing in this subsection shall be construed to abrogate any rights that the county may have under Article 4 of Chapter 150B.

(l) In the event of conflict between federal law or regulations and State law or regulations, the federal law or regulations shall control."

Requested by: Representatives Barnhart, Nye

TRANSFER OF PROPERTY TO QUALIFY FOR MEDICAID

SECTION 10.26. G.S. 108A-58 reads as rewritten:

"**§ 108A-58. Transfer of property for purposes of qualifying for medical assistance; periods of ineligibility.**

(a) Any person, otherwise eligible, who, either while receiving medical assistance benefits or ~~within one year prior to the date of applying for medical assistance benefits, unless some other~~ within the time period ~~is~~ mandated by controlling federal law, sells, gives, assigns or transfers countable real or personal property or an interest in real or personal property for the purpose of retaining or establishing eligibility for medical assistance benefits, shall be ineligible to receive medical assistance benefits as set forth in ~~subsection (c) of this section.~~section 1917(c) of the Social Security Act. Countable real and personal property includes real property, excluding a homesite, unless other applicable federal or State law requires the homesite to be counted for transfer of property purposes, intangible personal property, nonessential motor and recreational vehicles, nonincome producing business equipment, boats and motors. The provisions of this act shall not apply to the sale, gift, assignment or transfer of real or personal property if and to the extent that the person applying for medical assistance would have been eligible for such assistance notwithstanding ownership of such property or an interest therein.

(b) Any sale, gift, assignment or transfer of real or personal property or an interest in real or personal property, as provided in subsection (a) of this section, shall be presumed to have been made for the purpose of retaining or establishing eligibility for medical assistance benefits unless the person, or the person's legal representative, who sells, gives, assigns or transfers the property or interest, receives valuable consideration at least equal to the fair market value, less encumbrances, of the property or interest.

(c) Any person who sells, gives, assigns or transfers real or personal property or an interest in real or personal property for the purpose of retaining or establishing eligibility for medical assistance benefits, as provided in subsection (a) of this section, shall, after the time of transfer, be ineligible to receive these benefits until an amount equal to the uncompensated value of the property or interest has been expended by or on behalf of the person for the person's maintenance and support, including medical

expenses, paid or incurred, or shall be ineligible based on the period of time required under section 1917(c) of the Social Security Act. ~~in accordance with the following schedule, whichever is sooner;~~

~~(1) For uncompensated value of at least one thousand dollars ($1,000) but not more than six thousand dollars ($6,000), a one year period of ineligibility from date of sale, gift, assignment or transfer;~~

~~(2) For uncompensated value of more than six thousand dollars ($6,000) but not more than twelve thousand dollars ($12,000), a two year period of ineligibility from date of sale, gift, assignment or transfer;~~

~~(3) For uncompensated value of more than twelve thousand dollars ($12,000), a two year period of ineligibility from date of sale, gift, assignment or transfer, plus one additional month of ineligibility for each five hundred dollar ($500.00) increment or portion thereof by which the uncompensated value exceeds twelve thousand dollars ($12,000), but in no event to exceed three years.~~

(d) The sale, gift, assignment or transfer for a consideration less than fair market value, less encumbrances, of any tangible personal property which was acquired with the proceeds of sale, assignment or transfer of real or intangible personal property described in subsection (a) of this section or in exchange for such real or intangible personal property shall be presumed to have been for the purpose of evading the provisions of this section if the acquisition and sale, gift, assignment or transfer of the tangible personal property is by or on behalf of a person receiving medical assistance or within the time period mandated by controlling federal law ~~one year of making application for such assistance~~ and the consequences of the sale, gift, assignment of transfer of such tangible personal property shall be determined under the provisions of subsections ~~(e), (f) and (g)~~ (c) and (f) of this section.

(e) The presumptions created by subsections (b) and (d) may be overcome if the person receiving or applying for medical assistance, or the person's legal representative, establishes by the greater weight of the evidence that the sale, gift, assignment or transfer was exclusively for some purpose other than retaining or establishing eligibility for medical assistance benefits.

(f) For the purpose of establishing uncompensated value under subsection (c), the value of property or an interest therein shall be the fair market value of the property or interest at the time of the sale, gift, assignment or transfer, less the amount of compensation, if any, received for the property or interest. There shall be a rebuttable presumption that the fair market value of real property is the most recent property tax value of the property, as ascertained according to Subchapter II of Chapter 105 of the General Statutes. Fair market value for purpose of this subsection shall be such value, determined as above set out, less any legally enforceable encumbrances to which the property is subject.

~~(g) In the event that there is more than one sale, gift, assignment or transfer of property or an interest therein by a person receiving medical assistance or within one year of the date of an application for medical assistance, unless some other time period is mandated by controlling federal law, the uncompensated value, for the purposes of subsection (c), shall be the aggregate uncompensated value of all sales, gifts, assignments and transfers. The date which is the midpoint between the date of the first and last sale, gift, assignment or transfer shall be the date from which the period of ineligibility shall be determined under subsection (c).~~

(h) This section shall not apply to applicants for or recipients of Work First Family Assistance or to persons entitled to medical assistance by virtue of their eligibility for Work First Family Assistance.

(i) This section shall apply only to transfers made before July 1, 1988."

Requested by: Representatives Barnhart, Nye

MEDICARE ENROLLMENT REQUIRED

SECTION 10.27. Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

"**§ 108A-55.1. Medicare enrollment required.**

The Department shall require State Medical Assistance Program recipients who qualify for Medicare to enroll in Medicare, in accordance with Title XIX of the Social Security Act, in order to pay medical expenditures that qualify for payment under Medicare Part B. Failure to enroll in Medicare shall result in nonpayment of these expenditures under the State Medical Assistance Program. A provider may seek payment for services from Medicaid enrollees who are eligible for but not enrolled in Medicare Part B."

Requested by: Representatives Barnhart, Nye

MEDICAID ASSESSMENT PROGRAM FOR SKILLED NURSING FACILITIES

SECTION 10.28.(a) The Secretary of Health and Human Services shall implement a Medicaid assessment program for skilled nursing facilities licensed under Chapter 131E of the General Statutes. The assessment shall be imposed in a manner consistent with federal regulations under 42 C.F.R. Part 433, Subpart B. The Department shall impose the assessment effective October 1, 2003. Funds realized from assessments imposed shall be used only to draw down federal Medicaid matching funds for implementing the new reimbursement plan for nursing homes and for increasing nursing facility rates in accordance with the plan.

SECTION 10.28.(b) Funds realized from the Medicaid assessment program established pursuant to subsection (a) of this section shall not be used to supplant State funds appropriated for nursing facility services.

SECTION 10.28.(c) Funds realized from the assessment shall be used to pay one hundred percent (100%) of the nonfederal share for the new reimbursement plan for nursing homes.

Requested by: Representatives Barnhart, Nye

HEALTH CHOICE

SECTION 10.29.(a) G.S. 108A-70.20 reads as rewritten:

"**§ 108A-70.20. Program established.**

The Health Insurance Program for Children is established. The Program shall be administered by the Department of Health and Human Services in accordance with this Part and as required under Title XXI and related federal rules and regulations. Except as otherwise provided in this section, ~~Administration~~ administration of Program benefits and claims processing shall be as provided under Part 5 of Article 3 of Chapter 135 of the General Statutes. Notwithstanding any other provision of law to the contrary, when applying Medicaid reimbursement rates to services provided under the Program, the Department may administer Program benefits and claims processing when the Secretary determines that Department administration of benefits and claims processing would be more efficient and cost-effective."

SECTION 10.29.(b) G.S. 108A-70.21 reads as rewritten:

"**§ 108A-70.21. Program eligibility; benefits; enrollment fee and other cost-sharing; coverage from private plans; purchase of extended coverage.**

(a) Eligibility. – The Department may enroll eligible children based on availability of funds. Following are eligibility and other requirements for participation in the Program:

(1) Children must:

a. Be under the age of 19;

b. Be ineligible for Medicaid, Medicare, or other federal government-sponsored health insurance;

c. Be uninsured;

d. Be in a family that meets the following family income requirements:
1. Infants under the age of one year whose family income is from one hundred eighty-five percent (185%) through two hundred percent (200%) of the federal poverty level;
2. Children age one year through five years whose family income is above one hundred thirty-three percent (133%) through two hundred percent (200%) of the federal poverty level; and
3. Children age six years through eighteen years whose family income is above one hundred percent (100%) through two hundred percent (200%) of the federal poverty level;

e. Be a resident of this State and eligible under federal law; and
f. Have paid the Program enrollment fee required under this Part.

(2) Proof of family income and residency and declaration of uninsured status shall be provided by the applicant at the time of application for Program coverage. The family member who is legally responsible for the children enrolled in the Program has a duty to report any change in the enrollee's status within 60 days of the change of status.

(3) If a responsible parent is under a court order to provide or maintain health insurance for a child and has failed to comply with the court order, then the child is deemed uninsured for purposes of determining eligibility for Program benefits if at the time of application the custodial parent shows proof of agreement to notify and cooperate with the child support enforcement agency in enforcing the order.

If health insurance other than under the Program is provided to the child after enrollment and prior to the expiration of the eligibility period for which the child is enrolled in the Program, then the child is deemed to be insured and ineligible for continued coverage under the Program. The custodial parent has a duty to notify the Department within 10 days of receipt of the other health insurance, and the Department, upon receipt of notice, shall disenroll the child from the Program. As used in this paragraph, the term "responsible parent" means a person who is under a court order to pay child support.

(4) Except as otherwise provided in this section, enrollment shall be continuous for one year. At the end of each year, applicants may reapply for Program benefits.

(b) Benefits. – Except as otherwise provided for eligibility, fees, deductibles, copayments, and other cost-sharing charges, health benefits coverage provided to children eligible under the Program shall be equivalent to coverage provided for dependents under the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan, including optional prepaid plans. Prescription drug providers shall accept as payment in full, for outpatient prescriptions filled, ninety percent (90%) of the average wholesale price for the prescription drug or the amounts published by the Centers for Medicare and Medicaid Services plus a dispensing fee of five dollars and sixty cents ($5.60) per prescription for generic drugs and four dollars ($4.00) per prescription for brand name drugs. All other health care providers providing services to Program enrollees shall accept as payment in full for services rendered the maximum allowable charges under the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan for services less any copayments assessed to enrollees under this Part. No child enrolled in the Plan's self-insured indemnity program shall be required by the Plan to change health care providers as a result of being enrolled in the Program.

In addition to the benefits provided under the Plan, the following services and supplies are covered under the Health Insurance Program for Children established under this Part:

(1) Dental: Oral examinations, teeth cleaning, and scaling twice during a 12-month period, full mouth X-rays once every 60 months, supplemental bitewing X-rays showing the back of the teeth once during a 12-month period, fluoride applications twice during a 12-month period, sealants, simple extractions, therapeutic pulpotomies, prefabricated stainless steel crowns, and routine fillings of amalgam or other tooth-colored filling material to restore diseased teeth. No benefits are to be provided for services under this subsection that are not performed by or upon the direction of a dentist, doctor, or other professional provider approved by the Plan nor for services and materials that do not meet the standards accepted by the American Dental Association.

(2) Vision: Scheduled routine eye examinations once every 12 months, eyeglass lenses or contact lenses once every 12 months, routine replacement of eyeglass frames once every 24 months, and optical supplies and solutions when needed. Optical services, supplies, and solutions must be obtained from licensed or certified ophthalmologists, optometrists, or optical dispensing laboratories. Eyeglass lenses are limited to single vision, bifocal, trifocal, or other complex lenses necessary for a Plan enrollee's visual welfare. Coverage for oversized lenses and frames, designer frames, photosensitive lenses, tinted contact lenses, blended lenses, progressive multifocal lenses, coated lenses, and laminated lenses is limited to the coverage for single vision, bifocal, trifocal, or other complex lenses provided by this subsection. Eyeglass frames are limited to those made of zylonite, metal, or a combination of zylonite and metal. All visual aids covered by this subsection require prior approval of the Plan. Upon prior approval by the Plan, refractions may be covered more often than once every 12 months.

(3) Hearing: Auditory diagnostic testing services and hearing aids and accessories when provided by a licensed or certified audiologist, otolaryngologist, or other hearing aid specialist approved by the Plan. Prior approval of the Plan is required for hearing aids, accessories, earmolds, repairs, loaners, and rental aids.

(c) Annual Enrollment Fee. – There shall be no enrollment fee for Program coverage for enrollees whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. The enrollment fee for Program coverage for enrollees whose family income is above one hundred fifty percent (150%) of the federal poverty level shall be fifty dollars ($50.00) per year per child with a maximum annual enrollment fee of one hundred dollars ($100.00) for two or more children. The enrollment fee shall be collected by the county department of social services and retained to cover the cost of determining eligibility for services under the Program. County departments of social services shall establish procedures for the collection of enrollment fees.

(d) Cost-Sharing. – There shall be no deductibles, copayments, or other cost-sharing charges for families covered under the Program whose family income is at or below one hundred fifty percent (150%) of the federal poverty ~~level.~~ level, except that the fees for outpatient prescription drugs described in subdivision (3) of this subsection shall apply to covered families whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. Families covered under the Program whose family income is above one hundred fifty percent (150%) of the federal poverty level shall be responsible for copayments to providers as follows:

(1) Five dollars ($5.00) per child for each visit to a provider, except that there shall be no copayment required for well-baby, well-child, or age-appropriate immunization services;
(2) Five dollars ($5.00) per child for each outpatient hospital visit;
(3) A ~~six dollar ($6.00) fee for each outpatient prescription drug purchased;~~ one dollar ($1.00) fee for each outpatient generic prescription drug and for each outpatient brand name prescription drug for which there is no generic substitution available. The fee for each outpatient brand name prescription drug for which there is a generic substitution available is ten dollars ($10.00).
(4) Twenty dollars ($20.00) for each emergency room visit unless:
a. The child is admitted to the hospital, or
b. No other reasonable care was available as determined by the Claims Processing Contractor of the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan.

Copayments required under this subsection for prescription drugs apply only to prescription drugs prescribed on an outpatient basis.

(e) Cost-Sharing Limitations. – The total annual aggregate cost-sharing, including fees, with respect to all children in a family receiving Program benefits under this Part shall not exceed five percent (5%) of the family's income for the year involved. To assist the Department in monitoring and ensuring that the limitations of this subsection are not exceeded, the Executive Administrator and Board of Trustees of the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan shall provide data to the Department showing cost-sharing paid by Program enrollees.

(f) Coverage From Private Plans. – The Department shall, from funds available for the Program, pay the cost for dependent coverage provided under a private insurance plan for persons eligible for coverage under the Program if all of the following conditions are met:
(1) The person eligible for Program coverage requests to obtain dependent coverage from a private insurer in lieu of coverage under the Program and shows proof that coverage under the private plan selected meets the requirements of this subsection;
(2) The dependent coverage under the private plan is actuarially equivalent to the coverage provided under the Program and the private plan does not engage in the exclusive enrollment of children with favorable health care risks;
(3) The cost of dependent coverage under the private plan is the same as or less than the cost of coverage under the Program; and
(4) The total annual aggregate cost-sharing, including fees, paid by the enrollee under the private plan for all dependents covered by the plan, do not exceed five percent (5%) of the enrollee's family income for the year involved.

The Department may reimburse an enrollee for private coverage under this subsection upon a showing of proof that the dependent coverage is in effect for the period for which the enrollee is eligible for the Program.

(g) Purchase of Extended Coverage. – An enrollee in the Program who loses eligibility due to an increase in family income above two hundred percent (200%) of the federal poverty level and up to and including two hundred twenty-five percent (225%) of the federal poverty level may purchase at full premium cost continued coverage under the Program for a period not to exceed one year beginning on the date the enrollee becomes ineligible under the income requirements for the Program. The same benefits, copayments, and other conditions of enrollment under the Program shall apply to extended coverage purchased under this subsection.

(h) No State Funds for Voluntary Participation. – No State or federal funds shall be used to cover, subsidize, or otherwise offset the cost of coverage obtained under subsection (g) of this section."

SECTION 10.29.(c) G.S. 108A-70.24 reads as rewritten:

"**§ 108A-70.24. Claims processing; payments.**

(a) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan shall be responsible for the administration and processing of claims for benefits under the Program, as provided under Part 5 of Article 3 of Chapter 135 of the General ~~Statutes.~~Statutes, except when the Secretary determines that administration and claims processing should be done by the Department as authorized in G.S. 108A-70.20.

(b) The Department shall, from State and federal appropriations, and from any other funds made available for this purpose, make premium payments to the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan as determined by the Plan for its administration, claims processing, and other services authorized to provide coverage for acute medical care to children eligible for benefits under this Part.

(c) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan shall also be responsible for the administration and processing of claims for benefits provided under G.S. 108A-70.23 and not covered by Part 5 of Article 3 of Chapter 135 of the General Statutes. Such claims payments shall be made against accounts maintained by the Department."

SECTION 10.29.(d) The total amount of State funds expended for the Health Insurance Program for Children (NC Health Choice) in the 2003-2004 fiscal year and the 2004-2005 fiscal year shall not exceed the amount of State funds appropriated to match federal funds for the Program for the 2003-2004 fiscal year and the 2004-2005 fiscal year. The Department shall manage Program enrollment in a way that maximizes the number of children served within existing funds.

SUBPART 4. DIVISION OF PUBLIC HEALTH

Requested by: Representatives Barnhart, Nye.

IMMUNIZATION PROGRAM FUNDING

SECTION 10.30.(a) Of the funds appropriated in this act to the Department of Health and Human Services for childhood immunization programs for positions, operating support, equipment, and pharmaceuticals, the sum of one million dollars ($1,000,000) for the 2003-2004 fiscal year and the sum of one million dollars ($1,000,000) for the 2004-2005 fiscal year may be used for projects and activities that are also designed to increase childhood immunization rates in North Carolina. These projects and activities shall include the following:

(1) Outreach efforts at the State and local levels to improve service delivery of vaccines. Outreach efforts may include educational seminars, media advertising, support services to parents to enable children to be transported to clinics, longer operating hours for clinics, and mobile vaccine units.

(2) Continued development of an automated immunization registry.

SECTION 10.30.(b) Funds authorized to be used for immunization efforts under subsection (a) of this section shall not be used to fund additional State positions in the Department of Health and Human Services or contracts, except for contracts to develop an automated immunization registry or with local health departments for outreach.

Requested by: Representatives Barnhart, Nye

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

SECTION 10.31.(a) For the 2003-2004 fiscal year and for the 2004-2005 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five

percent (125%) of the federal poverty level are eligible for participation in ADAP. Eligibility for participation in ADAP during the 2003-2005 fiscal biennium shall not be extended to individuals with incomes above one hundred twenty-five percent (125%) of the federal poverty level.

SECTION 10.31.(b) The Department of Health and Human Services shall make an interim report on ADAP program utilization by January 1, 2004, and a final report on ADAP program utilization by May 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on ADAP. The reports shall include the following:

(1) ADAP program utilization:

a. Monthly data on total cumulative AIDS/HIV cases reported in North Carolina.

b. Monthly data on the number of individuals who have applied to participate in ADAP that have been determined to be ineligible.

c. Monthly data on the income level of participants in ADAP and of individuals who have applied to participate in ADAP who have been determined to be ineligible.

d. Monthly data on fiscal year-to-date expenditures of ADAP. The interim report shall contain monthly data on the calendar year-to-date expenditures of ADAP.

e. An update on the status of the information management system.

f. Monthly data on ADAP usage patterns and demographics of participants in ADAP.

g. Fiscal year-to-date budget information.

Requested by: Representatives Barnhart, Nye

NEWBORN HEARING SCREENING PROGRAM REPORT

SECTION 10.32. The Department of Health and Human Services shall report the following information on the newborn hearing screening program:

(1) Unduplicated number of infants screened.
(2) Number of infants who failed the second hearing screening.
(3) Number of infants receiving the diagnostic evaluation.
(4) Number and types of services provided.
(5) Number and types of follow-up services provided to children.

The Department shall submit the report not later than May 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representatives Barnhart, Nye

EMPLOYEES EXAMINED FOR ASBESTOSIS OR SILICOSIS UNDER WORKERS COMPENSATION STATUTE.

SECTION 10.33.(a) G.S. 97-61.1 reads as rewritten:

§ 97-61.1. First examination of and report on employee having asbestosis or silicosis.

When an employee and the Industrial Commission are advised ~~by the Department of Health and Human Services~~ that an employee has asbestosis or silicosis, the employer shall be notified by the Industrial Commission, and the employee, when ordered by the Industrial Commission, shall go to a place designated by the Industrial Commission and submit to X rays and a physical examination by the advisory medical committee, at least one of whom shall conduct the examination, and the member or members of the advisory medical committee conducting the examination shall forward the X rays and findings to the member or members of the committee not present for the physical examination. The employer shall pay the expenses connected with the examination in

such amounts as shall be directed by the Industrial Commission. Within 30 days after the completion of the examination, the advisory medical committee shall make a written report signed by all of its members setting forth:

(1) The X rays and clinical procedures used by the committee in arriving at its findings.
(2) Whether or not the claimant has contracted asbestosis or silicosis.
(3) The committee's opinion expressed in percentages of the impairment of the employee's ability to perform normal labor in the same or any other employment.
(4) Any other matter deemed pertinent by the committee.

When a competent physician certifies to the Industrial Commission that the employee's physical condition is such that his movement to the place of examination ordered by the Industrial Commission as herein provided in G.S. 97-61.1, 97-61.3 and 97-61.4 would be harmful or injurious to the health of the employee, the Industrial Commission shall cause the examination of the employee to be made by the advisory medical committee as herein provided at some place in the vicinity of the residence of the employee suitable for the purposes of making such examination."

SECTION 10.33.(b) G.S. 97-72(b) reads as rewritten:

"(b) The members of the advisory medical committee shall be paid one hundred dollars ($100.00) per month plus not more than forty dollars ($40.00) per film examined. The fee per film shall be established by the ~~Secretary of Health and Human Services,~~ Commissioner of Labor, as guided by the current Medicaid/Medicare reimbursement schedules for North Carolina."

SECTION 10.33.(c) G.S. 97-73(b) reads as rewritten:

"(b) The ~~Secretary of Health and Human Services~~ Commissioner of Labor shall establish a schedule of fees for examinations conducted by the Department of Health and Human Services pursuant to G.S. 97-60. The fees shall be collected in accordance with rules adopted by the ~~Secretary of Health and Human Services.~~Commissioner of Labor."

Requested by: Representative Clary

ELIMINATE HOME HEALTH PURCHASE OF CARE PROGRAM

SECTION 10.33A. The Department of Health and Human Services, Division of Public Health, shall eliminate the Home Health Purchase of Care Program and transfer three million one thousand two hundred fifty-three dollars ($3,001,253) from the Division of Public Health's budget to the Division of Medical Assistance. These funds and any additional administrative funds identified by closing this program shall be used only to maximize federal Medicaid matching funds for Home Care Personal Care Services. Funds realized from this transfer shall not be used to supplant State funds appropriated for Home Care Personal Care Services.

SUBPART 5. DIVISION OF CHILD DEVELOPMENT

Requested by: Representatives Barnhart, Nye

CHILD CARE FUNDS MATCHING REQUIREMENT

SECTION 10.34. No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving any State child care funds appropriated by this act unless federal law requires a match. This shall not prohibit any locality from spending local funds for child care services.

Requested by: Representatives Barnhart, Nye

CHILD CARE SUBSIDY RATES

SECTION 10.35.(a) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be two hundred percent (200%) at the federal poverty level, adjusted for family size.

SECTION 10.35.(b) Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Effective October 1, 2003, fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%.

SECTION 10.35.(c) Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

(1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the one-star county market rate or the rate they charge privately paying parents, whichever is lower.

(2) Licensed child care centers and homes with two or more stars shall receive the market rate for that rated license level for that age group or the rate they charge privately paying parents, whichever is lower.

(3) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.

(4) Maximum payment rates shall also be calculated periodically by the Division of Child Development for transportation to and from child care provided by the child care provider, individual transporter, or transportation agency, and for fees charged by providers to parents. These payment rates shall be based upon information collected by market rate surveys.

SECTION 10.35.(d) Provision of payment rates for child care providers in counties that do not have at least 50 children in each age group for center-based and home-based care are as follows:

(1) Payment rates shall be set at the statewide or regional market rate for licensed child care centers and homes.

(2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than 50 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

SECTION 10.35.(e) A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized privately paying parents for each age group of enrollees within the county. The Division of Child Development shall also calculate a statewide rate and regional market rates for each rated license level for each age category.

SECTION 10.35.(f) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

County departments of social services or other local contracting agencies shall not use a provider's failure to comply with requirements in addition to those specified in this subsection as a condition for reducing the provider's subsidized child care rate.

SECTION 10.35.(g) Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 10.35.(h) Noncitizen families who reside in this State legally shall be eligible for child care subsidies if all other conditions of eligibility are met. If all other conditions of eligibility are met, noncitizen families who reside in this State illegally shall be eligible for child care subsidies only if at least one of the following conditions is met:

(1) The child for whom a child care subsidy is sought is receiving child protective services or foster care services.

(2) The child for whom a child care subsidy is sought is developmentally delayed or at risk of being developmentally delayed.

(3) The child for whom a child care subsidy is sought is a citizen of the United States.

Requested by: Representatives Barnhart, Nye

CHILD CARE ALLOCATION FORMULA

SECTION 10.36.(a) The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

(1) Funds shall be allocated based upon the projected cost of serving children in a county under age 11 in families with all parents working who earn less than two hundred percent (200%) of the federal poverty level.

(2) No county's allocation shall be less than ninety percent (90%) of its State Fiscal Year 2001-2002 initial child care subsidy allocation.

SECTION 10.36.(b) The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including Smart Start funds, within a county.

Requested by: Representatives Barnhart, Nye

CHILD CARE REVOLVING LOAN

SECTION 10.37. Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

Requested by: Representatives Barnhart, Nye

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS

SECTION 10.38.(a) Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than seven percent (7%) of the total statewide allocation to all local partnerships. For purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management.

SECTION 10.38.(b) The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

(1) For amounts of five thousand dollars ($5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.

(2) For amounts greater than five thousand dollars ($5,000), but less than fifteen thousand dollars ($15,000), three written quotes.

(3) For amounts of fifteen thousand dollars ($15,000) or more, but less than forty thousand dollars ($40,000), a request for proposal process.

(4) For amounts of forty thousand dollars ($40,000) or more, request for proposal process and advertising in a major newspaper.

SECTION 10.38.(c) The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the total amount budgeted for the program in each fiscal year of the biennium as follows: contributions of cash equal to at least fifteen percent (15%) and in-kind donated resources equal to no more than five percent (5%) for a total match requirement of twenty percent (20%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

(1) Be verifiable from the contractor's records.

(2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.

(3) Not include expenses funded by State funds.

(4) Be supplemental to and not supplant preexisting resources for related program activities.

(5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives.

(6) Be otherwise allowable under federal or State law.

(7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership.

(8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same

match requirements shall apply to any expansion funds appropriated by the General Assembly.

SECTION 10.38.(d) The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

SECTION 10.38.(e) The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for State fiscal years 2003-2004 and 2004-2005 shall be administered and distributed in the following manner:

(1) The North Carolina Partnership for Children, Inc., shall develop a policy to allocate the reduction of funds for Early Childhood Education and Development Initiatives for the 2003-2004 and 2004-2005 fiscal years.

(2) Capital expenditures and playground equipment expenditures are prohibited for fiscal years 2003-2004 and 2004-2005. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143-34.40.

(3) Expenditures of State funds for advertising and promotional activities are prohibited for fiscal years 2003-2004 and 2004-2005.

SECTION 10.38.(f) For the 2003-2004 and 2004-2005 fiscal years, the North Carolina Partnership for Children, Inc., shall not approve local partnership plans that allocate State funds to child care providers for one-time quality improvement initiatives in the following circumstances:

(1) Child care facilities with licensure of four or five stars, unless the expenditure of funds is to expand capacity for low-income children.

(2) Child care facilities that do not accept child care subsidy funds.

SECTION 10.38.(g) The North Carolina Partnership for Children, Inc., shall not reduce the level of expenditures for subsidies below the State fiscal year 2002-2003 level.

SECTION 10.38.(h) The eligibility for child care subsidies shall be in accordance with child care eligibility established in this act, effective January 1, 2004.

SECTION 10.38.(i) The North Carolina Partnership for Children, Inc., shall develop a plan to focus on quality day care initiatives and child care subsidies, and shall study any duplication of health services, family support, and program support activities, and report same to the House and Senate Appropriations Chairs.

SECTION 10.38.(j) The North Carolina Partnership for Children, Inc., shall impose a ten percent (10%) penalty against a local partnership's allocation when the local partnership's audit is classified as a "needs improvement performance assessment".

SECTION 10.38.(k) The North Carolina Partnership for Children, Inc., shall report on activities and directives of this act by March 1, 2004, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representative Barnhart, Nye

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES EVALUATION

SECTION 10.39. The Department of Health and Human Services, Division of Child Development, may evaluate the Early Childhood Education and Development Initiatives. The evaluation may include:

(1) Evaluation of the Early Childhood Education and Development Initiatives, including the ongoing review of quality child care efforts and child care providers' progress in preparing children to be ready to enter school and succeed.

(2) Continuation of technical assistance to local partnerships in data collection and evaluation.

Requested by: Representatives Barnhart, Nye

MORE AT FOUR PROGRAM

SECTION 10.40.(a) Of the funds appropriated to the Department of Health and Human Services the sum of forty-three million fifty-six thousand five hundred dollars ($43,056,500) in the 2003-2004 fiscal year and the sum of forty-one million eight hundred fifty-six thousand five hundred dollars ($41,856,500) in the 2004-2005 fiscal year shall be used to implement "More At Four", a voluntary prekindergarten program for at-risk four-year-olds.

SECTION 10.40.(b) The Department of Health and Human Services and the Department of Public Instruction, with guidance from the Task Force, shall continue the implementation of the "More At Four" prekindergarten program for at-risk four-year-olds who are at risk of failure in kindergarten. The program is available statewide to all counties that choose to participate, including underserved areas. The goal of the program is to provide quality prekindergarten services to a greater number of at-risk children in order to enhance kindergarten readiness for these children. The program shall be consistent with standards and assessments established jointly by the Department of Health and Human Services, the Department of Public Instruction, and the Task Force and may consider the "More At Four" Pre-K Task Force recommendations. The program shall include:

(1) A process and system for identifying children at risk of academic failure.

(2) A process and system for identifying children who are not being served first priority in formal early education programs, such as child care, public or private preschools, Head Start, Early Head Start, early intervention programs, or other such programs, who demonstrate educational needs, and who are eligible to enter kindergarten the next school year, as well as children who are underserved.

(3) A curriculum or several curricula that are recommended by the Task Force. The Task Force will identify and approve appropriate research-based curricula. These curricula shall: (i) focus primarily on oral language and emergent literacy; (ii) engage children through key experiences and provide background knowledge requisite for formal learning and successful reading in the early elementary years; (iii) involve active learning; (iv) promote measurable kindergarten language-readiness skills that focus on emergent literacy and mathematical skills; and (v) develop skills that will prepare children emotionally and socially for kindergarten.

(4) An emphasis on ongoing family involvement with the prekindergarten program.

(5) Evaluation of child progress through pre- and post-assessment of children in the statewide evaluation, as well as ongoing assessment of the children by teachers.

(6) Guidelines for a system to reimburse local school boards and systems, private child care providers, and other entities willing to establish and provide prekindergarten programs to serve at-risk children.

(7) A system built upon existing local school boards and systems, private child care providers, and other entities that demonstrate the ability to establish or expand prekindergarten capacity.

(8) A quality-control system. Participating providers shall comply with standards and guidelines as established by the Department of Health and Human Services, the Department of Public Instruction, and the

Task Force. The Department may use the child care rating system to assist in determining program participation.

(9) Standards for minimum teacher qualifications. A portion of the classroom sites initially funded shall have at least one teacher who is certified or provisionally certified in birth to kindergarten education.

(10) A local contribution. Programs must demonstrate that they are accessing resources other than "More At Four".

(11) A system of accountability.

(12) Collaboration with State agencies and other organizations. The Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall collaborate with State agencies and other organizations such as the North Carolina Partnership for Children, Inc., in the design and implementation of the program.

(13) Consideration of the reallocation of existing funds. In order to maximize current funding and resources, the Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall consider the reallocation of existing funds from State and local programs that provide prekindergarten related care and services.

(14) Recommendations for long-term organizational placement and administration of the program.

SECTION 10.40.(c) During the 2003-2004 fiscal year, the Department of Health and Human Services shall plan for expansion of the "More At Four" program within existing resources to include four and five star rated centers, homes, and schools serving four-year-olds and develop guidelines for these programs. The Department shall analyze guidelines for use of the "More At Four" funds, State subsidy funds, and Smart Start subsidy funds and devise a complementary plan for administration of funds for all four-year-old classrooms. The four and five star centers that choose to become a "More at Four" program shall, at a minimum, receive curricula and access to training and workshops for "More at Four" programs and be considered along with other "More at Four" programs for T.E.A.C.H. funding. The Department shall ensure that no duplication exists among the T.E.A.C.H., W.A.G.E.$., and T.E.A.C.H. Health Insurance programs for individual recipients.

The Department may use nonobligated "More At Four" funds to reduce the waiting list for subsidy, with priority given to four-year-olds attending three star or better centers. If there are funds remaining after the waiting list for four-year-olds has been satisfied, then the waiting list for other children may be addressed with the remaining funds.

SECTION 10.40.(d) The Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall submit a progress report by January 1, 2004, and May 1, 2004, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. This final report shall include the following:

(1) The number of children participating in the program.

(2) The number of children participating in the program who have never been served in other early education programs, such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.

(3) The expected expenditures for the programs and the source of the local match for each grantee.

(4) The location of program sites and the corresponding number of children participating in the program at each site.

(5) Activities involving Child Find in counties.

(6) A comprehensive cost analysis of the program, including the cost per child served by the program.
(7) The plan for expansion of "More At Four" through existing resources as outlined in this section.

SUBPART 6. OFFICE OF EDUCATIONAL SERVICES

Requested by: Representatives Barnhart, Nye

RESIDENTIAL SCHOOLS REPORTING

SECTION 10.41. The Office of Education Services shall report not later than December 1, 2003, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the activities of the Eastern North Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at Morganton, and the Governor Morehead School for the Blind. The report shall include enrollment numbers at the schools, the budgets, and the academic status of the schools as defined under the ABCs program.

SUBPART 7. DIVISION OF AGING

Requested by: Representatives Barnhart, Nye

SENIOR CENTER OUTREACH

SECTION 10.42.(a) Funds appropriated to the Department of Health and Human Services, Division of Aging, for the 2003-2005 fiscal biennium, shall be used by the Division of Aging to enhance senior center programs as follows:
(1) To expand the outreach capacity of senior centers to reach unserved or underserved areas; or
(2) To provide start-up funds for new senior centers.
All of these funds shall be allocated by October 1 of each fiscal year.

SECTION 10.42.(b) Prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the county commissioners of the county in which the new center will be located shall:
(1) Formally endorse the need for such a center;
(2) Formally agree on the sponsoring agency for the center; and
(3) Make a formal commitment to use local funds to support the ongoing operation of the center.

SECTION 10.42.(c) State funding shall not exceed sixty-five percent (65%) of reimbursable costs.

SUBPART 8. DIVISION OF SOCIAL SERVICES

Requested by: Representatives Barnhart, Nye

ADULT CARE HOME MODEL FOR COMMUNITY-BASED SERVICES

SECTION 10.43.(a) In keeping with the United States Supreme Court Decision in Olmstead vs. L.C. & E.W. and with State policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall develop a model project for delivering community-based mental health, developmental disabilities, and substance abuse housing and services through adult care homes that have excess capacity. The model shall be designed for implementation on a pilot basis and shall address the following:
(1) Services that will be provided by the facility or under contract with the facility, including assistance with daily medication.
(2) Access of clients to mental health, developmental disabilities, and substance abuse services provided in the community, including

transportation to services outside of the client's residence in the adult care home facility.

(3) Physical plant additions or changes necessary to provide for independent living of residents.

(4) Methods for assuring quality of services, resident safety, and cost-effectiveness.

(5) Consistency with the Department's Olmstead plan, other policies on community-integration, and disability plans adopted by the State.

SECTION 10.43.(b) The Department shall submit a final report on the development of the model to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on or before March 1, 2004. The report shall address the following:

(1) Proposed time and location for implementation of the pilot.

(2) Proposed number of residents to be placed and services to be provided directly by the facility or under contract with the facility.

(3) Method for evaluating the pilot, including services provided, on a regular basis.

(4) A description of the living environment for each resident and a comparison of how the living environment compares to that of other residents in the adult care home.

(5) Changes to State law necessary to implement the pilot.

(6) Projected cost to the State for pilot and statewide implementation.

Requested by: Representatives Barnhart, Nye

CHILD SUPPORT PROGRAM/ENHANCED STANDARDS

SECTION 10.44.(a) It is the intent of the General Assembly to increase the productivity and enhance the performance of child support enforcement offices statewide.

SECTION 10.44.(b) The Department of Health and Human Services shall develop and implement performance standards for each of the State and county child support enforcement offices across the State. To develop these performance standards, the Department of Health and Human Services shall evaluate other private and public child support models and national standards as well as other successful collections models. These performance standards shall include the following:

(1) Cost per collections.

(2) Consumer satisfaction.

(3) Paternity establishments.

(4) Administrative costs.

(5) Orders established.

(6) Collections on arrearages.

(7) Location of absent parents.

(8) Other related performance measures.

The Department of Health and Human Services shall monitor the performance of each office and shall implement a system of reporting that allows each local office to review its performance as well as the performance of other local offices. The Department of Health and Human Services shall publish an annual performance report that shall include the statewide and local office performance of each child support office.

SECTION 10.44.(c) The Department of Health and Human Services shall report on its progress, in compliance with this section, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by May 1, 2005.

Requested by: Representatives Barnhart, Nye

SPECIAL NEEDS ADOPTIONS INCENTIVE FUND

SECTION 10.45. Part 4 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

"**§ 108A-50A. Special Needs Adoptions Incentive Fund.**

(a) There is created a Special Needs Adoptions Incentive Fund to provide financial assistance to facilitate the adoption of certain children residing in licensed foster care homes. These funds shall be used to remove financial barriers to the adoption of these children and shall be available to foster care families who adopt children with special needs, as defined by the Social Services Commission. These funds shall be matched by county funds.

(b) This program shall not constitute an entitlement and is subject to the availability of funds.

(c) The Social Services Commission shall adopt rules to implement the provisions of this section."

Requested by: Representatives Barnhart, Nye

FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS

SECTION 10.46.(a) The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

(1) $415.00 per child per month for children aged birth through 5;
(2) $465.00 per child per month for children aged 6 through 12; and
(3) $515.00 per child per month for children aged 13 through 18.

Of these amounts, fifteen dollars ($15.00) is a special needs allowance for the child.

SECTION 10.46.(b) The maximum rates for State participation in the adoption assistance program are established on a graduated scale as follows:

(1) $415.00 per child per month for children aged birth through 5;
(2) $465.00 per child per month for children aged 6 through 12; and
(3) $515.00 per child per month for children aged 13 through 18.

SECTION 10.46.(c) In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose shall be used to provide medical training in avoiding HIV transmission in the home.

SECTION 10.46.(d) The maximum rates for the State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:

(1) $800.00 per month per child with indeterminate HIV status;
(2) $1,000 per month per child confirmed HIV-infected, asymptomatic;
(3) $1,200 per month per child confirmed HIV-infected, symptomatic; and
(4) $1,600 per month per child terminally ill with complex care needs.

Requested by: Representatives Barnhart, Nye

SPECIAL CHILDREN ADOPTION FUND

SECTION 10.47.(a) Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one million one hundred thousand dollars ($1,100,000) shall be used to support the Special Children Adoption Fund for each year of the 2003-2005 fiscal biennium. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services. No local match shall be required as a condition for receipt of these funds. In accordance with State rules for allowable costs, the Special

Children Adoption Fund may be used for post-adoption services for families whose income exceed two hundred percent (200%) of the federal poverty level.

SECTION 10.47.(b) Of the total funds appropriated for the Special Children Adoption Fund each year, twenty percent (20%) of the total funds available shall be reserved for payment to participating private adoption agencies. If the funds reserved in this subsection for payments to private agencies have not been spent on or before March 31, 2004, the Division of Social Services may reallocate those funds, in accordance with this section, to other participating adoption agencies.

Requested by: Representatives Barnhart, Nye

INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS

SECTION 10.48.(a) The Department of Health and Human Services shall review the Intensive Family Preservation Services Program (IFPS) to enhance and implement initiatives that focus on increasing the sustainability and effectiveness of the Program.

SECTION 10.48.(b) Notwithstanding the provisions of G.S. 143B-150.6, the Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The revised IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

SECTION 10.48.(c) The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of Intensive Family Preservation Services shall provide information and data that allows for:

(1) An established follow-up system with a minimum of six months of follow-up services.
(2) Detailed information on the specific interventions applied including utilization indicators and performance measurement.
(3) Cost-benefit data.
(4) Data on long-term benefits associated with Intensive Family Preservation Services. This data shall be obtained by tracking families through the intervention process.
(5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.
(6) The number and percentage by race of children who received Intensive Family Preservation Services compared to the ratio of their distribution in the general population involved with Child Protective Services.

SECTION 10.48.(d) The Department shall establish performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (c) of this section. The amount of funding shall be based on the individual performance of each program.

SECTION 10.48.(e) The Department of Health and Human Services shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2004. The report shall include information and data collected pursuant to subsection (c) of this section.

Requested by: Representatives Barnhart, Nye

TANF STATE PLAN

SECTION 10.49.(a) The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005", prepared by the Department of Health and Human Services and presented to the General

Assembly on May 15, 2003, as revised in accordance with subsection (b) of this section. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2003, through September 30, 2005. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services as amended by this act or any other act of the 2003 General Assembly.

SECTION 10.49.(b) The Department of Health and Human Services shall revise the North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005, submitted to the General Assembly for approval on May 15, 2003. The revisions shall be made to the following Plan components:

(1) Enhanced Employee Assistance Program to reflect changes in funding.
(2) Services for Families to remove reference to start-up activities.
(3) Work Responsibility to remove reference to start-up activities.
(4) Cabarrus County Waiver to reflect changes in the law made by the 2003 General Assembly.
(5) Goal number eight to provide that caseload reduction goals are subject to economic conditions in the county.

SECTION 10.49.(c) The counties approved as Electing Counties in North Carolina's Temporary Assistance for Needy Families State Plan FY 2003-2005 as approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln, Macon, McDowell, Sampson, Surry, and Wilkes.

SECTION 10.49.(d) Counties designated as Electing Counties pursuant to G.S. 108A-27(d) and who submitted the letter of intent to be redesignated as a standard county and the accompanying county plan for fiscal years 2003 through 2005, pursuant to G.S. 108A-27(e), shall operate under the standard county budget requirements effective July 1, 2003. Counties that submitted the letter of intent to remain as an electing county or to be redesignated as an electing county and the accompanying county plan for fiscal years 2003 through 2005, pursuant to G.S. 108A-27(e), shall operate under the electing county budget requirements effective July 1, 2003. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2003.

Requested by: Representatives Barnhart, Nye

ELECTING COUNTY TANF FUNDS REVERT

SECTION 10.50. G.S. 108A-27.11(c) reads as rewritten:

"(c) Each Electing County's allocation for Work First Family Assistance shall be computed based on the percentage of each Electing County's total expenditures for cash assistance to statewide actual expenditures for cash assistance in 1995-96. The resulting percentage shall be applied to the federal TANF block grant funds appropriated for cash assistance by the General Assembly each fiscal year. The Department shall transmit the federal funds contained in the county block grants to Electing Counties as soon as practicable after they become available to the State and in accordance with federal cash management laws and regulations. ~~The Department shall transmit one-fourth of the State funds contained in county block grants to Electing Counties at the beginning of each quarter.~~"

Requested by: Representatives Barnhart, Nye

SPECIAL ASSISTANCE DEMONSTRATION PROJECT

SECTION 10.51.(a) The Department of Health and Human Services may use funds from the existing State/County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals in in-home living arrangements. These payments may be made for up to 800 individuals during the 2003-2004 fiscal year and the 2004-2005 fiscal year. These payments may be made for as long as the individuals who are receiving payments on June 30, 2005, remain eligible. The standard monthly payment to individuals enrolled in the Special Assistance

demonstration project shall be fifty percent (50%) of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. For State fiscal year 2003-2004, qualified individuals shall not receive payments at rates less than they would have been eligible to receive in State fiscal year 2002-2003. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that demonstration project participants are those individuals who need and, but for the demonstration project, would seek placement in an adult care home facility. The Department shall make an interim report to the cochairs of the House of Representatives Appropriations Committee, the cochairs of the House of Representatives Appropriations Subcommittee on Health and Human Services, the cochairs of the Senate Appropriations Committee, and the cochairs of the Senate Appropriations Committee on Health and Human Services by May 1, 2004.

SECTION 10.51.(b) The Department shall report to the cochairs of the House of Representatives Appropriations Committee, the House of Representatives Appropriations Subcommittee on Health and Human Services, the cochairs of the Senate Appropriations Committee, and the cochairs of the Senate Appropriations Committee on Health and Human Services by April 1, 2004. This report shall include the following information:

(1) A description of cost savings that could occur by allowing individuals eligible for State/County Special Assistance the option of remaining in the home.

(2) Which activities of daily living or other need criteria are reliable indicators for identifying individuals with the greatest need for income supplements for in-home living arrangements.

(3) How much case management is needed and which types of individuals are most in need of case management.

(4) The geographic location of individuals receiving payments under this section.

(5) A description of the services purchased with these payments.

(6) A description of the income levels of individuals who receive payments under this section and the impact on the Medicaid program.

(7) Findings and recommendations as to the feasibility of continuing or expanding the demonstration program.

(8) The level and quantity of services (including personal care services) provided to the demonstration project participants compared to the level and quantity of services for residents in adult care homes.

(9) A fiscal analysis and programmatic results of increasing the demonstration project participant's monthly assistance payment to fifty percent (50%) of the Special Assistance monthly payment.

SECTION 10.51.(c) The Department shall incorporate data collection tools designed to compare quality of life among institutionalized vs. noninstitutionalized populations (i.e., an individual's perception of his or her own health and well-being, years of healthy life, and activity limitations). To the extent national standards are available, the Department shall utilize those standards.

Requested by: Representatives Barnhart, Nye

STATE/COUNTY SPECIAL ASSISTANCE

SECTION 10.52.(a) The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand two hundred thirty-one dollars ($1,231) per month per resident.

SECTION 10.52.(b) The maximum monthly rate for residents in adult care home facilities shall be one thousand ninety-one dollars ($1,091) per month per resident through September 30, 2003.

SECTION 10.52.(c) Effective October 1, 2003, the maximum monthly rate for residents in adult care home facilities shall be one thousand sixty-six dollars ($1,066) per month per resident unless adjusted by the Department in accordance with subsection (f) of this section.

SECTION 10.52.(d) The eligibility of Special Assistance recipients who reside in adult care homes on September 30, 2003, and remain continuously eligible shall not be affected by an income reduction in the Special Assistance eligibility criteria, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand ninety-one dollars ($1,091) per month per resident. The standard of need level for coverage eligibility under State/County Special Assistance, for individuals not enrolled or recipients of the program on September 30, 2003, shall be not less than one thousand ninety-one dollars ($1,091) per month per individual, but the monthly reimbursement rate for such individuals shall be the amount established under subsections (c) and (f) of this section.

SECTION 10.52.(e) The sum of three million one hundred eighty-nine thousand six hundred seventy-five dollars ($3,189,675) for the 2003-2004 fiscal year and the sum of four million four hundred thirty-one thousand eight hundred forty-six dollars ($4,431,846) for the 2004-2005 fiscal year appropriated to the Department of Health and Human Services shall be transferred from the Division of Social Services to the Division of Medical Assistance and used as State match to draw down federal matching funds to help pay for Medicaid's personal care services for adult care homes (ACH-PCS) rather than the State/County Special Assistance Program.

SECTION 10.52.(f) Notwithstanding any other provision of this section, the Department of Health and Human Services shall review activities and costs related to the provision of care in adult care homes and shall determine what costs may be considered to properly maximize allowable reimbursement available through Medicaid personal care services for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the Office of State Budget and Management, the Department may transfer necessary funds from the State/County Special Assistance program within the Division of Social Services to the Division of Medical Assistance and may use those funds as State match to draw down federal matching funds to pay for such activities and costs under Medicaid's personal care services for adult care homes (ACH-PCS), thus maximizing available federal funds. The established rate for State/County Special Assistance set forth in subsection (c) of this section shall be adjusted by the Department to reflect any transfer of funds from the Division of Social Services to the Division of Medical Assistance, and related transfer costs and responsibilities from State/County Special Assistance to the Medicaid personal care services for adult care homes (ACH-PCS). Such rate adjustments to the Special Assistance rate shall be effective with the effective date of increased reimbursement under ACH-PCS. In no event shall the reimbursement for services through the ACH-PCS exceed the average cost of such services as determined by the Department from review of cost reports as required and submitted by adult care homes. The Department shall report any transfers of funds and modifications of rates to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representatives Barnhart, Nye

STATE/COUNTY SPECIAL ASSISTANCE TRANSFER OF ASSETS

SECTION 10.53.(a) Notwithstanding any other provision of law to the contrary, Supplemental Security Income (SSI) policy applicable to transfer of assets and

estate recovery, as prescribed by federal law, shall apply to applicants for State/County Special Assistance.

SECTION 10.53.(b) The Department of Health and Human Services shall continue to review whether policy for State/County Special Assistance should be changed to permit an assisted living facility to accept from a family member of a resident who qualifies for State/County Special Assistance payment for the difference in the monthly rate for room, board, and services available. In reviewing current policy, the Department shall consider the following conditions on family contributions to the resident's cost of care:

(1) Ensuring that the resident meets all income and resource eligibility requirements for State/County Special Assistance.

(2) Not counting payments made by family members to the facility as income to the resident or as an in-kind contribution when calculating the monthly rate applicable to the resident.

(3) Ensuring that supplemental payments are made on a voluntary basis as specified in the resident agreement.

Not later than March 1, 2004, the Department shall report on its activities under this subsection to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representatives Nye, Barnhart

LIMITATION ON STATE ABORTION FUNDING

SECTION 10.54.(a) No State funds shall be used for the performance of abortions. However, the Department of Health and Human Services may expend funds to the extent necessary to comply with federal law and regulations governing Medicaid.

Requested by: Representatives Barnhart, Nye

FUNDS FOR FOOD BANKS

SECTION 10.55.(a) Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one million dollars ($1,000,000) for the 2003-2004 fiscal year shall be allocated equally among the six Second Harvest North Carolina food banks.

SECTION 10.55.(b) Each organization shall report to the Department of Health and Human Services and the Fiscal Research Division on the activities performed and the impact on local communities directly associated with the funds allocated in subsection (a) of this section by April 1, 2004. Each organization shall provide to the Department of Health and Human Services and the Fiscal Research Division a copy of its annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representative Clary

CHILD WELFARE SYSTEM PILOTS SYSTEM

SECTION 10.56.(a) The Department of Health and Human Services, Division of Social Services, shall continue working with local departments of social services to implement an alternative response system of child protection in no fewer than 10 and no more than 33 demonstration areas in this State. The Division of Social Services may exceed the maximum number of demonstration areas if a county specifically requests inclusion and the Division determines that resources are available. The demonstration projects in place in the 2003-2004 fiscal year shall continue. The alternative response system shall provide for a family-centered approach to child protective services which local departments of social services utilize family assessment tools and family support principles when responding to selected reports of suspected child neglect and dependency.

SECTION 10.56.(b) The Department of Health and Human Services shall evaluate the original pilot demonstration areas to determine the impact the alternative response system to child protective services has had in the following areas:

(1) Child safety.
(2) Timeliness of response.
(3) Timeliness of service.
(4) Coordination of local human services.

SECTION 10.56.(c) The Department of Health and Human Services shall proceed to expand this demonstration project if non-State funds are identified for this purpose.

SECTION 10.56.(d) The Department of Health and Human Services shall report on the outcome of the evaluation of the original pilot demonstration areas pursuant to subsection (b) of this section and the expansion of the demonstration areas. The Department shall make recommendations for statewide implementation of an alternative response system to child protective services. The report shall include any statutory changes required for full implementation. Any recommendations for statutory changes contained in the report shall be eligible for consideration by the 2003 General Assembly in the 2004 Regular Session. The report shall be submitted to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2004.

PART XI. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Requested by: Representatives Fox, West

GRASS ROOTS SCIENCE PROGRAM

SECTION 11.1. Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of two million six hundred five thousand six hundred thirty-seven dollars ($2,605,637) for fiscal year 2003-2004 and the sum of two million six hundred five thousand six hundred thirty-seven dollars ($2,605,637) for fiscal year 2004-2005 are allocated as grants-in-aid for each fiscal year as follows:

	2003-2004	2004-2005
Aurora Fossil Museum	$56,704	$56,704
Cape Fear Museum	$185,762	$185,762
Catawba Science Center	$135,096	$135,096
Colburn Gem and Mineral Museum, Inc.	$66,894	$66,894
Discovery Place	$625,643	$625,643
Granville County Museum Commission, Inc. - Harris Gallery	$55,897	$55,897
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	$121,268	$121,268
Imagination Station	$85,384	$85,384
Iredell County Children's Museum	$56,631	$56,631
Museum of Coastal Carolina	$69,352	$69,352
Natural Science Center of Greensboro	$183,703	$183,703
North Carolina Museum of Life and Science	$389,011	$389,011
Rocky Mount Children's Museum	$72,859	$72,859
Schiele Museum of Natural History	$234,921	$234,921
Sci Works Science Center and Environmental Park of Forsyth County	$147,788	$147,788

Western North Carolina Nature Center	$118,726	$118,726
Total	$2,605,637	$2,605,637

Requested by: Representatives Fox, West

STATEWIDE BEAVER DAMAGE CONTROL PROGRAM FUND

SECTION 11.2. Of the funds appropriated to the Wildlife Resources Fund in this act, the sum of four hundred forty-nine thousand dollars ($449,000) for the 2003-2004 fiscal year and the sum of four hundred forty-nine thousand dollars ($449,000) for the 2004-2005 fiscal year shall be used to provide the State share necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars ($25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

Requested by: Representatives Fox, West

FUNDS FOR CLEANUP OF WARREN COUNTY PCB LANDFILL

SECTION 11.3.(a) Notwithstanding the provisions of G.S. 143-215.3A, the Department of Environment and Natural Resources may use up to five hundred thousand dollars ($500,000) for the 2003-2004 fiscal year from the fees collected for water quality permits under G.S. 143-215.3D and credited to the Water Permits Fund if both of the following conditions are satisfied:

(1) The detoxification and remediation of the landfill located in Warren County cannot be completed without these additional funds.

(2) All other funds, including all contingency funds, available to the Department for the detoxification and remediation of the landfill located in Warren County that contains polychlorinated biphenyl (PCBs) and dioxin/furan contaminated materials have been spent or encumbered.

SECTION 11.3.(b) It is the intent of the General Assembly that the funds authorized under subsection (a) of this section will be sufficient to complete the detoxification and remediation of this landfill, based on representations made to the General Assembly.

Requested by: Representatives Fox, West

COMMERCIAL AND NONCOMMERCIAL UNDERGROUND STORAGE TANK FUNDS

SECTION 11.4.(a) Section 19 of S.L. 1989-652, Section 67 of S.L. 1991-1044, Section 15(a) and Section 15(b) of S.L. 1995-377, and Section 1 of S.L. 2001-454 are repealed, which has the effect of repealing two million six hundred twenty-five thousand dollars ($2,625,000) in appropriations from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources and one million two hundred ninety-five thousand dollars ($1,295,000) in appropriations from the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources.

SECTION 11.4.(b) There is appropriated from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources the sum of two million six hundred twenty-five thousand dollars ($2,625,000) for the 2003-2004 fiscal year and the sum of two million six hundred twenty-five thousand dollars ($2,625,000) for the 2004-2005 fiscal year to administer the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes.

SECTION 11.4.(c) It is the intent of the General Assembly that the funds under subsection (b) of this section are recurring funds.

SECTION 11.4.(d) There is appropriated from the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources the sum of one million two hundred ninety-five thousand dollars ($1,295,000) for the 2003-2004 fiscal year and the sum of one million two hundred ninety-five thousand dollars ($1,295,000) for the 2004-2005 fiscal year to administer the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes.

SECTION 11.4.(e) It is the intent of the General Assembly that the funds under subsection (c) of this section are recurring funds.

SECTION 11.4.(f) The Office of State Budget and Management shall certify the appropriations under subsections (b) and subsection (d) of this section in the budget codes for the Commercial and Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds and in the General Fund budget code for the Department of Environment and Natural Resources.

Requested by: Representatives Fox, West

ELIMINATE DENR POSITION

SECTION 11.5.(a) The position of Environmental Regulatory Supervisory II (Position Number 4332-000-0032-700) in the Department of Environment and Natural Resources is eliminated.

SECTION 11.5.(b) This section becomes effective June 30, 2003.

Requested by: Representatives Fox, West, LaRoque

COST SHARE FUNDS FOR LIMITED RESOURCE/NEW FARMERS

SECTION 11.6. G.S. 143-215.74(b) reads as rewritten:

"(b) The program shall be subject to the following requirements and limitations:

(1) The purpose of the program shall be to reduce the input of agricultural nonpoint source pollution into the water courses of the State.

(2) The program shall initially include the present 16 nutrient sensitive watershed counties and 17 additional counties.

(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. The Soil and Water Conservation Commission shall retain the authority to allocate the cost share funds.

(4) Areas shall be included in the program as the funds are appropriated and the technical assistance becomes available from the local Soil and Water Conservation District.

(5) Funding may be provided to assist practices including conservation tillage, diversions, filter strips, field borders, critical area plantings, sedimentation control structures, sod-based rotations, grassed waterways, strip-cropping, terraces, cropland conversion to permanent vegetation, grade control structures, water control structures, closure of lagoons, emergency spillways, riparian buffers or equivalent controls, odor control best management practices, insect control best management practices, and animal waste management systems and application. Funding for animal waste management shall be allocated for practices in river basins such that the funds will have the greatest impact in improving water quality.

(6) Except as provided in subdivision (8) and subdivision (9) of this subsection, State funding shall be limited to seventy-five percent (75%) of the average cost for each practice with the assisted farmer providing twenty-five percent (25%) of the cost, which may include in-kind support of the practice, with a maximum of seventy-five thousand dollars ($75,000) per year to each applicant.

(7) Priority designation for inclusion in the program for State funding shall be given to projects that improve water quality. To be eligible for cost share funds under this subdivision, a project shall be evaluated before funding is awarded and after the project is completed to determine the impact on water quality.

(8) For practices that are eligible for funding from the federal Conservation Reserve Enhancement Program, State funding from the program shall be limited to seventy-five percent (75%) of the average cost of each practice, with the remainder paid from funding from the Conservation Reserve Enhancement Program, other available federal funds, other State funds, or the assisted farmer, whose contribution may include in-kind support of the practice. This subdivision is subject to subdivision (9) of this subsection.

(9) When the applicant is either a limited-resource farmer or a beginning farmer, State funding shall be limited to ninety percent (90%) of the average cost for each practice with the assisted farmer providing ten percent (10%) of the cost, which may include in-kind support of the practice, with a maximum of one hundred thousand dollars ($100,000) per year to each applicant. The following definitions apply in this subdivision:

a. Beginning farmer. – A farmer who has not operated a farm or who has operated a farm for not more than 10 years and who will materially and substantially participate in the operation of the farm.

b. Limited-resource farmer. – A farmer with direct and indirect gross farm sales that do not exceed one hundred thousand dollars ($100,000).

c. Materially and substantially participate. –

1. In the case of an individual, for the individual, including members of the immediate family of the individual, to provide substantial day-to-day labor and management of the farm, consistent with the practices in the county in which the farm is located.

2. In the case of an entity, for all members of the entity, to participate in the operation of the farm, with some members providing management and some members providing labor and management necessary for day-to-day activities such that if the members did not provide the management and labor, the operation of the farm would be seriously impaired."

Requested by: Representatives Fox, West

CLEAN WATER MANAGEMENT TRUST FUND/NO ACQUISITION OF REAL ESTATE INTERESTS IN CERTAIN COUNTIES.

SECTION 11.7. G.S. 113-145.3 reads as rewritten:

"**§ 113-145.3. Clean Water Management Trust Fund: established.**

(a) Fund Established. – There is established a Clean Water Management Trust Fund in the State Treasurer's Office that shall be used to finance projects to clean up or prevent surface water pollution in accordance with this Article.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair of the Board of Trustees.

(c) Fund Purposes. – ~~Moneys~~ Except as provided in subsection (c1) of this section, moneys from the Fund may be used for any of the following purposes:

(1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses.

(2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and urban drinking water supplies.

(3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality.

(4) To restore previously degraded lands to reestablish their ability to protect water quality.

(5) To repair failing waste treatment systems if: (i) an application has first been submitted to receive a loan or grant from the Clean Water Revolving Loan and Grant Fund and the application was denied during the latest review cycle; (ii) the repair is a reasonable remedy for resolving an existing waste treatment problem; and (iii) the repair is not for the purpose of expanding the system to accommodate future anticipated growth of a community. Priority shall be given to economically distressed units of local government.

(6) To repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand waste treatment systems if the system is being expanded as a remedy to eliminate failing septic tank systems or illegal drainage connections. Priority shall be given to economically distressed units of local government.

(7) To improve stormwater controls and management practices.

(8) To facilitate planning that targets reductions in surface water pollution.

(9) To fund operating expenses of the Board of Trustees and its staff.

(c1) Moneys from the Fund shall not be used to acquire any interest in real property for any purpose in any county in which the sum total of land owned by either the federal or State government exceeds forty percent (40%). This subsection does not apply to a county if the board of commissioners of the county adopts a resolution consenting to the acquisition.

(d) Limit on Operating and Administrative Expenses. – No more than two percent (2%) of the annual balance of the Fund on July 1 or a total sum of one million two hundred fifty thousand dollars ($1,250,000), whichever is greater, may be used each fiscal year for administrative and operating expenses of the Board of Trustees and its staff."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Wright

CLEAN WATER MANAGEMENT TRUST FUND APPROPRIATION

SECTION 11.8. Notwithstanding G.S. 143-15.3B(a) for the 2003-2005 fiscal biennium only, the appropriation to the Clean Water Management Trust Fund for the 2003-2004 fiscal year is only twenty-five million dollars ($25,000,000) as provided by this act and is only twenty five-million dollars ($25,000,000) for the 2004-2005 fiscal year as provided by this act. The funds appropriated by this act to the Clean Water Management Trust Fund shall be used as provided by G.S. 143-15.3B(b).

Requested by: Representative Gillespie

STUDY REALLOCATION OF BAILEY FORK WATERSHED PROPERTY TO STATE PARK/ACCESS TO STATE PARK

SECTION 11.9.(a) The Department of Environment and Natural Resources and the Department of Health and Human Services shall study the desirability of reallocating the 454 acres that comprise the Bailey Fork watershed property located in Burke County that is currently owned by the Department of Health and Human Services and shall study whether to provide access to new facilities at the South Mountains State Park to students at the North Carolina School for the Deaf at Morganton. After considering these matters under this section, the Departments may submit a request to the Council of State to reallocate the 454 acres that comprise the Bailey Fork watershed property located in Burke County to the South Mountains State Park as an addition to the South Mountains State Park. No later than January 1, 2004, the Department of Environment and Natural Resources and the Department of Health and Human Services shall report the results of the study, including any findings and recommendations, to the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources.

SECTION 11.9.(b) Prior to July 1, 2005, the 454 acres that comprise the Bailey Fork watershed property located in Burke County that is currently owned by the Department of Health and Human Services shall not be transferred or sold without review and approval by the General Assembly.

PART XII. DEPARTMENT OF COMMERCE

Requested by: Representatives Fox, West

WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS

SECTION 12.1.(a) Of the funds appropriated in this act to the Department of Commerce for the Wanchese Seafood Industrial Park, the sum of one hundred twenty-seven thousand eight hundred seventy dollars ($127,870) for the 2003-2004 fiscal year and the sum of one hundred twenty-seven thousand eight hundred seventy dollars ($127,870) for the 2004-2005 fiscal year may be expended by the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes, in addition to funds available to the Authority for these purposes.

SECTION 12.1.(b) Funds appropriated to the Department of Commerce for the 2002-2003 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30, 2003, but shall remain available to the Department for legal costs associated with the Project. This subsection becomes effective June 30, 2003.

Requested by: Representatives Fox, West

COUNCIL OF GOVERNMENT FUNDS

SECTION 12.2.(a) Of the funds appropriated in this act to the Department of Commerce, eight hundred thirty-two thousand one hundred fifty dollars ($832,150) for the 2003-2004 fiscal year and eight hundred thirty-two thousand one hundred fifty dollars ($832,150) for the 2004-2005 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to forty-eight thousand nine hundred fifty dollars ($48,950) for the 2003-2004 and the 2004-2005 fiscal years.

SECTION 12.2.(b) A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

SECTION 12.2.(c) Funds appropriated by this section shall be paid by electronic transfer in two equal installments, the first no later than September 1, 2003, and the second subsequent to acceptable submission of the annual report due to the Joint

Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2005, as specified in subdivision (e)(2) of this section.

SECTION 12.2.(d) Funds appropriated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

SECTION 12.2.(e) Each council of government or lead regional organization shall do the following:

(1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
   b. State fiscal year 2002-2003 itemized expenditures and fund sources;
   c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments, including actual results through December 31, 2003; and
   d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2003;

(2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
   b. State fiscal year 2003-2004 itemized expenditures and fund sources;
   c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments, including actual results through December 31, 2004; and
   d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2004; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, West

TOURISM PROMOTION FUNDS

SECTION 12.3. Funds appropriated in this act to the Department of Commerce for tourism promotion grants shall be allocated to counties in an effort to direct funds to counties most in need. Determinations of which counties are most in need shall focus on those with the lowest per capita income, highest unemployment, and slowest population growth, in the following manner:

(1) Counties 1 through 20 are each eligible to receive a maximum grant of seven thousand five hundred dollars ($7,500) for each fiscal year, provided these funds are matched on the basis of one non-State dollar for every four State dollars.

(2) Counties 21 through 50 are each eligible to receive a maximum grant of three thousand five hundred dollars ($3,500) for two of the next three fiscal years, provided these funds are matched on the basis of one non-State dollar for every three State dollars.

(3) Counties 51 through 100 are each eligible to receive a maximum grant of three thousand five hundred dollars ($3,500) for alternating fiscal years, beginning with the 1991-1992 fiscal year, provided these funds

are matched on the basis of four non-State dollars for every State dollar.

Requested by: Representatives Fox, West

ONE NORTH CAROLINA – INDUSTRIAL RECRUITMENT COMPETITIVE FUND

SECTION 12.4.(a) Funds appropriated to the Department of Commerce for the One North Carolina - Industrial Recruitment Competitive Fund shall be used to continue the Fund. The purpose of the Fund is to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina.

SECTION 12.4.(b) Moneys allocated from the Competitive Fund shall be used for the following purposes:

(1) Installation or purchase of equipment;

(2) Structural repairs, improvements, or renovations of existing buildings to be used for expansion; and

(3) Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.

Moneys may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations. The Governor shall adopt guidelines and procedures for the commitment of moneys from the Fund.

SECTION 12.4.(c) The Department of Commerce shall report on or before September 30, 2003, and quarterly thereafter, to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the commitment, allocation, and use of funds allocated from the One North Carolina - Industrial Recruitment Competitive Fund.

SECTION 12.4.(d) Funds appropriated to the Department of Commerce for the 2002-2003 fiscal year for the One North Carolina - Industrial Recruitment Competitive Fund that are unexpended and unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30, 2003, but shall remain available to the Department for providing financial assistance to those businesses and industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina.

SECTION 12.4.(e) This section becomes effective June 30, 2003.

Requested by: Representatives Fox, West

INDUSTRIAL DEVELOPMENT FUND

SECTION 12.5.(a) The Department of Commerce shall reduce the cash balance of the Industrial Development Fund by one million one hundred sixty-nine thousand four hundred thirty-eight dollars ($1,169,438).

SECTION 12.5.(b) This section becomes effective June 30, 2002.

Requested by: Representatives Fox, West

WORKER TRAINING TRUST FUND

SECTION 12.6.(a) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of five million dollars ($5,000,000) for the 2003-2004 fiscal year for the operation of local offices.

SECTION 12.6.(b) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the following agencies the following sums for the 2003-2004 fiscal year for the following purposes:

(1) One hundred ninety-three thousand eight hundred seventy-nine dollars ($193,879) for the 2003-2004 fiscal year to the Employment Security Commission for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs;
(2) Fifty-three thousand eight hundred fifty-six dollars ($53,856) for the 2003-2004 fiscal year to the Employment Security Commission to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs;
(3) Eight hundred sixty-one thousand six hundred eighty-four dollars ($861,684) for the 2003-2004 fiscal year to the Department of Labor to continue the Apprenticeship Program; and
(4) Two hundred forty thousand dollars ($240,000) for the 2003-2004 fiscal year to the Community Colleges System Office for the operation of the Hosiery Technology Center.

SECTION 12.6.(c) The agencies listed in subsections (a) and (b) of this section shall, by January 15, 2004, and more frequently as requested, for the programs for which funds are appropriated in this section, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
(1) State fiscal year 2003-2004 program activities, objectives, and accomplishments;
(2) State fiscal year 2003-2004 itemized expenditures and fund sources;
(3) State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
(4) State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003.

SECTION 12.6.(d) Notwithstanding the provisions of G.S. 96-5(f), funds appropriated for 2002-2003 from the Worker Training Trust Fund to the Community Colleges System Office for both the Focused Industrial Training Program and the Training Initiatives shall not revert, but shall remain available to the System Office for the support of each program in fiscal year 2003-2004.

Requested by: Representatives Fox, West

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

SECTION 12.7.(a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, Global TransPark Development Commission, and Carolinas Partnership, Inc.

SECTION 12.7.(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:
(1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's enterprise factor by the sum of the enterprise factors for eligible counties and multiplying the resulting percentage

by the amount of the appropriation. As used in this subdivision, the term "enterprise factor" means a county's enterprise factor as calculated under G.S. 105-129.3; seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(2) Next, the Department shall subtract from funds allocated to the Global TransPark Development Zone the sum of one hundred seventy-one thousand nine hundred seventy-nine dollars ($171,979) in each fiscal year, which sum represents the interest earnings in each fiscal year on the estimated balance of seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of one hundred seventy-one thousand nine hundred seventy-nine dollars ($171,979) in each fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the enterprise factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each commission's allocation determined under subdivision (1) of this subsection.

Requested by: Representatives Fox, West

REGIONAL ECONOMIC DEVELOPMENT COMMISSION REPORTS

SECTION 12.8.(a) By February 15 of each fiscal year, beginning in 2004, the seven regional economic development commissions shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

(1) The preceding fiscal year's program activities, objectives, and accomplishments.

(2) The preceding fiscal year's itemized expenditures and fund sources.

(3) Demonstration of how the commission's regional economic development and marketing strategy aligns with the State's overall economic development and marketing strategies.

(4) To the extent they are involved in promotion activities such as trade shows, visits to prospects and consultants, advertising and media placement, the commissions shall demonstrate how they have generated qualified leads.

SECTION 12.8.(b) Each of the commissions shall provide to the Fiscal Research Division a copy of their annual audited financial statement within 30 days of issuance of the statement.

SECTION 12.8.(c) The reporting requirements for regional economic development commissions, as provided in subsection (a) of this section, shall be reviewed annually by the North Carolina Partnership for Economic Development and recommendations for changes to the reporting requirements shall be made to the Fiscal Research Division, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

SECTION 12.8.(d) Regional economic development commissions shall receive quarterly allocations of the funds appropriated in this act to the Department of Commerce for regional economic development commissions.

SECTION 12.8.(e) Regional economic development commissions shall remain in the Department of Commerce's Budget Code 14601 with other State-aided nonprofit entities.

SECTION 12.8.(f) The Board Structure of the Global TransPark Development Commission shall be studied in accordance with the recommendations found in the UNC Kenan-Flagler study, to determine if the board structure should be reconstituted and made similar to the boards of the Northeastern or Southeastern North Carolina Regional Economic Development Commissions. In conducting the study, the following conditions shall be met:

(1) The Global TransPark Development Commission shall contribute to the cost of the study by retaining a consultant familiar with the partnership.

(2) The Study shall be conducted by a designee of the North Carolina Partnership for Economic Development determined by the Partnership Presidents, a designee of the UNC Kenan-Flager School of Business, and the consultant retained by the Global TransPark Development Commission.

(3) None of the eastern regional commissions shall be consolidated.

(4) The results of the study shall be submitted to the Fiscal Research Division and members of the North Carolina Partnership for Economic Development prior to the beginning of the 2004 Regular Session of the 2003 General Assembly.

Requested by: Representatives Fox, West

NONPROFIT REPORTING REQUIREMENTS

SECTION 12.9.(a) The N.C. Institute for Minority Economic Development, Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North Carolina Community Development Initiative, Inc., North Carolina Association of Community Development Corporations, Inc., and Partnership for the Sounds, Inc., shall do the following:

(1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
   b. State fiscal year 2002-2003 itemized expenditures and fund sources;
   c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
   d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003;

(2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
   b. State fiscal year 2003-2004 itemized expenditures and fund sources;
   c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and
   d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 12.9.(b) No funds appropriated under this act shall be released to a nonprofit organization listed in subsection (a) of this section until the organization has satisfied the reporting requirement for January 15, 2003. Fourth quarter allotments shall not be released to any nonprofit organization that does not satisfy the reporting requirements by January 15, 2004, or January 15, 2005.

Requested by: Representatives Fox, West

BIOTECHNOLOGY CENTER

SECTION 12.10.(a) The North Carolina Biotechnology Center shall recapture funds spent in support of successful research and development efforts in the for-profit private sector.

SECTION 12.10.(b) The North Carolina Biotechnology Center shall provide funding for biotechnology, biomedical, and related bioscience applications under its Business and Science Technology Programs.

SECTION 12.10.(c) The North Carolina Biotechnology Center shall:

(1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
   b. State fiscal year 2002-2003 itemized expenditures and fund sources;
   c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
   d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003;

(2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
   b. State fiscal year 2003-2004 itemized expenditures and fund sources;
   c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and
   d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 12.10.(d) The North Carolina Biotechnology Center shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management and to the Fiscal Research Division in the same manner as State departments and agencies in preparation for biennium budget requests.

Requested by: Representatives Fox, West

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 12.11.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million seven hundred fourteen thousand six hundred seventy-seven dollars ($1,714,677) for the 2003-2004 fiscal year and the sum of one million seven hundred fourteen thousand six hundred seventy-seven dollars ($1,714,677) for the 2004-2005 fiscal year shall be allocated as follows:

	2003-2004 FY	2004-2005 FY
Research and Demonstration Grants	$370,000	$370,000
Technical Assistance and Center Administration of Research and Demonstration Grants	444,399	444,399
Center Administration, Oversight, and Other Programs	437,278	437,278
Administration of Clean Water/ Natural Gas Critical Needs Bond Act of 1998	199,722	199,722
Additional Administration of Supplemental Funding Program	138,278	138,278
Administration of Capacity Building Assistance Program (1998 Bond Act)	125,000	125,000.

SECTION 12.11.(b) The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

SECTION 12.11.(c) For purposes of this section, the term "community development corporation" means a nonprofit corporation:

(1) Chartered pursuant to Chapter 55A of the General Statutes;

(2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;

(3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;

(4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and

(5) Whose primary function is to act as deal maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

SECTION 12.11.(d) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million three hundred fifty-nine thousand five hundred dollars ($2,359,500) for the 2003-2004 fiscal year and the sum of two million three hundred fifty-nine thousand five hundred dollars ($2,359,500) for the 2004-2005 fiscal year shall be allocated as follows:

(1) $991,000 in each fiscal year for community development grants to support development projects and activities within the State's minority communities. Any community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. The Rural Economic Development Center, Inc., shall allocate these funds as follows:

a. $800,000 in each fiscal year for direct grants to the local community development corporations that have previously

received State funds for this purpose to support operations and project activities;

b. $141,000 in each fiscal year for direct grants to local community development corporations that have not previously received State funds; and

c. $50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.

(2) $195,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and

(3) $983,000 in each fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subdivision. The Center shall allocate these funds as follows:

a. $775,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:

1. Necessary economic development projects and activities in economically distressed areas;

2. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall not be expended for the repair or replacement of low-pressure pipe wastewater systems. If a grant is awarded under this sub-subdivision, then the grant shall be matched on a dollar-for-dollar basis in the amount of the grant awarded; or

3. Projects that demonstrate alternative water and waste management processes for local governments. Special consideration should be given to cost-effectiveness, efficacy, management efficiency, and the ability of the demonstration project to be replicated.

b. $208,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants related to water, sewer, or business development projects.

(4) $190,500 in each fiscal year for the Agricultural Advancement Consortium. These funds shall be placed in a reserve and allocated as follows:

a. $75,000 in each fiscal year for operating expenses associated with the Consortium; and

b. $115,500 in each fiscal year for research initiatives funded by the Consortium.

The Consortium shall facilitate discussions among interested parties and shall develop recommendations to improve the State's economic development through farming and agricultural interests.

The grant recipients in this subsection shall be selected on the basis of need.

SECTION 12.11.(e) The Rural Economic Development Center, Inc., shall:

(1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;

b. State fiscal year 2002-2003 itemized expenditures and fund sources;

c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and

d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003.

(2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;

b. State fiscal year 2003-2004 itemized expenditures and fund sources;

c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and

d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004.

(3) Provide to the Fiscal Research Division a copy of each grant recipient's annual audited financial statement within 30 days of issuance of the statement.

SECTION 12.11.(f) No funds appropriated under this act shall be released to a community development corporation, as defined in this act, unless the corporation can demonstrate that there are no outstanding or proposed assessments or other collection actions against the corporation for any State or federal taxes, including related penalties, interest, and fees.

Requested by: Representatives Fox, West

OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS

SECTION 12.12.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of three hundred fifty-one thousand five hundred dollars ($351,500) for the 2003-2004 fiscal year and the sum of three hundred fifty-one thousand five hundred dollars ($351,500) for the 2004-2005 fiscal year shall be allocated as follows:

(1) $87,875 in each fiscal year to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;

(2) $87,875 in each fiscal year to the Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;

(3) $87,875 in each fiscal year to the Opportunities Industrialization Centers Kinston and Lenoir County, North Carolina, Inc.; and

(4) $87,875 in each fiscal year to the Opportunities Industrialization Center of Elizabeth City, Inc.

SECTION 12.12.(b) For each of the Opportunities Industrialization Centers receiving funds pursuant to subsection (a) of this section, the Rural Economic Development Center, Inc., shall:

(1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;

b. State fiscal year 2002-2003 itemized expenditures and fund sources;

c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments, including actual results through December 31, 2003; and
d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2003.

(2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
b. State fiscal year 2003-2004 itemized expenditures and fund sources;
c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments, including actual results through December 31, 2004; and
d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2004.

(3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor a financial statement in the form and on the schedule prescribed by the State Auditor. The financial statements must be audited in accordance with standards prescribed by the State Auditor to assure that State funds are used for the purposes provided by law.

(4) Provide to the Fiscal Research Division a copy of the annual audited financial statement required in subdivision (3) of this subsection within 30 days of issuance of the statement.

SECTION 12.12.(c) No funds appropriated under this act shall be released to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a) of this section unless the Center can demonstrate that there are no outstanding or proposed assessments or other collection actions against the Center for any State or federal taxes, including related penalties, interest, and fees.

PART XIII. JUDICIAL DEPARTMENT

Requested by: Representatives Kiser, Haire

OPERATIONAL SAVINGS/FUNDING RESERVES

SECTION 13.1.(a) The Judicial Department shall report by September 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House Representatives Appropriations Subcommittees on Justice and Public Safety on the positions identified in the Administrative Office of the Courts in order to implement operational savings.

SECTION 13.1.(b) The Judicial Department, the Department of Correction, the Department of Crime Control and Public Safety, the Department of Juvenile Justice and Delinquency Prevention, and the Department of Justice shall report quarterly to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the implementation of negative reserves authorized for each agency in this budget. The departments shall report to the Joint Legislative Commission on Governmental Operations before implementing negative reserves by eliminating positions or abolishing programs.

Requested by: Representatives Kiser, Haire

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 13.2. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2003, for the purchase or repair of office or information technology equipment during the 2003-2004 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

Requested by: Representatives Kiser, Haire

OFFICE OF INDIGENT DEFENSE SERVICES REPORT

SECTION 13.3. The Office of Indigent Defense Services shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on:

(1) The volume and cost of cases handled in each district by assigned counsel or public defenders;

(2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;

(3) Plans for changes in rules, standards, or regulations in the upcoming year; and

(4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services.

Requested by: Representatives Kiser, Haire

DRUG TREATMENT COURT PROGRAM

SECTION 13.4.(a) It is the intent of the General Assembly that State Drug Treatment Court funds not be used to fund case manager positions when the services provided by those positions can be reasonably provided by the Treatment Alternatives to Street Crime (TASC) program in the Department of Health and Human Services or by other existing resources. The Drug Treatment Court Program shall identify areas of potential cost savings in the local programs that would result from reducing the number of case manager positions. The Program shall also identify areas in which federal funding might absorb administrative costs.

The Drug Treatment Court Program shall report by February 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the savings identified.

SECTION 13.4.(b) Prior to the establishment of any new local drug treatment court programs, the local drug treatment court management committee shall consult with the TASC program as to the availability of case management services in that community.

Requested by: Representatives Kiser, Haire

FEDERAL GRANT FUNDS

SECTION 13.5. The Judicial Department shall use up to the sum of one million two hundred fifty thousand dollars ($1,250,000) from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds. The Judicial Department shall also use proceeds from the Court Information Technology Fund to fulfill prior obligations to criminal justice information projects receiving federal funds.

Requested by: Representatives Kiser, Haire

PUBLIC DEFENDER STUDY

SECTION 13.6. The Office of Indigent Defense Services shall study the establishment of additional public defender districts in the State, identifying the areas of the State in which savings could be realized by the establishment of such districts and the projected savings in each area. The Office of Indigent Defense Services shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2004, on the results of its study.

Requested by: Representatives Kiser, Haire

TRANSFER OF EQUIPMENT AND SUPPLY FUNDS

SECTION 13.7. Funds appropriated to the Judicial Department in the 2003-2005 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

Requested by: Representatives Kiser, Haire

ADJUST MAGISTRATE AUTHORIZATIONS

SECTION 13.8. G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

	Magistrates		Additional Seats of
County	Min. – Max.		Court
Camden	1	3	
Chowan	2	3	
Currituck	1	4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	4	
Martin	~~5~~4	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville Ayden
Craven	7	10	Havelock
Pamlico	2	4	
Carteret	5	8	
Sampson	6	8	
Duplin	~~9~~8	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck

1	Northampton	5	7	
2	Bertie	4	6	
3	Hertford	5	7	
4	Nash	7	10	Rocky Mount
5	Edgecombe	4	7	Rocky Mount
6	Wilson	4	7	
7	Wayne	5	12	Mount Olive
8	Greene	2	4	
9	Lenoir	4	10	La Grange
10	Granville	3	7	
11	Vance	3	6	
12	Warren	3	5	
13	Franklin	3	7	
14	Person	3	4	
15	Caswell	2	5	
16	Wake	12	21	Apex,
17				Wendell,
18				Fuquay-
19				Varina,
20				Wake Forest
21	Harnett	7	11	Dunn
22	Johnston	10	12	Benson,
23				Clayton,
24				Selma
25	Lee	4	6	
26	Cumberland	10	19	
27	Bladen	4	6	
28	Brunswick	4	9	
29	Columbus	6	10	Tabor City
30	Durham	8	13	
31	Alamance	7	11	Burlington
32	Orange	4	11	Chapel Hill
33	Chatham	3	9	Siler City
34	Scotland	3	5	
35	Hoke	4	5	
36	Robeson	8	16	Fairmont,
37				Maxton,
38				Pembroke,
39				Red Springs,
40				Rowland,
41				St. Pauls
42	Rockingham	4	9	Reidsville,
43				Eden,
44				Madison
45	Stokes	2	5	
46	Surry	5	9	Mt. Airy
47	Guilford	20	27	High Point
48	Cabarrus	5	9	Kannapolis
49	Montgomery	2	4	
50	Randolph	5	10	Liberty
51	Rowan	5	10	
52	Stanly	5	6	
53	Union	4	7	
54	Anson	4	6	
55	Richmond	5	6	Hamlet

Moore	5	8	Southern Pines
Forsyth	3	15	Kernersville
Alexander	2	4	
Davidson	7	10	Thomasville
Davie	2	3	
Iredell	4	9	Mooresville
Alleghany	1	2	
Ashe	3	4	
Wilkes	4	6	
Yadkin	3	5	
Avery	3	5	
Madison	4	5	
Mitchell	3	4	
Watauga	4	6	
Yancey	2	4	
Burke	4	7	
Caldwell	4	7	
Catawba	6	10	Hickory
Mecklenburg	15	28	
Gaston	11	22	
Cleveland	5	8	
Lincoln	4	7	
Buncombe	6	15	
Henderson	4	7	
McDowell	3	6	
Polk	3	4	
Rutherford	6	8	
Transylvania	2	4	
Cherokee	3	4	
Clay	1	2	
Graham	2	3	
Haywood	5	7	Canton
Jackson	3	5	
Macon	3	4	
Swain	2	~~3~~4"	

Requested by: Representatives Kiser, Haire

SUSPENSION OF COURT-ORDERED ARBITRATION PROGRAM

SECTION 13.9. The Director of the Administrative Office of the Courts shall suspend the court-ordered arbitration program authorized under G.S. 7A-37.1 in any or all districts or counties to the extent that personnel to operate the program or funds to pay arbitrators are not available from any source. The Director may reinstate the program in one or more districts or counties to the extent that such personnel or funds become available.

PART XIV. DEPARTMENT OF JUSTICE

Requested by: Representatives Kiser, Haire

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

SECTION 14.1.(a) Assets transferred to the Departments of Justice, Correction, and Crime Control and Public Safety during the 2003-2005 biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those

departments. The Departments of Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

SECTION 14.1.(b) The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects, acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice, the Department of Correction, and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

SECTION 14.1.(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

Requested by: Representatives Kiser, Haire

PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES

SECTION 14.2. The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those Boards by the State.

Requested by: Representatives Kiser, Haire

CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS

SECTION 14.3. Client departments, agencies, and boards shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board.

Requested by: Representatives Kiser, Haire

REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL REPRESENTATION

SECTION 14.4. The Department of Justice shall be reimbursed by the Board of Governors of The University of North Carolina for two Attorney III positions to provide legal representation to The University of North Carolina System.

Requested by: Representatives Kiser, Haire

REPORT ON CRIMINAL RECORDS CHECKS CONDUCTED FOR CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR CRIMINAL RECORDS CHECKS

SECTION 14.5.(a) The Department of Justice shall report by January 15 each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the receipts, costs for, and number of criminal records checks performed in connection with applications for concealed weapons permits. The report by the Department of Justice shall also include information on the number of applications received and approved for firearms safety courses.

SECTION 14.5.(b) The Office of State Budget and Management, in consultation with the Department of Justice, shall study the feasibility of adjusting the fees charged for criminal records checks conducted by the Division of Criminal Information of the Department of Justice as a result of the increase in receipts from criminal records checks. The study shall include an assessment of the Division's

operational, personnel, and overhead costs related to providing criminal records checks and how those costs have changed since the prior fiscal year. The Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division on or before March 1, 2004.

Requested by: Representatives Kiser, Haire

NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS DISBURSED

SECTION 14.6. The North Carolina Legal Education Assistance Foundation shall report by March 1, 2004, to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Justice and Public Safety Subcommittees on its internal controls and procedures for ensuring that all funds designated for payoff of education loans are used for that purpose.

Requested by: Representative Kiser

RAPE KIT FUNDS A PRIORITY

SECTION 14.7. In expending funds appropriated in this act to the Department of Justice for the Molecular Genetics Section of the State Bureau of Investigation, the Department shall give priority to the analysis of forensic samples from rape kits for the investigation and prosecution of criminal offenses over the analysis of DNA samples taken from convicted offenders for entry into the DNA database.

PART XV. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Requested by: Representatives Kiser, Haire

S.O.S. ADMINISTRATIVE COST LIMITS

SECTION 15.1. Of the funds appropriated to the Department of Juvenile Justice and Delinquency Prevention in this act, not more than four hundred fifty thousand dollars ($450,000) for the 2003-2004 fiscal year and not more than four hundred fifty thousand dollars ($450,000) for the 2004-2005 fiscal year may be used to administer the S.O.S. Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services.

Requested by: Representatives Kiser, Haire

JUVENILE CRIME PREVENTION COUNCIL GRANT REPORTING AND CERTIFICATION

SECTION 15.2.(a) On or before May 1 each year, the Department of Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council grants. The list shall include for each recipient the amount of the grant awarded, the membership of the local committee or council administering the award funds on the local level, and a short description of the local services, programs, or projects that will receive funds. The list shall also identify any programs that received grant funds at one time but for which funding has been eliminated by the Department of Juvenile Justice and Delinquency Prevention. A written copy of the list and other

information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly.

SECTION 15.2.(b) Each county in which local programs receive Juvenile Crime Prevention Council grant funds from the Department of Juvenile Justice and Delinquency Prevention shall certify annually through its local council to the Department that funds received are not used to duplicate or supplant other programs within the county.

Requested by: Representatives Kiser, Haire

REPORTS ON CERTAIN PROGRAMS

SECTION 15.3.(a) Project Challenge North Carolina, Inc., shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1 each year on the operation and the effectiveness of its program in providing alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined. The report shall include information on the source of referrals for juveniles, the types of offenses committed by juveniles participating in the program, the amount of time those juveniles spend in the program, the number of juveniles who successfully complete the program, and the number of juveniles who commit additional offenses after completing the program.

SECTION 15.3.(b) The Department of Juvenile Justice and Delinquency Prevention shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the effectiveness of the Juvenile Assessment Center by April 1 each year. The report on the Juvenile Assessment Center shall include information on the number of juveniles served and an evaluation of the effectiveness of juvenile assessment plans and services provided as a result of these plans.

SECTION 15.3.(c) Communities in Schools shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Joint Legislative Education Oversight Committee by April 1 each year on the operation and the effectiveness of its program. The report shall include information on the number of children served, the number of volunteers used, the impact on the children who have received services from Communities in Schools, and the operating budget of Communities in Schools.

Requested by: Representatives Kiser, Haire

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 15.4. Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2003-2004 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2003-2004 fiscal year, the amount of funds anticipated for the 2004-2005 fiscal year, and the allocation of funds by program and purpose.

Requested by: Representatives Kiser, Haire

ANNUAL EVALUATION OF COMMUNITY PROGRAMS

SECTION 15.5. The Department of Juvenile Justice and Delinquency Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness camp programs, the teen court programs, the program that grants funds to the local organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L. 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and multipurpose group homes. The teen court report shall include statistical information on the number of juveniles served, the number and type of offenses considered by teen courts, referral sources for teen courts, and the number of juveniles that become court-involved after participation in teen courts. The report on the Boys and Girls Clubs program shall include information on:

(1) The expenditure of State appropriations on the program;
(2) The operations and the effectiveness of the program; and
(3) The number of juveniles served under the program.

In conducting the evaluation of each of these programs, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also identify whether the programs are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The Department shall report the results of the evaluation to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the Subcommittees of Justice and Public Safety of the House of Representatives and Senate Appropriations Committees by March 1 of each year.

Requested by: Representatives Kiser, Haire

USE OF FUNDS FOR YOUTH DEVELOPMENT CENTER BEDS

SECTION 15.6.(a) The Department of Juvenile Justice and Delinquency Prevention may use funds available during the 2003-2004 fiscal year to establish or reestablish Youth Development Center beds and convert up to 50 beds in one Eckerd Wilderness Camp for use as a Youth Development Center, as defined in G.S. 7B-1501. Any conversion shall be effectuated with existing contract funds. If the Department of Juvenile Justice and Delinquency Prevention determines it needs additional youth development center beds during the 2003-2004 fiscal year, it shall consider reestablishing beds at Samarkand Manor Youth Development Center.

SECTION 15.6.(b) The Department shall report to the Chairs of the Justice and Public Safety Subcommittees of the House of Representatives and the Senate and the Joint Legislative Commission on Governmental Operations and the Corrections, Crime Control, and Juvenile Justice Oversight Committee prior to:

(1) Converting any Eckerd Wilderness Camp beds to secure confinement beds during the 2003-2004 fiscal year; or
(2) Establishing bed capacity greater than 740 total beds, including beds converted at Eckerd Wilderness Camps, during the 2003-2004 fiscal year.

The report shall include the sources of funding for any additional beds.

Requested by: Representatives Kiser, Haire

PLANNING FOR NEW YOUTH DEVELOPMENT CENTERS

SECTION 15.7. The Department of Juvenile Justice and Delinquency Prevention may use funds appropriated to the Department in this act to continue the planning and design of new youth development centers with up to 500 total beds. The Department shall design facilities that are conducive to effective security and programming while ensuring improved staffing efficiencies.

The Department of Juvenile Justice and Delinquency Prevention shall provide a quarterly status report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on the number of youth

development centers to be designed and the number of beds at each, as well as the rationale for the number of beds to be built at each facility. The report shall also include:

(1) The status of the plan and design of the new facilities.
(2) The proposed sites for the facilities.
(3) How the plan and design will meet the mandate of ensuring effective security and programming while improving staff efficiencies.
(4) The Department's long-range plan for closing other youth development centers or individual cottages at selected youth development centers or revising the mission or objective of individual youth development centers.

Requested by: Representatives Kiser, Haire

OPERATION OF BUNCOMBE YOUTH DETENTION CENTER

SECTION 15.8. The Department of Juvenile Justice and Delinquency Prevention shall continue to operate the Buncombe Youth Detention Center at its current site during the 2003-2004 fiscal year. To the extent practicable during the 2003-2004 fiscal year, the Department shall operate the Buncombe Youth Detention Center at the same average population and staffing levels and at the same budget as the 2002-2003 fiscal year.

PART XVI. DEPARTMENT OF CORRECTION

Requested by: Representatives Kiser, Haire

FEDERAL GRANT REPORTING

SECTION 16.1. The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

Requested by: Representatives Kiser, Haire

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

SECTION 16.2. The Department of Correction may use funds available to the Department for the 2003-2005 biennium to pay the sum of forty dollars ($40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the

expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

Requested by: Representatives Kiser, Haire

SHIFT PAY FOR SECURITY STAFF

SECTION 16.3. The Department of Correction may use funds available for the 2003-2004 fiscal year for the payment to security staff of special supplemental weekend shift premium pay that exceeds standard weekend shift pay by up to ten percent (10%). The Department shall also continue to take steps to hold down the cost of shift pay by converting prisons from three eight-hour shifts to two 12-hour shifts whenever practical.

The Department of Correction shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2004, on its progress in converting prison work shifts from eight hours to 12 hours. The report shall include information on savings generated to date and potential future savings, as well as any changes in employee morale and leave usage, as a result of converting to 12-hour shifts.

Requested by: Representatives Kiser, Haire

DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS

SECTION 16.4.(a) The Department of Correction shall conduct annual security staffing postaudits of each prison.

SECTION 16.4.(b) The Department of Correction shall annually update the security staffing relief formula. Each update shall include a review of all annual training requirements for security staff to determine which of these requirements should be mandatory and the appropriate frequency of the training.

SECTION 16.4.(c) The Department of Correction shall report on its progress in implementing the staffing recommendations of the National Institute of Corrections to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by February 1, 2004. The report shall include a status report on the implementation of a centralized postaudit control system and the automation of leave records.

Requested by: Representatives Kiser, Haire

USE OF CLOSED PRISON FACILITIES

SECTION 16.5. In conjunction with the closing of prison facilities, including small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. The Department of Correction shall also provide annual summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section.

Requested by: Representatives Kiser, Haire

INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS

SECTION 16.6.(a) If the cost of providing food and health care to inmates housed in the Division of Prisons is anticipated to exceed the continuation budget amounts provided for that purpose in this act, the Department of Correction shall report the reasons for the anticipated cost increase and the source of funds the Department intends to use to cover those additional needs to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety.

SECTION 16.6.(b) Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2003-2005 biennium for the purchase of prescription drugs for inmates if expenditures are projected to exceed the Department's inmate medical continuation budget for prescription drugs. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

Requested by: Representatives Kiser, Haire

MOBILE MEDICAL OPERATING ROOM

SECTION 16.7. The Department of Correction shall continue the contract for a mobile medical operating room at Central Prison for the 2003-2004 fiscal year at a reduced fixed rate that more clearly reflects the usage. However, the Department shall use the mobile unit for additional procedures, as authorized by the terms of the agreement, whenever the Department's Utilization Review Team determines that (i) a specific procedure can be performed at a cost below that charged by a public or private hospital; and (ii) there is no compelling medical reason for performing the procedure in a hospital instead of using the mobile medical unit.

The Department shall also study the use of this mobile operating room and report by April 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety. The report shall recommend whether the mobile unit should be continued, eliminated, or expanded in terms of capacity of the current unit and the potential for establishing an additional mobile unit. The report shall also include information on the number and type of procedures performed over and above the fixed-rate contract and the savings generated.

Requested by: Representatives Kiser, Haire

CONVERSION OF CONTRACTED MEDICAL POSITIONS

SECTION 16.8.(a) The Department of Correction may convert contract medical positions to permanent State medical positions at individual correctional facilities if the Department can document that the total savings generated will exceed the total cost of the new positions for each facility. Where practical, the Department shall convert contract positions to permanent positions by using existing vacancies in medical positions.

SECTION 16.8.(b) The Department of Correction shall report by April 1, 2004, to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice

and Public Safety on all conversions made pursuant to this section, by type of position and location, and on the savings generated at each correctional facility.

Requested by: Representatives Kiser, Haire

LIMIT USE OF OPERATIONAL FUNDS

SECTION 16.9. Funds appropriated in this act to the Department of Correction for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds shall not be expended for any other purpose, except as provided for in this act, and shall not be expended for additional prison personnel positions until the new facilities are within 120 days of projected completion, except for certain management, security, and support positions necessary to prepare the facility for opening, as authorized in the budget approved by the General Assembly.

Requested by: Representatives Kiser, Haire

FEDERAL GRANT MATCHING FUNDS

SECTION 16.10. Notwithstanding the provisions of G.S. 148-2, the Department of Correction may use up to the sum of nine hundred thousand dollars ($900,000) from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

Requested by: Representatives Kiser, Haire

COMPUTER/DATA PROCESSING SERVICES FUNDS

SECTION 16.11. Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2003-2005 biennium for expenses for computer/data processing services if expenditures exceed the Department's continuation budget amount for those services. The Department shall report to the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

Requested by: Representatives Kiser, Haire

MEDIUM CUSTODY ROAD CREW COMPENSATION/COMMUNITY WORK CREWS

SECTION 16.12.(a) Of funds appropriated to the Department of Transportation by this act, the sum of ten million dollars ($10,000,000) per year shall be transferred by the Department of Transportation to the Department of Correction during the 2003-2005 biennium for the actual costs of highway-related labor performed by medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made quarterly in the amount of two million five hundred thousand dollars ($2,500,000). The Department of Transportation may use funds appropriated by this act to pay an additional amount exceeding the ten million dollars ($10,000,000), but those payments shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

SECTION 16.12.(b) The Department of Correction may use up to 39 work crews for Department of Transportation litter control projects. The Department of Transportation shall transfer at least one million three hundred thousand dollars ($1,300,000) per year from the Highway Fund to the Department of Correction during the 2003-2005 biennium to cover the cost of those work crews. Should the two departments determine that the actual cost of operating 39 work crews exceeds that

amount, the Department of Transportation shall transfer an additional amount as agreed upon by the two departments and the Office of State Budget and Management.

Requested by: Representatives Kiser, Haire

ENERGY FOR COMMITTED OFFENDERS/CONTRACT AND REPORT

SECTION 16.13. The Department of Correction may continue to contract with Energy for Committed Offenders, Inc., for the purchase of prison beds for minimum security female inmates during the 2003-2005 biennium. Energy for Committed Offenders, Inc., shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the annual cost per inmate and the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Correction. Energy for Committed Offenders, Inc., shall also provide information on the rearrest rate and the return-to-prison rate for inmates participating in the program who are paroled or released from prison.

Requested by: Representatives Kiser, Haire

ELECTRONIC MONITORING COSTS

SECTION 16.14. The Department of Correction shall report by March 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on efforts to increase the use of electronic monitoring of sentenced offenders in the community as an alternative to the incarceration of probation violators. The report shall also document the geographical distribution of electronic monitoring use compared to other intermediate sanctions.

Requested by: Representatives Kiser, Haire

COLLECTION OF OFFENDER FEES

SECTION 16.15. The Department of Correction and the Judicial Department shall report by April 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the success of their efforts to improve the collection rate of offender fees for probationers and for nonprobationers sentenced to community service and on any recommendations for statutory or procedural changes that will improve the collection of financial obligations from offenders.

The report shall include a comparison of the percentage of offender fees collected in the most recent year compared to prior years, including the percentage of offenders who were ordered to pay fees and the percentage of offenders who actually paid those fees. The report shall also include the total offender fees collected, in dollars and as a percentage of the fees ordered, and the fees that could have been ordered based on the sentence and conditions imposed by the judge. If any of this information cannot be collected, the report shall include a description of the data collection issues and a plan for addressing those issues.

Requested by: Representatives Kiser, Haire

CRIMINAL JUSTICE PARTNERSHIP PROGRAM

SECTION 16.16.(a) It is the intent of the General Assembly that State Criminal Justice Partnership Program funds not be used to fund case manager positions when those services can be reasonably provided by Division of Community Corrections personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the Department of Health and Human Services.

SECTION 16.16.(b) Notwithstanding the provisions of G.S. 143B-273.15 specifying that grants to participating counties are for the full fiscal year and that unobligated funds are returned to the State-County Criminal Justice Partnership

Account at the end of the grant period, the Department of Correction may reallocate unspent or unclaimed funds distributed to counties participating in the State-County Criminal Justice Partnership Program in an effort to maintain the level of services realized in previous fiscal years.

SECTION 16.16.(c) The Department of Correction may not deny funds to a county to support both a residential program and a day reporting center if the Department of Correction determines that the county has a demonstrated need and a fully developed plan for each type of sanction.

SECTION 16.16.(d) The Department of Correction shall report by February 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Committees, the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice Partnership Program. The report shall include the following information:

(1) The amount of funds carried over from the prior fiscal year;
(2) The dollar amount and purpose of grants awarded to counties as discretionary grants for the current fiscal year;
(3) Any counties the Department anticipates will submit requests for new implementation grants;
(4) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation data via the system;
(5) An analysis of offender participation data received, including data on each program's utilization and capacity; and
(6) An analysis of comparable programs, prepared by the Research and Planning Division of the Department of Correction, and a summary of the reports prepared by county Criminal Justice Partnerships Advisory Boards.

Requested by: Representatives Kiser, Haire

REPORTS ON NONPROFIT PROGRAMS

SECTION 16.17.(a) Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property. Harriet's House shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served and the number of clients who successfully complete the Harriet's House program.

SECTION 16.17.(b) Summit House shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who successfully complete the program while housed at Summit House, Inc.

SECTION 16.17.(c) Women at Risk shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who have successfully completed the program.

SECTION 16.17.(d) The John Hyman Foundation shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who have successfully completed the program.

Requested by: Representatives Kiser, Haire

REPORT ON PROBATION AND PAROLE CASELOADS

SECTION 16.18. The Department of Correction shall report by March 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on caseload averages for probation and parole officers. The report shall include:

(1) Data on current caseload averages for Probation Parole Officer I, Probation Parole Officer II, and Probation Parole Officer III positions;

(2) An analysis of the optimal caseloads for these officer classifications; and

(3) An assessment of the role of surveillance officers.

Requested by: Representatives Kiser, Haire

COMMUNITY SERVICE WORK PROGRAM

SECTION 16.19. The Department of Correction shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2004, on the integration of the Community Service Work Program into the Division of Community Corrections, including the Department's ability to monitor the collection of offender payments from unsupervised offenders sentenced to community service. The Department shall also report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2004, and by February 1 annually beginning in 2005, on the average caseloads of Community Service Work Program coordinators, by district, division, and statewide. The report shall also include the money collected, the type and value of the work performed, and the number of offenders in the Community Service Work Program, by type of referral (i.e. parole, supervised probation, unsupervised probation or community punishment, DWI, any other agency referrals).

Requested by: Representatives Kiser, Haire

REPORT ON INMATES ELIGIBLE FOR PAROLE

SECTION 16.20. The Post-Release Supervision and Parole Commission shall report by January 15 and July 15 of each year to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on inmates eligible for parole. These reports shall include at least the following:

(1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates that were parole-eligible during the current fiscal year and the total number of those inmates that were paroled. The report should group these inmates by offense type, custody classification, and type of parole;

(2) The average time served, by offense class, of Fair Sentencing and Pre-Fair Sentencing inmates compared to inmates sentenced under Structured Sentencing; and

(3) The projected number of parole-eligible inmates to be paroled or released by the end of the 2003-2004 fiscal year and by the end of the 2004-2005 fiscal year.

Requested by: Representatives Kiser, Haire

POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON STAFFING REORGANIZATION AND REDUCTION

SECTION 16.21. The Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the Senate and House of

Representatives Appropriations Subcommittees on Justice and Public Safety on an updated transition plan for implementing staff reductions.

PART XVII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Representatives Kiser, Haire

TRANSFER CJIN TO THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

SECTION 17.1.(a) G.S. 143-661(a) reads as rewritten:

"(a) The Criminal Justice Information Network Governing Board is established within the Department of ~~Justice, State Bureau of Investigation,~~ Crime Control and Public Safety, to operate the State's Criminal Justice Information Network, the purpose of which shall be to provide the governmental and technical information systems infrastructure necessary for accomplishing State and local governmental public safety and justice functions in the most effective manner by appropriately and efficiently sharing criminal justice and juvenile justice information among law enforcement, judicial, and corrections agencies. The Board is established within the Department of ~~Justice, State Bureau of Investigation,~~ Crime Control and Public Safety, for organizational and budgetary purposes only and the Board shall exercise all of its statutory powers in this Article independent of control by the Department of ~~Justice.~~Crime Control and Public Safety."

SECTION 17.1.(b) G.S. 143-664(b) reads as rewritten:

"(b) Pending permanent staffing, the Department shall provide the Board with professional and clerical staff and any additional support the Board needs to fulfill its mandate. The Board may meet in an area provided by the Department of ~~Justice~~ Crime Control and Public Safety and the Board's staff shall use space provided by the Department."

SECTION 17.1.(c) The Criminal Justice Information Network as provided in Article 69 of Chapter 143 of the General Statutes is hereby transferred by a Type II transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public Safety.

Requested by: Representatives Kiser, Haire

THE JUVENILE JUSTICE INFORMATION SYSTEM

SECTION 17.2.(a) G.S. 143B-516(13) reads as rewritten:

"(13) ~~Assist the Criminal Justice Information Network Governing Board with administering~~ Develop and administer a comprehensive juvenile justice information system to collect data and information about delinquent juveniles for the purpose of developing treatment and intervention plans and allowing reliable assessment and evaluation of the effectiveness of rehabilitative and preventive services provided to delinquent juveniles."

SECTION 17.2.(b) G.S. 143-663(a)(1) reads as rewritten:

"(1) To establish and operate the Network as an integrated system of State and local government components for effectively and efficiently storing, communicating, and using criminal justice information at the State and local levels throughout North Carolina's law enforcement, judicial, juvenile justice, and corrections agencies, with the components of the Network to include electronic devices, programs, data, and governance and to set the Network's policies and procedures."

Requested by: Representatives Kiser, Haire

ANNUAL EVALUATION OF THE TARHEEL CHALLENGE PROGRAM

SECTION 17.3. The Department of Crime Control and Public Safety shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1 of each year on the operations and effectiveness of the National Guard Tarheel Challenge Program. The report should evaluate the program's effectiveness as an intervention method for preventing juveniles from becoming undisciplined or delinquent. The report shall also evaluate the Program's role in improving individual skills and employment potential for participants and shall include:

(1) The source of referrals for individuals participating in the Program;
(2) The summary of types of actions or offenses committed by the participants of the Program;
(3) An analysis outlining the cost of providing services for each participant, including a breakdown of all expenditures related to the administration and operation of the Program and the education and treatment of the Program participants;
(4) The number of individuals who successfully complete the Program; and
(5) The number of participants who commit offenses after completing the Program.

Requested by: Representatives Kiser, Haire

LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER GRANTS

SECTION 17.4.(a) Section 1303(4) of the Omnibus Crime Control and Safe Streets Act of 1968 provides that the State application for Drug Law Enforcement Grants is subject to review by the State legislature or its designated body. Therefore, the Governor's Crime Commission of the Department of Crime Control and Public Safety shall report on the State application for grants under the State and Local Law Enforcement Assistance Act of 1986, Part M of the Omnibus Crime Control and Safe Streets Act of 1968 as enacted by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act of 1986, to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety when the General Assembly is in session. When the General Assembly is not in session, the Governor's Crime Commission shall report on the State application to the Joint Legislative Commission on Governmental Operations.

SECTION 17.4.(b) Unless a State statute provides a different forum for review, when a federal law or regulation provides that an individual State application for a grant shall be reviewed by the State legislature or its designated body and at the time of the review the General Assembly is not in session, that application shall be reviewed by the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives Kiser, Haire

VICTIMS ASSISTANCE NETWORK REPORT

SECTION 17.5. The Department of Crime Control and Public Safety shall report on the expenditure of funds allocated pursuant to this section for the Victims Assistance Network. The Department shall also report on the Network's efforts to gather data on crime victims and their needs, act as a clearinghouse for crime victims' services, provide an automated crime victims' bulletin board for subscribers, coordinate and support activities of other crime victims' advocacy groups, identify the training needs of crime victims' services providers and criminal justice personnel, and coordinate training for these personnel. The Department shall submit its report to the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives by December 1 of each year of the biennium.

PART XVIII. DEPARTMENT OF ADMINISTRATION

Requested by: Representatives Jeffus, Walend

AGENCIES TO USE MAIL SERVICE CENTER

SECTION 18.1. G.S. 143-341(8)g. reads as rewritten:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...

(8) General Services:

...

g. To establish and operate a ~~central mailing system~~ mail service center ~~for~~ that shall be used by all State ~~agencies,~~ agencies other than the Employment Security Commission, and in connection therewith and in the discretion of the Secretary, ~~to make application for and procure a post office substation for that purpose, and~~ to do all things necessary in connection with the maintenance of the ~~central mailing system.~~ mail service center. The Secretary ~~may~~ shall allocate and charge against the respective departments and agencies their proportionate parts of the cost of the maintenance of the ~~central mailing system.~~ mail service center. The Secretary shall develop a plan for the efficient operation of the center that meets the needs of State agencies and ensures timely delivery of ~~mail, and shall present that plan to the Office of State Budget and Management and the General Assembly no later than the convening date of the 2003 General Assembly.~~ mail.

Requested by: Representatives Jeffus, Walend

STUDY OF ADVOCACY PROGRAMS IN THE DEPARTMENT OF ADMINISTRATION

SECTION 18.2. The Secretary of the Department of Administration, in collaboration with appropriate entities which concentrate on public policy and business management, shall study the functions of the advocacy programs that are housed in the Department of Administration to determine the appropriate organizational placement of the programs within State government. The study shall also consider whether the functions of the programs could be more efficiently and effectively performed by an appropriate nonprofit organization. The Secretary shall report the findings and recommendations to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Senate and House of Representatives Appropriations Committees by May 1, 2004.

PART XIX. OFFICE OF THE STATE AUDITOR

Requested by: Representatives Jeffus, Walend

SMART START AUDITS

SECTION 19.1. G.S. 143B-168.14(b) reads as rewritten:

"(b) Each local partnership shall be subject to audit and review by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits of ~~the~~ local ~~partnerships.~~ partnerships that are rated "needs improvement" in performance assessments authorized in G.S. 143B-168.12(a)(7). Local partnerships that are rated "superior" or "satisfactory" in performance assessments authorized in G.S. 143B-168.12(a)(7) shall undergo biennial financial and compliance audits by the State Auditor."

PART XX. OFFICE OF THE GOVERNOR

Requested by: Representatives Jeffus, Walend

HOUSING FINANCE AGENCY HOME MATCHING FUNDS

SECTION 20.1.(a) Funds appropriated in this act to the Housing Finance Agency for the federal HOME Program shall be used to match federal funds appropriated for the HOME Program. In allocating State funds appropriated to match federal HOME Program funds, the Agency shall give priority to HOME Program projects, as follows:

(1) First priority to projects that are located in counties designated as Tier One, Tier Two, or Tier Three Enterprise Counties under G.S. 105-129.3; and

(2) Second priority to projects that benefit persons and families whose incomes are fifty percent (50%) or less of the median family income for the local area, with adjustments for family size, according to the latest figures available from the United States Department of Housing and Urban Development.

The Housing Finance Agency shall report to the Joint Legislative Commission on Governmental Operations by April 1 of each year concerning the status of the HOME Program and shall include in the report information on priorities met, types of activities funded, and types of activities not funded.

SECTION 20.1.(b) If the United States Congress changes the HOME Program such that matching funds are not required for a given program year, then the Agency shall not spend the matching funds appropriated under this act for that program year.

SECTION 20.1.(c) Funds appropriated in this act to match federal HOME Program funds shall not revert to the General Fund on June 30, 2004, or on June 30, 2005.

PART XXI. INFORMATION TECHNOLOGY

Requested by: Representatives Jeffus, Walend

ITS BUDGET STRUCTURE REVIEW/REPORT

SECTION 21.1.(a) The Office of Information Technology Services shall analyze the State's legacy information technology systems and develop a plan to ascertain the needs, costs, and time frame required for State agencies to progress to more modern information technology systems. In conducting this legacy system assessment and analysis, the Office shall:

(1) Examine the hierarchical structure and interrelated relationships within and between State agency legacy systems.

(2) Catalog and analyze the portfolio of legacy applications in use in State agencies and consider the extent to which new applications could be used concurrently with, or should replace, legacy systems.

(3) Consider issues related to migration from legacy environments to Internet-based and client/server environments and related to the availability of programmers and other information technology professionals with the skills to migrate legacy applications to other environments.

(4) Study any other issue relative to the assessment of legacy information technology systems in State agencies, except that the analysis shall not include matters within the purview of the studies authorized in S.L. 2001-491 or S.L. 2002-126.

State departments, agencies, and institutions shall give to ITS all information and all data within their possession, or ascertainable from their records, that ITS deems necessary to carry out the analysis.

By March 1, 2004, the Office shall complete the analysis and shall make a report of the assessment to the Information Resources Management Commission, the Joint Legislative Commission on Governmental Operations, and the Joint Select Committee on Information Technology.

SECTION 21.1.(b) The Office of State Budget and Management shall conduct a study of information technology (IT) expenditures across all of State government, with focused attention to identification and elimination of duplicative IT expenditures, operations, and inventory, to identify and recommend potential cost savings and efficiencies in State agency IT operations. In this study, OSBM should address the following questions:

(1) Is State government's IT budgeting and organizational structure the most efficient approach?

(2) What alternative IT budgeting and organizational structures could help North Carolina realize cost savings?

OSBM is also directed to work in conjunction with the Office of Information Technology Services (ITS) and the Information Resource Management Commission (IRMC) to study the ITS and IRMC budget structures, and, in addition to recommending efficiencies, OSBM, ITS, and the IRMC shall develop a plan to propose how the ITS and IRMC budgets should be transitioned to General Fund agency supported operations. By April 1, 2004, OSBM shall make reports on these matters to the Joint Legislative Commission on Governmental Operations, the Chairs of the Joint Appropriations Subcommittee on General Government, and the Fiscal Research Division.

PART XXII. DEPARTMENT OF INSURANCE

Requested by: Representatives Jeffus, Walend

INSURANCE FUND TRANSFER TO GENERAL FUND

SECTION 22.1. The Commissioner of Insurance shall transfer funds quarterly from the Department of Insurance Fund to the General Fund to repay the funds appropriated to the Department of Insurance from the General Fund for each fiscal year, plus accrued interest at a rate determined by the State Treasurer.

PART XXIII. DEPARTMENT OF REVENUE

Requested by: Representatives Jeffus, Walend

DOR TAXPAYER TELECOMMUNICATIONS SERVICE

SECTION 23.1. Section 22.6 of S.L. 2002-126 reads as rewritten:

"**SECTION 22.6.(a)** The Department of Revenue may draw up to seven million eight hundred forty thousand five hundred thirteen dollars ($7,840,513) through June 30, ~~2004~~,2005, from the collection assistance fee account created in G.S. 105-243.1 in order to pay for the costs of establishing and equipping a central taxpayer telecommunications service center for collections and assistance and for the costs associated with aligning local field offices with the new center.

"~~**SECTION 22.6.(b)** The Secretary of Revenue shall consult with the Joint Legislative Commission on Governmental Operations on a detailed plan with proposed costs before any funds may be expended for these purposes. This plan must be presented by October 31, 2002.~~

"**SECTION 22.6.(c)** Beginning January 1, 2003, and ending on the second quarter following completion of the projects described in subsection (a) of this section, the Department of Revenue must report quarterly to the Joint Legislative Commission on Governmental Operations on the use of the funds and the progress of establishing the new center."

Requested by: Representatives Jeffus, Walend

CERTAIN DOR POSITIONS FEE-SUPPORTED

SECTION 23.2. Of the funds in the collection assistance fee account created in G.S. 105-243.1, the Department of Revenue may use up to five hundred thirty-one thousand five hundred twelve dollars ($531,512) in each year of the 2003-2005 fiscal biennium for salary and related fringe benefits for the following positions formerly supported from the General Fund:

Position No. 4784-0000-0076-621 - Revenue Officer II
Position No. 4784-0000-0076-622 - Revenue Officer II
Position No. 4784-0000-0076-636 - Revenue Officer I
Position No. 4784-0000-0076-637 - Revenue Officer I
Position No. 4784-0000-0076-638 - Revenue Officer I
Position No. 4784-0000-0076-639 - Revenue Officer I
Position No. 4784-0000-0076-640 - Revenue Officer I
Position No. 4784-0000-0076-641 - Revenue Officer I
Position No. 4784-0000-0076-642 - Revenue Officer I
Position No. 4784-0000-0076-643 - Revenue Officer I
Position No. 4784-0000-0076-644 - Revenue Officer I
Position No. 4784-0000-0076-645 - Revenue Officer I
Position No. 4784-0000-0076-647 - Revenue Officer I

PART XXIV. SECRETARY OF STATE

Requested by: Representatives Jeffus, Walend

TRANSFER CONSULTATION REQUIREMENT UNDER BUSINESS LICENSE INFORMATION OFFICE TO SMALL BUSINESS CENTERS

SECTION 24.1.(a) The Department of the Secretary of State (Department) and the North Carolina Community College System (System) shall develop and implement a plan to transfer the consultation function of the Business License Information Office (BLIO) in the Department to the Small Business Centers that are located within each of the community colleges in the System. The plan shall provide for the following:

(1) Establishment of a Statewide Coordinator position who will develop and maintain a web-based master application system of all State licensing and regulatory requirements.
(2) Development and ongoing maintenance of a web-based master application system of all State licensing and regulatory requirements.
(3) Training for the Directors of the Small Business Centers.
(4) Phase-out of the BLIO consultant positions.

SECTION 24.1.(b) The Department shall use funds appropriated for the 2003-2004 fiscal year for the Business License Information Office (Fund 1240) in Budget Code 13200 to develop the web-based master application and for training.

SECTION 24.1.(c) The Department and the System shall present their plan to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and the House of Representatives by October 1, 2003. After presenting the plan, the Department and the System shall report on the implementation of the plan to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and the House of Representatives on a quarterly basis. The plan shall be fully implemented by June 30, 2004.

Requested by: Representatives Jeffus, Walend

PUBLICATION OF NORTH CAROLINA MANUAL

SECTION 24.2. The Department of the Secretary of State shall support the publication of the North Carolina Manual with receipts from sales of the manual when

budgeting for the 2005-2007 biennium. The Department shall consider the feasibility of providing the manual by Internet.

PART XXV. STATE BOARD OF ELECTIONS

Requested by: Representatives Jeffus, Walend

HELP AMERICA VOTE ACT MATCHING FUNDS

SECTION 25.1.(a) Of the funds appropriated to the State Board of Elections for the 2003-2004 fiscal year by Section 2.1 of this act:

(1) The sum of $1,791,936 is transferred to a Reserve Fund to meet the Maintenance of Effort requirements of section 254(a)(7) of the Help America Vote Act, Public Law 107-252.

(2) The sum of $1,665,650 currently appropriated to Fund 1100 Administration for the SEIMS RCC is transferred to a Reserve Fund for the State Board of Elections.

(3) The sum of $2,524,400 is transferred to the Election Fund to meet the five percent (5%) matching requirement of Title II Help America Vote Act, Public Law 107-252. It is estimated that the amount needed for the 2003-2004 fiscal year will be $1,130,000. The funds shall be available only for matching federal funds under HAVA for the 2003-2004, 2004-2005, and 2005-2006 fiscal years. The money shall only be expended as federal funds are available to match, and if the amount available to the State is less than projected, the unexpended remainder of the $2,524,400 shall revert to the General Fund on the earlier of:

a. June 30, 2006; or

b. A determination by the Office of State Budget and Management that the unexpended remainder will not be needed.

SECTION 25.1.(b) The 107th Congress established the Help America Vote Act (HAVA) as Public Law 107-252 establishing a program to assist in the administration of Federal elections and provide assistance with the administration of certain Federal elections laws and programs; establish minimum election administration standards for States and units of local government with the responsibility for the administration of Federal elections. In HAVA, Congress authorized appropriations for elections assistance in the form of a matching grant program (Title II of HAVA, Requirements Payments) for which states are required as one condition of the Election Assistance Requirements Payments to match federal allocations with a five percent (5%) match of State dollars. The federal government has additional requirements, including a required state plan and a stipulation for each participating state to implement the Maintenance of Effort (MOE) requirements of Title II, section 254(a)(7) of HAVA. The MOE requires that the state maintain the expenditures of the state for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the state for the fiscal year ending prior to November 2000. Congress authorized up to $1.4 billion for Requirements Payments, and $810 million for Title II requirements grants was funded for fiscal year 2003. Title II requirements funding has not been passed by Congress for fiscal years 2004-2005 and 2005-2006 but is currently proposed at $500 million for each year.

Based upon the 2003 approved funding, it is estimated that North Carolina will receive $22.6 million of the Title II funding if North Carolina meets all the conditions of the Election Assistance program, including not only the five percent (5%) state match but also maintenance of its expenditure level on HAVA activities at the expense level the State Board of Elections had in State fiscal year 1999-2000. Actual expenditures for the State Elections Information Management System (SEIMS), which is a qualified HAVA activity, in 1999-2000 was three million four hundred fifty-seven thousand five hundred eighty-five dollars and six cents ($3,457,585.06). The authorized

expenditures on SEIMS in 2002-2003 by the State Board of Elections is one million six hundred sixty-five thousand six hundred fifty dollars ($1,665,650). The difference in expenditure levels is one million seven hundred ninety-one thousand nine hundred thirty-five dollars and six cents ($1,791,935.06). To meet HAVA's Title II MOE requirement, North Carolina has to appropriate from its General Fund to a Reserve on a recurring basis (or for as long as Congress requires the MOE as a condition of states' being eligible to receive Requirements Payments), the amount of three million four hundred fifty-seven thousand five hundred eighty-five dollars and six cents ($3,457,585.06) annually.

For the State to meet its obligatory five percent (5%) match for HAVA's Title II Requirements Payment, North Carolina has to match twenty-two million six hundred thousand dollars ($22,600,000) estimated federal funds in 2003-2004; thirteen million nine hundred forty-four thousand dollars ($13,944,000) estimated federal funds in both 2004-2005 and 2005-2006. The State's match is one million one hundred thirty thousand dollars ($1,130,000) in 2003-2004; six hundred ninety-seven thousand two hundred dollars ($697,200) in 2004-2005 and six hundred ninety-seven thousand two hundred dollars ($697,200) in 2005-2006. The nonrecurring match total required from the General Fund is two million five hundred twenty-four thousand four hundred dollars ($2,524,400).

SECTION 25.1.(c) There is established a special fund to be known as the Election Fund. All funds received for implementation of the Help America Vote Act of 2002, Public Law 107-252, shall be deposited in that fund. The State Board of Elections shall use funds in the Election Fund only to implement HAVA.

SECTION 25.1.(d) G.S. 147-69.2(a) is amended by adding a new subdivision to read:

"(17d) The Election Fund."

SECTION 25.1.(e) Subsections (c) and (d) of this section are effective when this act becomes law.

PART XXVI. OFFICE OF STATE BUDGET AND MANAGEMENT

Requested by: Representatives Jeffus, Walend

NC HUMANITIES COUNCIL

SECTION 26.1. The North Carolina Humanities Council shall:

(1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
   b. State fiscal year 2002-2003 itemized expenditures and fund sources;
   c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
   d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

PART XXVII. OFFICE OF THE STATE CONTROLLER

Requested by: Representatives Jeffus, Walend

OVERPAYMENTS AUDIT

SECTION 27.1.(a) During the 2003-2004 fiscal year, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

SECTION 27.1.(b) For the 2003-2004 fiscal year, two hundred thousand dollars ($200,000) of the funds transferred from the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs.

SECTION 27.1.(c) All funds available in the Special Reserve Account 24172 on July 1, 2003, are transferred to the General Fund on that date.

SECTION 27.1.(d) Any unobligated funds in the Special Reserve Account 24172 that are realized above the allowance in subsection (b) of this section are subject to appropriation by the General Assembly in the 2004 Regular Session of the 2003 General Assembly.

SECTION 27.1.(e) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into the Special Reserve Account and the disbursement of that revenue.

PART XXVIII. DEPARTMENT OF THE STATE TREASURER

Requested by: Representatives Jeffus, Walend

AMENDING FUNDING FOR RETIREMENT AND ESCHEAT OPERATIONS

SECTION 28.1.(a) G.S. 116B-6(h) reads as rewritten:

"(h) Expenditures. – The Treasurer may expend the funds in the Escheat Fund, other than funds in the Escheat Account, for the payment of claims for refunds to owners, holders and claimants under G.S. 116B-4; for the payment of costs of maintenance and upkeep of abandoned or escheated property; costs of preparing lists of names of owners of abandoned property to be furnished to clerks of superior court; costs of notice and publication; costs of appraisals; fees of persons employed pursuant to G.S. 116B-8 costs involved in determining whether a decedent died without heirs; costs of a title search of real property that has escheated; and costs of auction or sale under this Chapter. All other costs, including salaries of personnel, necessary to carry out the duties of the Treasurer under this Chapter, shall be ~~appropriated from the funds of the Escheat Fund pursuant to the provisions of Article 1, Chapter 143 of the General Statutes.~~covered by an appropriation to the State Treasurer for this purpose in the Current Appropriations Act. The Escheat Fund shall deposit as nontax revenue to the General Fund the amount appropriated from the General Fund to cover the cost of the administration, management, and operations of the Escheats program."

SECTION 28.1.(b) G.S. 135-6(g) reads as rewritten:

"(g) Officers and Other Employees; Salaries and Expenses. – The State Treasurer shall be ex officio chairman of the Board of Trustees. The Board of Trustees shall, by a majority vote of all the members, appoint a director, who may be, but need not be, one of its members. The salary of the director of the Retirement System is subject to the provisions of Chapter 126 of the General Statutes of North Carolina. The Board of Trustees shall engage such actuarial and other service as shall be required to transact the business of the Retirement System. The compensation of all persons, other than the director, engaged by the Board of Trustees, and all other expenses of the Board necessary for the operation of the Retirement System, shall be paid at such rates and in such amounts as the Board of Trustees shall approve, subject to the approval of the Director of the Budget. The cost of the administration, management, and operation of the Retirement System shall be covered by an appropriation to the State Treasurer in the Current Appropriations Act. The Retirement System shall deposit its apportioned share of the cost to the General Fund as nontax revenue."

SECTION 28.1.(c) G.S. 128-28(h) reads as rewritten:

"(h) Officers and Other Employees, Salaries and Expenses. – The Board of Trustees shall elect from its membership a chairman, and shall, by a majority vote of all the members, appoint a director, who may be, but need not be, one of its members. The Board of Trustees shall engage such actuarial and other service as shall be required to transact the business of the Retirement System. The compensation of all persons engaged by the Board of Trustees, and all other expenses of the Board necessary for the operation of the Retirement System, shall be paid at such rates and in such amounts as the Board of Trustees shall approve. The cost of the administration, management, and operation of the Retirement System shall be covered by an appropriation to the State Treasurer in the Current Appropriations Act. The Retirement System shall deposit its apportioned share of the cost to the General Fund as nontax revenue."

SECTION 28.1.(d) Subsections (a) through (c) of this section become effective July 1, 2003.

Requested by: Representatives Jeffus, Walend

STATE TREASURER SUBJECT TO EXECUTIVE BUDGET ACT

SECTION 28.2.(a) G.S. 147-68(e) reads as rewritten:

"(e) The State ~~Treasurer~~ Treasurer, in carrying out the responsibilities of this section, shall ~~except as provided in G.S. 143-25~~ be independent of any fiscal control exercise by the Director of the Budget or the Department of Administration and shall be responsible to the Advisory Budget Commission, the General Assembly and the people of North Carolina for the efficient and faithful exercise of the responsibilities of his office. The State Treasurer, for all other purposes, is subject to Article 1 of Chapter 143 of the General Statutes."

SECTION 28.2.(b) Subsection (a) of this section becomes effective July 1, 2003.

PART XXIX. DEPARTMENT OF TRANSPORTATION

Requested by: Representatives Cole, Gillespie

CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 29.1.(a). The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2005-2006	$1,409.2 Million
For Fiscal Year 2006-2007	$1,458.9 Million
For Fiscal Year 2007-2008	$1,509.4 Million
For Fiscal Year 2008-2009	$1,558.8 Million

SECTION 29.1.(b) The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2005-2006	$1,096.3 Million
For Fiscal Year 2006-2007	$1,148.0 Million
For Fiscal Year 2007-2008	$1,202.6 Million
For Fiscal Year 2008-2009	$1,252.4 Million

Requested by: Representatives Cole, Gillespie

SMALL URBAN CONTINGENCY FUNDS

SECTION 29.2. Of the funds appropriated in this act to the Department of Transportation:

(1) Fourteen million dollars ($14,000,000) shall be allocated in each fiscal year for small urban construction projects. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for the small urban construction program for small

construction projects that are located within the area covered by a one-mile radius of the municipal corporate limits.

(2) Ten million dollars ($10,000,000) in fiscal year 2003-2004 and ten million dollars ($10,000,000) in fiscal year 2004-2005 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects as approved by the Secretary of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

Requested by: Representatives Cole, Gillespie

DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT PROGRAMS

SECTION 29.3. The Department of Transportation may establish two pilot programs to test incentive pay for employees as a means for increasing efficiency and productivity.

One of the pilot programs shall involve the highway resurfacing program using road oil. Up to one-fourth of one percent (0.25%) of the budget allocation for this program may be used to provide employee incentive payments.

The other pilot project may be selected by the Department of Transportation, and up to twenty-five thousand dollars ($25,000) may be used from existing budgets for incentives.

Incentive payments shall be based on quantifiable measures and production schedules determined prior to the implementation of the pilot programs that shall last no more than two years.

The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on the pilot programs at least 30 days prior to their implementation.

Requested by: Representatives Cole, Gillespie

REDUCE HIGHWAY TRUST FUND ADMINISTRATION ALLOCATION

SECTION 29.4. G.S. 136-176(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed ~~four and one-half percent (4.5%)~~ three and eight-tenths percent (3.8%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon

repayment. The rest of the funds in the Trust Fund shall be allocated and used as follows:

(1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct the projects of the Intrastate System described in G.S. 136-179 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.

(2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.

(3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.

(4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.

The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due."

Requested by: Representatives Cole, Gillespie

USE OF EXCESS OVERWEIGHT/OVERSIZE FUNDS

SECTION 29.5. Funds generated by overweight/oversize permit fees in excess of the cost of administering the program, as determined pursuant to G.S. 20-119(e), shall be used for highway and bridge maintenance required as a result of damages caused from overweight/oversize loads.

Requested by: Representatives Cole, Gillespie

ENVIRONMENTAL PERMITS ON DEPARTMENT OF TRANSPORTATION CONSTRUCTION PROJECTS

SECTION 29.6. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-44.7B. Permit issuance by Department of Environment and Natural Resources transportation construction projects.**

(a) Once the Department of Environment and Natural Resources or any agency within the Department of Environment and Natural Resources has received a complete application for a permit that is required for a transportation construction project to be undertaken by or on behalf of the Department of Transportation, the Department of Environment and Natural Resources shall expedite the review of the application and shall issue or deny the permit within 90 days of receipt of the submission. All permits not denied within that time limit shall be deemed approved. The Secretary of Environment and Natural Resources and the Secretary of Transportation shall jointly decide any question as to whether an application for a permit is complete. If the Secretary of Environment and Natural Resources and the Secretary of Transportation are unable to jointly decide any question, the Governor shall decide the question.

(b) Once the Department of Environment and Natural Resources or any agency within the Department of Environment and Natural Resources has issued a permit that is required for a transportation construction project to be undertaken by or on behalf of the Department of Transportation, that permit shall remain in effect until the project is completed. The permit shall not expire and shall not be modified or canceled for any reason, including a subsequent change in federal law or regulations or in State law or rules, unless at least one of the following occurs:

(1) The modification or cancellation is requested by the Department of Transportation.

(2) The modification or cancellation is clearly required by a change in federal law or regulations and a failure to modify or cancel the permit by the Department of Environment and Natural Resources would result in a loss of federal program delegation or a significant reduction in the availability of federal funds to the Department of Environment and Natural Resources or to the Department of Transportation.

(3) The modification or cancellation is clearly required by a change in State law as a result of an act of the General Assembly that includes a statement that the General Assembly specifically intends the change in State law to apply to ongoing transportation construction projects.

(4) The modification or cancellation is ordered by a court of competent jurisdiction.

(5) The nature or scope of the transportation construction project is significantly expanded or otherwise altered."

Requested by: Representatives Cole, Gillespie

DRIVER EDUCATION PRIVATIZATION

SECTION 29.7. The State Board of Education shall study statewide privatization of State-funded driver education programs. The State Board of Education shall report to the Joint Legislative Education Oversight Committee and the joint Legislative Transportation Oversight Committee by November 30, 2003, on proposals for statewide privatization and cost reduction.

Requested by: Representatives Cole, Gillespie

DEPARTMENT OF TRANSPORTATION GENERAL ADMINISTRATION REDUCTIONS.

SECTION 29.8. The Department of Transportation shall reduce expenditures for General Administration by one million eight hundred thousand dollars ($1,800,000) during fiscal year 2003-2004 and by three million six hundred thousand dollars ($3,600,000) in fiscal year 2004-2005. At least seventy-five percent (75%) of the savings shall be achieved through reductions in personnel. Savings shall be used for maintenance. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on or before November 30, 2003, on actions it will be taking to implement the provisions of this section.

PART XXX. SALARIES AND EMPLOYEE BENEFITS

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

GOVERNOR AND COUNCIL OF STATE

SECTION 30.1.(a) Effective July 1, 2003, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred eighteen thousand four hundred thirty dollars ($118,430)~~ one hundred twenty thousand three hundred twenty-five dollars ($120,325) annually, payable monthly."

SECTION 30.1.(b) Effective July 1, 2003, the annual salaries for the members of the Council of State, payable monthly, for the 2003-2004 and 2004-2005 fiscal years are:

Council of State	Annual Salary
Lieutenant Governor	$ 106,195
Attorney General	106,195
Secretary of State	106,195
State Treasurer	106,195

State Auditor	106,195
Superintendent of Public Instruction	106,195
Agriculture Commissioner	106,195
Insurance Commissioner	106,195
Labor Commissioner	106,195

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

SECTION 30.2. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2003-2004 and 2004-2005 fiscal years are:

Nonelected Department Heads	Annual Salary
Secretary of Administration	$ 103,753
Secretary of Correction	103,753
Secretary of Crime Control and Public Safety	103,753
Secretary of Cultural Resources	103,753
Secretary of Commerce	103,753
Secretary of Environment and Natural Resources	103,753
Secretary of Health and Human Services	103,753
Secretary of Juvenile Justice and Delinquency Prevention	103,753
Secretary of Revenue	103,753
Secretary of Transportation	103,753

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

SECTION 30.3. Effective July 1, 2003, the annual salaries, payable monthly, for the 2003-2004 and 2004-2005 fiscal years for the following executive branch officials are:

Executive Branch Officials	Annual Salary
Chairman, Alcoholic Beverage Control Commission	$ 94,433
State Controller	132,159
Commissioner of Motor Vehicles	94,433
Commissioner of Banks	106,195
Chairman, Employment Security Commission	131,992
State Personnel Director	103,753
Chairman, Parole Commission	86,229
Members of the Parole Commission	79,610
Chairman, Utilities Commission	118,267
Members of the Utilities Commission	106,195
Executive Director, Agency for Public Telecommunications	79,610
General Manager, Ports Railway Commission	71,887
Director, Museum of Art	96,764
Executive Director, North Carolina Housing Finance Agency	116,872
Executive Director, North Carolina Agricultural Finance Authority	91,918
State Chief Information Officer	132,080

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

JUDICIAL BRANCH OFFICIALS/SALARY INCREASE

SECTION 30.4.(a) Effective July 1, 2003, the annual salaries, payable monthly, for specified judicial branch officials for the 2003-2004 and 2004-2005 fiscal years are:

Judicial Branch Officials	Annual Salary

Chief Justice, Supreme Court	$ 120,325
Associate Justice, Supreme Court	117,181
Chief Judge, Court of Appeals	114,251
Judge, Court of Appeals	112,298
Judge, Senior Regular Resident Superior Court	109,247
Judge, Superior Court	106,195
Chief Judge, District Court	96,431
Judge, District Court	93,380
Administrative Officer of the Courts	109,247
Assistant Administrative Officer of the Courts	99,787

SECTION 30.4.(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the Commission on Indigent Defense Services, respectively, 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 sixty-one thousand one hundred fifty-four dollars ($61,154) and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-one thousand five hundred thirty-two dollars ($31,532) effective July 1, 2003.

SECTION 30.4.(c) Effective July 1, 2003, the salaries in effect for the 2003-2004 and 2004-2005 fiscal years for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by one and six-tenths percent (1.6%)

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CLERK OF SUPERIOR COURT/SALARY INCREASES

SECTION 30.5. Effective July 1, 2003, 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	~~$69,911~~$71,030
100,000 to 149,999	~~78,452~~79,707
150,000 to 249,999	~~86,994~~88,386
250,000 and above	~~95,537.~~97,066.

The salary schedule in this subsection is intended to represent the following approximate 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."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES/CLERK OF COURT PERSONNEL FLEXIBILITY

SECTION 30.6. Effective July 1, 2003, G.S. 7A-102 reads as rewritten:

"**§ 7A-102. Assistant and deputy clerks; appointment; number; salaries; duties.**

(a) The numbers and salaries of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court shall be determined by the Administrative Officer of the Courts after consultation with the clerk concerned. All personnel in the clerk's office are employees of the State. The clerk appoints the assistants, deputies, and other employees in ~~his~~ the clerk's office to serve at his or her pleasure. Assistant and deputy clerks shall take the oath of office prescribed for clerks of superior court, conformed to the office of assistant or deputy clerk, as the case may be. ~~The~~ Except as provided by subsection (c2) of this section, the job classifications and related salaries of each employee within the office of each superior court clerk shall be subject to the approval of the Administrative Officer of the Courts after consultation with each clerk concerned and shall be subject to the availability of funds appropriated for that purpose by the General Assembly.

(b) An assistant clerk is authorized to perform all the duties and functions of the office of clerk of superior court, and any act of an assistant clerk is entitled to the same faith and credit as that of the clerk. A deputy clerk is authorized to certify the existence and correctness of any record in the clerk's office, to take the proofs and examinations of the witnesses touching the execution of a will as required by G.S. 31-17, and to perform any other ministerial act which the clerk may be authorized and empowered to do, in his own name and without reciting the name of his principal. The clerk is responsible for the acts of his assistants and deputies. With the consent of the clerk of superior court of each county and the consent of the presiding judge in any proceeding, an assistant or deputy clerk is authorized to perform all the duties and functions of the office of the clerk of superior court in another county in any proceeding in the district or superior court that has been transferred to that county from the county in which the assistant or deputy clerk is employed.

(c) Notwithstanding the provisions of subsection (a), the Administrative Officer of the Courts shall establish an incremental salary plan for assistant clerks and for deputy clerks based on a series of salary steps corresponding to the steps contained in the Salary Plan for State Employees adopted by the Office of State Personnel, subject to a minimum and a maximum annual salary as set forth below. On and after July 1, 1985, each assistant clerk and each deputy clerk shall be eligible for an annual step increase in his salary plan based on satisfactory job performance as determined by each clerk. Notwithstanding the foregoing, if an assistant or deputy clerk's years of service in the office of superior court clerk would warrant an annual salary greater than the salary first established under this section, that assistant or deputy clerk shall be eligible on and after July 1, 1984, for an annual step increase in his salary plan. Furthermore, on and after July 1, 1985, that assistant or deputy clerk shall be eligible for an increase of two steps in his salary plan, and shall remain eligible for a two-step increase each year as recommended by each clerk until that assistant or deputy clerk's annual salary corresponds to his number of years of service. Any person covered by this subsection who would not receive a step increase in fiscal year 1995-96 because that person is at the top of the salary range as it existed for fiscal year 1994-95 shall receive a salary increase to the maximum annual salary provided by subsection (c1) of this section.

(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	~~$26,515~~$26,939
Maximum	~~46,464~~47,207

Deputy Clerks	Annual Salary
Minimum	~~$22,565~~$22,926
Maximum	~~35,934.~~36,508.

(c2) The clerk of superior court may appoint assistant clerks, deputy clerks, and a head bookkeeper and set their salaries above the minimum rate established for the positions by subsection (c1) of this section if, in the clerk's discretion, (i) the needs of the clerk's office would be best served by an appointment above the minimum rate, (ii) the appointee's skills and experience support the higher rate, and (iii) the Administrative Office of the Courts certifies that there are sufficient funds available.

(d) Full-time assistant clerks, licensed to practice law in North Carolina, who are employed in the office of superior court clerk on and after July 1, 1984, and full-time assistant clerks possessing a masters degree in business administration, public administration, accounting, or other similar discipline from an accredited college or university who are employed in the office of superior court clerk on and after July 1, 1997, are authorized an annual salary of not less than three-fourths of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary but that salary shall not be higher than the maximum annual salary established for assistant clerks. Full-time assistant clerks, holding a law degree from an accredited law school, who are employed in the office of superior court clerk on and after July 1, 1984, are authorized an annual salary of not less than two-thirds of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary, but the entry-level salary may not be more than three-fourths of the maximum annual salary established for assistant clerks, and in no event may be higher than the maximum annual salary established for assistant clerks. ~~The~~ Except as provided by subsection (c2) of this section, the entry-level annual salary for all other assistant and deputy clerks employed on and after July 1, 1984, shall be at the minimum rates as herein established.

(e) A clerk of superior court may apply to the Director of the Administrative Office of the Courts to enter into contracts with local governments for the provision by the State of services of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(f) The Director of the Administrative Office of the Courts may provide assistance requested pursuant to subsection (e) of this section only upon a showing by the senior resident superior court judge, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(g) The terms of any contract entered into with local governments pursuant to subsection (e) of this section shall be fixed by the Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

MAGISTRATES/SALARY INCREASES

SECTION 30.7. Effective July 1, 2003, G.S. 7A-171.1 reads as rewritten:

"(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary
Entry Rate	~~$26,889~~$27,319
Step 1	~~29,525~~29,997
Step 2	~~32,393~~32,911
Step 3	~~35,523~~36,091
Step 4	~~38,952~~39,575
Step 5	~~42,721~~43,405
Step 6	~~46,864.~~47,614.

(2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

(3) Notwithstanding any other provision of this subsection, an individual who, when initially appointed as a full-time magistrate, is licensed to practice law in North Carolina, shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. An individual who, when initially appointed as a part-time magistrate, is licensed to practice law in North Carolina, shall be paid an annual salary based on that for Step 4 and determined according to the formula in subdivision (2) of this subsection. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. The salary of a full-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving a salary at a level lower than Step 4

shall be adjusted to Step 4 and, thereafter, shall advance in accordance with the Table's schedule. The salary of a part-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving an annual salary as determined by subdivision (2) of this subsection based on a salary level lower than Step 4 shall be adjusted to a salary based on Step 4 in the Table and, thereafter, shall advance in accordance with the provision in subdivision (2) of this subsection.

(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	~~$21,325~~$21,666
1 or more but less than 3 years of service	~~22,389~~22,747
3 or more but less than 5 years of service	~~24,530.~~24,922.

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).

(2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
5 or more but less than 7 years of service	Entry Rate
7 or more but less than 9 years of service	Step 1
9 or more but less than 11 years of service	Step 2
11 or more years of service	Step 3

Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(3) The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(4) The salaries of "part-time magistrates" shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the State Personnel Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

GENERAL ASSEMBLY PRINCIPAL CLERKS

SECTION 30.8. Effective July 1, 2003, G.S. 120-37(c) reads as rewritten:

"(c) 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 of ~~eighty-eight thousand three hundred and six dollars ($88,306)~~ eighty-nine thousand seven hundred nineteen dollars ($89,719) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for

changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

SERGEANT-AT-ARMS AND READING CLERKS

SECTION 30.9. Effective July 1, 2003, 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 ninety-two dollars ($292.00)~~ two hundred ninety-seven dollars ($297.00) 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."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

LEGISLATIVE EMPLOYEES

SECTION 30.10. The Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 2002-2003 by one and six-tenths percent (1.6%). Nothing in this act limits any of the provisions of G.S. 120-32.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

SECTION 30.11. The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2003-2004 and 2004-2005, funds to the North Carolina Community College System Office necessary to provide an annual salary increase of one and six-tenths percent (1.6%) including funds for the employer's retirement and social security contributions, commencing July 1, 2003, for all permanent full-time community college institutional personnel supported by State funds.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES

SECTION 30.12.(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 Increases, created in this act for fiscal years 2003-2004 and 2004-2005, to provide an annual salary increase of one and six-tenths percent (1.6%), including funds for the employer's retirement and social security contributions, commencing July 1, 2003, 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).

SECTION 30.12.(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 Compensation Increases, created in this act for fiscal years 2003-2004 and 2004-2005, to provide an annual salary increase of one and eighty-one hundredths percent (1.81%), including funds for the employer's retirement and social security contributions, commencing July 1, 2003, 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 may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

MOST STATE EMPLOYEES

SECTION 30.13.(a) The salaries in effect June 30, 2003, 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, 2003, unless otherwise provided by this act, by one and six-tenths percent (1.6%).

SECTION 30.13.(b) Except as otherwise provided in this act, the fiscal year 2003-2004 salaries 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 one and six-tenths percent (1.6%), commencing July 1, 2003.

SECTION 30.13.(c) The salaries in effect for fiscal year 2003-2004 for all permanent part-time State employees shall be increased on and after July 1, 2003, by pro rata amounts of the one and six-tenths percent (1.6%) salary increase provided for permanent full-time employees covered under subsection (a) of this section.

SECTION 30.13.(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, 2003, in accordance with subsection (a), (b), or (c) of this section, including funds for the employer's retirement and social security contributions, for the permanent full-time and part-time employees of the agency, provided the employing agency elects to make available the necessary funds.

SECTION 30.13.(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 of the one and six-tenths percent (1.6%) salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2003.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

ALL STATE-SUPPORTED PERSONNEL

SECTION 30.14.(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.

SECTION 30.14.(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.

SECTION 30.14.(c) The salary increases provided in this act are to be effective July 1, 2003, and do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement or whose last workday is prior to July 1, 2003.

Payroll checks issued to employees after July 1, 2003, which represent payment of services provided prior to July 1, 2003, 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.

SECTION 30.14.(d) The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2003-2004 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

SECTION 30.14.(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

STUDY COMPENSATION OF CERTAIN HIGH-LEVEL OFFICERS

SECTION 30.15. The Office of State Personnel (OSP) and the Office of State Budget and Management (OSBM) shall study jointly the relative compensation of members of the Council of State, State department heads, and other high-ranking elected and nonelected public officials whose salaries are set by the General Assembly to determine whether the officers are being compensated at rates in accordance with:

(1) The officer's scope of responsibilities and span of control.
(2) The critical nature of the officer's department, agency, institution, or function.
(3) The relative size of the operations and budget under the officer's direct control.
(4) The required credentials, knowledge, and experience necessary to competently manage the officer's organization or function.

In conducting this study, the OSP and OSBM shall focus on the relative compensation among these various officers to determine the appropriate salary levels for the officers given the factors identified in this section.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 30.16.(a) 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 benefits.

SECTION 30.16.(b) Effective July 1, 2003, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2003-2004 fiscal year are (i) three and ninety-five hundredths percent (3.95%) - Teachers and State Employees; (ii) eight and ninety-five hundredths percent (8.95%) - State Law Enforcement Officers; (iii) ten and forty-one hundredths percent (10.41%) - University Employees' Optional Retirement System; (iv) ten and forty-one hundredths percent (10.41%) - Community College Optional Retirement Program; (v) fourteen and ninety-seven hundredths percent (14.97%) - Consolidated Judicial Retirement System; and (vi) three and five hundredths percent (3.05%) - Legislative Retirement System. Each of the foregoing contribution rates includes three and five hundredths percent (3.05%) for hospital and medical benefits. The rate for Teachers and

State Employees, State Law Enforcement Officers, the Community College Optional Retirement Program, and the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

SECTION 30.16.(c) Effective July 1, 2004, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2004-2005 fiscal year are (i) five and seventy-eight hundredths percent (5.78%) - Teachers and State Employees; (ii) ten and seventy-eight hundredths percent (10.78%) - State Law Enforcement Officers; (iii) ten and forty-one hundredths percent (10.41%) - University Employees' Optional Retirement System; (iv) ten and forty-one hundredths percent (10.41%) - Community College Optional Retirement Program; (v) fourteen and ninety-seven hundredths percent (14.97%) - Consolidated Judicial Retirement System; and (vi) three and five hundredths percent (3.05%) - Legislative Retirement System. Each of the foregoing contribution rates includes three and five hundredths percent (3.05%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, the Community College Optional Retirement Program, and the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

SECTION 30.16.(d) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2003-2004 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - two thousand four hundred seventeen dollars ($2,417), and (ii) non-Medicare-eligible employees and retirees - three thousand one hundred seventy-five dollars ($3,175).

SECTION 30.16.(e) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2004-2005 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - two thousand four hundred seventy-eight dollars ($2,478), and (ii) non-Medicare-eligible employees and retirees - three thousand two hundred fifty-six dollars ($3,256).

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

RETIREMENT COLAS

SECTION 30.17.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(lll) From and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June 1, 2003, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) 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, 2002, and June 30, 2003."

SECTION 30.17.(b) G.S. 135-65 is amended by adding a new subsection to read:

"(x) From and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June

1, 2003. Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) 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, 2002, and June 30, 2003."

SECTION 30.17.(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(r) In accordance with subsection (a) of this section, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2003, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June 1, 2003. Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2003, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) 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, 2003, and June 30, 2003."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

TRANSFER OF SERVICE IN THE LEGISLATIVE RETIREMENT SYSTEM TO THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE JUDICIAL RETIREMENT SYSTEM

SECTION 30.18.(a) G.S. 120-4.13 reads as rewritten:

"**§ 120-4.13. Transfer of membership and benefits.**

(a) The Board of Trustees shall set up procedures to transfer membership from the Legislative Retirement Fund to the Retirement System and to recompute benefits paid to retirees of the Legislative Retirement Fund who elect to transfer to the Retirement System.

(b) The accumulated contributions and creditable service of any member whose service as a member of the General Assembly has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-1(13), of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from the Legislative Retirement System to the Teachers' and State Employees' Retirement System, there shall be transferred from the Legislative Retirement System to the Teachers' and State Employees' Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in the Legislative Retirement System as a result of previous contributions by the employer on behalf of the transferring member.

(c) The accumulated contributions and creditable service of any member whose service as a member of the General Assembly has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-53(11), of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Consolidated Judicial Retirement System. In order to effect the transfer of a member's creditable service from the Legislative Retirement System to the Consolidated Judicial Retirement System, there shall be transferred from the Legislative Retirement System to the Consolidated Judicial Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in the

Legislative Retirement System as a result of previous contributions by the employer on behalf of the transferring member."

SECTION 30.18.(b) G.S. 135-4 reads as rewritten:

"(j2) The creditable service of a member who was a member of the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement System, and whose accumulated contributions and reserves are transferred from that System to this System, includes service that was creditable in the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement System, and membership service with those Retirement Systems is membership service with this Retirement System."

SECTION 30.18.(c) Article 1 of Chapter 135 of the General Statutes is amended by adding new section to read:

"**§ 135-18.9 Transfer of members from the Legislative Retirement System or the Consolidated Judicial Retirement System.**

(a) The accumulated contributions, creditable service, and reserves, if any, of a member of the Legislative Retirement System, as provided for in Article 1A of G.S.120, or the Consolidated Judicial Retirement System, as provided for in Article 4 of G.S. 135, who later becomes a member of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from the Legislative Retirement System or the Consolidated Judicial Retirement System. The accumulated contributions, creditable service, and reserves of any member whose service as a member of the Legislative Retirement System or the Consolidated Judicial Retirement System is terminated other than by retirement or death and who later becomes a member of the Teachers' and State Employees' Retirement System may, upon application of the member, be transferred from the Legislative Retirement System or the Consolidated Judicial Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from the Legislative Retirement System or the Consolidated Judicial Retirement System to the Teachers' and State Employees' Retirement System, the accumulated contributions of each member credited in the annuity savings fund in the Legislative Retirement System or the Consolidated Judicial Retirement System shall be transferred and credited to the annuity savings fund in the Teachers' and State Employees' Retirement System.

(b) The Board of Trustees shall effect such rules as it may deem necessary to administer the preceding subsection and to prevent any duplication of service credits or benefits that might otherwise occur."

SECTION 30.18.(d) G.S. 135-70 is amended by adding a new subsection to read:

"(a1) The accumulated contributions and creditable service of any member whose service as a member of this Retirement System has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-1(13), of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from this Retirement System to the Teachers' and State Employees' Retirement System, there shall be transferred from this Retirement System to the Teachers' and State Employees' Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in this Retirement System as a result of previous contributions by the employer on behalf of the transferring member."

SECTION 30.18.(e) G.S. 135-70.1 reads as rewritten:

"§ 135-70.1. Transfer of members from the Local Governmental Employees' Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement ~~System.~~ System, or the Legislative Retirement System.

(a) The accumulated contributions, creditable service, and reserves, if any, of a former teacher or employee, as defined in G.S. 135-1(25), 135-1(10), and 128-21(10), respectively, or a former member of the General Assembly, who is a member of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from the Local Governmental Employees' Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement ~~System~~ System, or the Legislative Retirement System to the Consolidated Judicial Retirement System. The accumulated contributions, creditable service, and reserves of any member whose service as a teacher or employee or member of the General Assembly is terminated other than by retirement or death and who becomes a member of the Consolidated Judicial Retirement System may, upon application of the member, be transferred from the Local Governmental Employees' Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement ~~System~~ System, or the Legislative Retirement System to the Consolidated Judicial Retirement System. In order to effect the transfer of a member's creditable service from the Local Governmental Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement ~~System~~ System, or the Legislative Retirement System, to the Consolidated Judicial Retirement System, the accumulated contributions of each member credited in the annuity savings fund in the Local Governmental Employees' Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement ~~System~~ System, or the Legislative Retirement System shall be transferred and credited to the annuity savings fund in the Consolidated Judicial Retirement System.

(b) The Board of Trustees shall effect such rules as it may deem necessary to administer the preceding subsection and to prevent any duplication of service credits or benefits that might otherwise occur."

SECTION 30.18.(f) G.S. 135-56(f) reads as rewritten:

"(f) The creditable service of a member who was a member of the Local Governmental Employees' Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement ~~System~~ System, or the Legislative Retirement System and whose accumulated contributions and reserves are transferred from that System to this System, includes service that was creditable in the Local Governmental Employees' Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement System, or the Legislative Retirement System, and membership service with those Retirement Systems is membership service with this Retirement System."

SECTION 30.18.(g) G.S. 135-58(a3) reads as rewritten:

"(a3) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2001, but before January 1, 2004, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of the member's final compensation:

(1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service

rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System to this System as provided in G.S. 135-56."

SECTION 30.18.(h) G.S. 135-58 is amended by adding a new section to read:

"(a4) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after January 1, 2004, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of the member's final compensation:

(1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of

the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56."

SECTION 30.18.(i) This section becomes effective January 1, 2004.

PART XXXI. CAPITAL APPROPRIATIONS

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 31.1. There is appropriated from the General Fund for the 2003-2004 fiscal year the following amount for capital improvements:

	2003-2004
Department of Environment and Natural Resources	
Water Resource Projects	$27,601,000
TOTAL CAPITAL APPROPRIATION	$27,601,000

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 31.2.(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 costs are as indicated:

	Name of Project	**2003-2004**
(1)	Wilmington Harbor Deepening	$6,800,000
(2)	Morehead City Harbor Maintenance	100,000
(3)	Morehead City Harbor Section 933 Nourishment	4,661,000
(4)	Wilmington Harbor Maintenance	2,700,000
(5)	Manteo (Shallowbag) Bay Channel Maintenance	3,500,000
(6)	John H. Kerr Reservoir Operations Evaluation	200,000
(7)	Beaufort Harbor Maintenance Dredging	80,000
(8)	Carolina Beach Renourishment (New Hanover County)	1,125,000
(9)	Kure Beach Renourishment (New Hanover County)	1,177,000
(10)	Ocean Isle Beach Renourishment (Brunswick County)	813,000
(11)	Bogue Banks Shore Protection Study (Carteret County)	200,000
(12)	Surf City/North Topsail Beach Protection Study	150,000
(13)	Princeville Flood Control Study	400,000
(14)	West Onslow Beach (Topsail)	75,000
(15)	Deep Creek (Yadkin County) Watershed Management	1,500,000
(16)	State Local Projects	2,500,000
(17)	Currituck Sound Water Management Study	150,000
(18)	Aquatic Weed Control, Lake Gaston and Statewide	300,000
(19)	Swan Quarter (Hyde County) Flood Control Dikes	100,000
(20)	Little Sugar Creek Restoration (Mecklenburg County)	20,000

(21)	Neuse River Basin Feasibility Study	100,000
(22)	Environmental Restoration Projects	700,000
(23)	Projected Feasibility Studies	100,000
(24)	Planning Assistance to Communities	150,000
TOTAL		**$27,601,000**

SECTION 31.2.(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 funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2003-2004 fiscal year, or if the projects funded under 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 2003-2004.
(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 2004-2005 fiscal year.

SECTION 31.2.(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.

SECTION 31.2.(d) Notwithstanding G.S. 143-23, if additional federal funds that require a State match are received for water resources projects or for beach renourishment projects for the 2003-2004 fiscal year, the Director of the Budget may, after consultation with the Joint Legislative Commission on Governmental Operations, transfer funds from General Fund appropriations to match the federal funds.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS

SECTION 31.3. The appropriations made by the 2003 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2003 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2003 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS

SECTION 31.4. When each capital improvement project appropriated by the 2003 General Assembly, other than those projects under the Board of Governors of The University of North Carolina, is placed under a construction contract, direct appropriations shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment, and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Office of State Budget and Management. Funds in the project reserve may be used for emergency repair and renovation projects at State facilities with the approval of the Director of the Budget. The project reserve fund may be used, at the discretion of the Director of the Budget, to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. At the discretion of the Director of the Budget, any balances in the project reserve fund shall revert to the original source.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

REPAIRS AND RENOVATIONS FUNDS ALLOCATIONS

SECTION 31.5. As the bond referendum passed in 2000 provided funds for capital improvements, repairs, and renovations throughout The University of North Carolina System, no funds in the Reserve for Repairs and Renovations shall be used for projects of the System for the 2003-2004 fiscal year.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CAPITAL IMPROVEMENT PROJECTS/SUPPLEMENTAL FUNDING APPROVAL/REPORTING REQUIREMENT

SECTION 31.6. Each department receiving capital improvement appropriations from the Highway Fund under this act shall report quarterly to the Director of the Budget on the status of those capital projects. The reporting procedure to be followed shall be developed by the Director of the Budget.

Highway Fund capital improvement projects authorized in this act that have not been placed under contract for construction due to insufficient funds may be supplemented with funds identified by the Director of the Budget, provided:

(1) That the project was designed and bid within the scope as authorized by the General Assembly;
(2) That the funds to supplement the project are from the same source as authorized for the original project;
(3) That the department to which the project was authorized has unsuccessfully pursued all statutory authorizations to award the contract; and
(4) That the action be reported to the Fiscal Research Division of the Legislative Services Office.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

PROJECT COST INCREASE

SECTION 31.7. Upon the request of the administration of a State agency, department, or institution, the Director of the Budget may, when in the Director's opinion it is in the best interest of the State to do so, increase the cost of a capital improvement project. Provided, however, that if the Director of the Budget increases the cost of a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting. The increase may be funded from gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or direct capital improvement appropriations to that department or institution.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

NEW PROJECT AUTHORIZATION

SECTION 31.8. Upon the request of the administration of any State agency, department, or institution, the Director of the Budget may authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be funded by gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the construction of a capital improvement project pursuant to this section, the Director shall consult with the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS

SECTION 31.9. Funds that become available by gifts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, federal or private grants, receipts becoming a part of special funds by act of the General Assembly, or any other funds available to a State department or institution may be utilized for advance planning through the working drawing phase of capital improvement projects, upon approval of the Director of the Budget. The Director of the Budget may make allocations from the Advance Planning Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund shall not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

APPROPRIATIONS LIMITS/REVERSION OR LAPSE

SECTION 31.10. Except as permitted in previous sections of this act, the appropriations for capital improvements made by the 2003 General Assembly may be expended only for specific projects set out by the 2003 General Assembly and for no

other purpose. Construction of all capital improvement projects enumerated by the 2003 General Assembly shall be commenced, or self-liquidating indebtedness with respect to them shall be incurred, within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in a reserve fund as authorized in this act. This deadline with respect to both direct and self-liquidating appropriations may be extended with the approval of the Director of the Budget up to an additional 12 months if circumstances and conditions warrant such extension.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

INTENT TO FUND PARTIALLY COMPLETED CAPITAL PROJECTS

SECTION 31.11. It is the intent of the General Assembly that future appropriations for capital improvements shall include funding for new projects only after full funding for partially completed projects has been restored.

PART XXXII. MISCELLANEOUS PROVISIONS

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

EXECUTIVE BUDGET ACT APPLIES

SECTION 32.1. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

COMMITTEE REPORT

SECTION 32.2.(a) The House Appropriations Committee Report on the Continuation, Expansion and Capital Budgets, dated April 14, 2003, which was distributed in the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 32.2.(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the State for the 2003-2005 fiscal biennium is a line item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the itemized budget requests submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission, in accordance with the House Appropriations Committee Report on the Continuation, Expansion and Capital Budgets, dated April 14, 2003, together with any accompanying correction sheets.

The budget enacted by the General Assembly shall be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

MOST TEXT APPLIES ONLY TO THE 2003-2005 FISCAL BIENNIUM

SECTION 32.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2003-2005 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2003-2005 fiscal biennium.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

EFFECT OF HEADINGS

SECTION 32.4. The headings to the parts and 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, except for effective dates referring to a Part.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

SEVERABILITY CLAUSE

SECTION 32.5. 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.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

EFFECTIVE DATE

SECTION 32.6. Except as otherwise provided, this act becomes effective July 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 397

Committee Substitute Favorable 4/15/03

PROPOSED COMMITTEE SUBSTITUTE H397-PCS60289-LBxf-23

Short Title: 2003 Budget/Family Tax Cut/AAA Bond Rating. (Public)

Sponsors:

Referred to:

March 11, 2003

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES, AND TO IMPLEMENT A STATE BUDGET THAT ENABLES THE STATE TO PROVIDE TAX RELIEF FOR WORKING FAMILIES AND PROTECTS THE STATE'S TRIPLE-A BOND RATING.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

INTRODUCTION

SECTION 1.1. The appropriations made in this act are for maximum amounts necessary to provide the services and accomplish the purposes described in the budget. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and, except as allowed by the Executive Budget Act, or this act, the savings shall revert to the appropriate fund at the end of each fiscal year.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

TITLE OF ACT

SECTION 1.2. This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2003."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

SECTION 2.1. 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 biennium ending June 30, 2005, according to the following schedule:

Current Operations – General Fund	2003-2004	2004-2005
EDUCATION		
Community Colleges System Office	659,110,455	662,184,769
Department of Public Instruction	6,017,691,217	6,025,509,098
University System	1,761,408,589	1,796,324,529
HEALTH AND HUMAN SERVICES		
Department of Health and Human Services		
Office of the Secretary	81,783,833	80,583,833
Division of Aging	27,535,838	27,535,838
Division of Blind Services/Deaf/HH	9,302,670	9,387,008
Division of Child Development	250,943,174	250,943,174
Division of Education Services	31,606,862	31,470,076
Division of Facility Services	9,442,530	9,442,530
Division of Medical Assistance	2,270,544,822	2,558,592,984
Division of Mental Health	577,021,583	580,154,434
NC Health Choice	45,057,907	45,057,907
Division of Public Health	123,425,475	122,421,895
Division of Social Services	176,728,674	186,579,268
Division of Vocation Rehabilitation	39,798,384	40,591,118
Total	3,643,191,752	3,942,760,065
NATURAL AND ECONOMIC RESOURCES		
Department of Agriculture and Consumer Services	49,214,757	49,237,156
Department of Commerce		
Commerce	32,925,728	33,165,487
Commerce State-Aid	10,999,731	10,999,731
NC Biotechnology Center	5,883,395	5,883,395
Rural Economic Development Center	4,425,677	4,425,677
Department of Environment and Natural Resources		
Environment and Natural Resources	146,337,419	153,052,962
Clean Water Management Trust Fund	25,000,000	25,000,000
Office of the Governor – Housing Finance Agency	4,750,945	4,750,945
Department of Labor	13,265,001	13,273,651
JUSTICE AND PUBLIC SAFETY		
Department of Correction	940,840,075	960,172,282
Department of Crime Control and Public Safety	29,034,326	28,139,010
Judicial Department	303,251,883	310,448,697

Judicial Department – Indigent Defense	72,578,130	70,645,094
Department of Justice	70,673,310	71,459,312
Department of Juvenile Justice and Delinquency Prevention	130,313,473	130,505,498
GENERAL GOVERNMENT		
Department of Administration	55,733,844	56,312,231
Office of Administrative Hearings	2,409,683	2,411,797
Department of State Auditor	10,243,471	10,243,471
Office of State Controller	9,694,464	9,719,451
Department of Cultural Resources		
Cultural Resources	54,193,964	53,915,314
Roanoke Island Commission	1,500,000	1,500,000
State Board of Elections	7,439,982	4,915,939
General Assembly	41,561,463	44,971,305
Office of the Governor		
Office of the Governor	4,856,503	4,826,503
Office of State Budget and Management	4,176,537	4,180,842
OSBM – Reserve for Special Appropriations	3,130,000	3,130,000
Department of Insurance		
Insurance	21,735,135	21,766,272
Insurance – Volunteer Safety Workers' Compensation	4,500,000	4,500,000
Office of Lieutenant Governor	601,722	601,722
Department of Revenue	73,501,897	73,501,897
Rules Review Commission	310,454	310,454
Department of Secretary of State	7,754,229	7,453,229
Department of State Treasurer		
State Treasurer	19,941,830	19,944,585
State Treasurer – Retirement for Fire and Rescue Squad Workers	7,181,179	7,181,179
TRANSPORTATION		
Department of Transportation	11,429,525	11,460,101
RESERVES, ADJUSTMENTS AND DEBT SERVICE		
Reserve for Compensation Increases	132,350,000	126,250,000

Statewide Reserve for State Health Plan	72,000,000	96,000,000
Reserve for Teachers' and State Employees' Retirement Rate Adjustment	26,546,000	154,200,000
Retiree Health Benefits	36,800,000	36,800,000
Contingency and Emergency	5,000,000	5,000,000
Reserve for Salary Adjustments	500,000	500,000
Mental Health, Developmental Disabilities and Substance Abuse Services Trust Fund	10,000,000	0
Reserve to Implement HIPAA	2,000,000	0
Economic Incentives Reserve	2,600,000	0
Judicial Staffing/Salary Reserve	461,198	461,198
State Surplus Real Property System	250,000	0
Blue Ribbon Commission on Medicaid Reform	500,000	0
Debt Service		
General Debt Service	387,785,920	474,479,452
Federal Reimbursement	1,155,948	1,155,948
TOTAL CURRENT OPERATIONS – GENERAL FUND	14,940,740,811	15,535,630,248

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

GENERAL FUND AVAILABILITY STATEMENT

SECTION 2.2.(a) The General Fund availability used in developing the 2003-2005 biennial budget is shown below:

	FY 2003-2004	**FY 2004-2005**
Unappropriated Balance	103,885	0
Beginning Unreserved Credit Balance	375,000,000	0
Revenues Based on Existing Tax Structure	13,398,700,000	14,203,160,000
Nontax Revenues		
Investment Income	126,266,801	132,056,801
Judicial Fees	137,520,000	144,430,000
Disproportionate Share	100,000,000	100,000,000
Insurance	51,900,000	53,900,000
Other Nontax Revenues	116,050,000	120,100,000
Highway Trust Fund Transfer	252,422,125	231,774,330
Highway Fund Transfer	16,379,000	16,166,400
Subtotal Nontax Revenues	800,537,926	798,427,531

Total General Fund Availability	**14,574,341,811**	**15,001,587,531**
Adjustments to Availability: 2003 Session		
Finance Committee Revenue Initiatives	384,000,000	480,900,000
Tobacco Settlement Funds – Tobacco Trust Fund	40,000,000	40,000,000
Tobacco Settlement Funds – Health & Wellness Trust Fund	20,000,000	20,000,000
Transfer from Disaster Reserve	100,000,000	0
Credit Savings Reserve Account	(100,000,000)	0
Credit to Repairs and Renovations Account	(50,000,000)	0
Subtotal Adjustments to Availability: 2003 Session	394,000,000	540,900,000
General Fund Availability for 2003-2005 Biennium	14,968,341,811	15,542,487,531
Total General Fund Appropriations 2003-2005 Biennium	(14,968,341,811)	(15,535,630,248)
Unappropriated Balance	0	6,857,283

SECTION 2.2.(b) Notwithstanding G.S. 143-16.4(a2), of the funds credited to the Tobacco Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1999-2 during the 2003-2004 and 2004-2005 fiscal years, the sum of forty million dollars ($40,000,000) shall be transferred from the Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust Fund) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2004 and 2004-2005 fiscal years.

SECTION 2.2.(c) Notwithstanding G.S. 143-16.4(a1), of the funds credited to the Health Trust Account from the Master Settlement Agreement pursuant to Section 6(2) of S.L. 1999-2 during the 2003-2004 and 2004-2005 fiscal years, the sum of twenty million dollars ($20,000,000) that would otherwise be deposited in the Fund Reserve established by G.S. 147-86.30(c) shall be transferred from the Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2004 and 2004-2005 fiscal years.

SECTION 2.2.(d) On July 1, 2003, the State Controller shall transfer one hundred million dollars ($100,000,000) from the Disaster Reserve Fund, Budget Code 13017, to Nontax Budget Code 19978 (Intra State Transfers) to support General Fund appropriations for the 2003-2004 fiscal year.

SECTION 2.2.(e) Notwithstanding G.S. 105-187.9(b)(1), the sum to be transferred to the General Fund for each of the fiscal years 2003-2004 and 2004-2005 is two hundred fifty million dollars ($250,000,000).

SECTION 2.2.(f) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, the State Controller shall transfer only one hundred million dollars ($100,000,000) from the unreserved credit balance to the Savings Reserve Account on June 30, 2003. This is not an "appropriation made by law", as that phrase is used in Article V, Section 7(1) of the North Carolina Constitution. This subsection becomes effective June 30, 2003.

SECTION 2.2.(g) Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the State Controller shall transfer only fifty million dollars ($50,000,000) from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2003. This subsection becomes effective June 30, 2003.

SECTION 2.2.(h) Notwithstanding G.S. 147-86.30(c), the Health and Wellness Trust Fund Commission may expend the balance of funds remaining from

funds transferred from the Fund Reserve to Health and Wellness Trust Fund nonreserved funds pursuant to Section 2.2(h) of S.L. 2002-126. These funds shall be expended in accordance with G.S. 147-86.30(d) during the 2003-2005 fiscal biennium.

PART III. CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CURRENT OPERATIONS AND EXPANSION/HIGHWAY FUND

SECTION 3.1. Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 2005, according to the following schedule:

Current Operations – Highway Fund	**2003-2004**	**2004-2005**
(1) Transportation Admin. (84210)	$70,917,203	$69,242,486
(2) Transportation Operations (84220)	28,190,393	28,150,605
(3) Transportation programs (84230)		
State Construction		
Secondary	89,600,000	90,590,000
Urban	14,000,000	14,000,000
Public access	2,000,000	2,000,000
Spot safety	9,100,000	9,100,000
Contingency	10,000,000	10,000,000
Federal Aid Match	4,160,000	4,280,000
Maintenance	600,933,217	576,859,889
Asphalt plant/OSHA	425,000	425,000
Capital	7,000,000	0
Ferry Operations	19,677,283	19,677,283
Aid to municipalities	89,600,000	90,590,000
Rail	15,090,919	15,531,153
Public transit	76,232,576	78,475,484
(4) Governor's highway safety (84240)	292,449	293,118
(5) Transportation regulation (84260)	100,255,703	100,323,363
(6) Reserves, transfers, other agencies (84270)	213,455,257	218,670,347
TOTAL	**1,350,930,000**	**1,328,208,728**

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

HIGHWAY FUND AVAILABILITY STATEMENT

SECTION 3.2. The Highway Fund availability used in developing the 2003-2005 biennial budget is shown below:

Highway Fund Budget Reform Statement	**2003-2004**	**2004-2005**
Beginning Credit Balance		-
Estimated Revenue	$ 1,350,930,000	$ 1,373,080,000
Estimated Reversions		-
Total Highway Fund Availability	**$ 1,350,930,000**	**$ 1,373,080,000**

PART IV. HIGHWAY TRUST FUND APPROPRIATIONS

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 4.1. Appropriations from the State Highway Trust Fund for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 2005, according to the following schedule:

Current Operations – Highway Trust Fund	**2003-2004**	**2004-2005**
Intrastate System	$ 423,993,831	$ 459,363,570
Urban Loops	79,689,271	84,350,953
Aid to Municipalities	171,445,448	185,747,496
Total for Secondary Roads	44,486,843	48,197,953
Program Administration	38,001,482	39,636,698
Transfer to General Fund	252,422,125	231,774,330
GRAND TOTAL CURRENT OPERATIONS AND EXPANSION	**$ 1,010,039,000**	**$ 1,049,071,000**

PART V. BLOCK GRANTS

Requested by: Representatives Barnhart, Nye

DHHS BLOCK GRANTS

SECTION 5.1.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2004, according to the following schedule:

COMMUNITY SERVICES BLOCK GRANT		
01.	Community Action Agencies	$ 15,266,973
02.	Limited Purpose Agencies	848,165
03.	Department of Health and Human Services to administer and monitor the activities of the Community Services Block Grant	848,165
TOTAL COMMUNITY SERVICES BLOCK GRANT		$ 16,963,303
SOCIAL SERVICES BLOCK GRANT		
01.	County departments of social services (Transfer from TANF - $4,500,000)	$ 28,868,189
02.	Allocation for in-home services provided by county departments of social services	2,101,113
03.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services	3,234,601
04.	Division of Services for the Blind	3,105,711
05.	Division of Facility Services	426,836
06.	Division of Aging - Home and Community	

	Care Block Grant	1,840,234
07.	Child Care Subsidies	3,000,000
08.	Division of Vocational Rehabilitation - United Cerebral Palsy	71,484
09.	State administration	1,693,368
10.	Child Medical Evaluation Program	238,321
11.	Adult day care services	2,155,301
12.	Comprehensive Treatment Services Program	422,003
13.	Department of Administration for the N.C. State Commission of Indian Affairs In-Home Services Program for the Elderly	203,198
14.	Division of Vocational Rehabilitation Services - Easter Seals Society	116,779
15.	UNC-CH CARES Program for training and consultation services	247,920
16.	Office of the Secretary - Office of Economic Opportunity for N.C. Senior Citizens' Federation for outreach services to low-income elderly persons	41,302
17.	Division of Social Services - Child Caring Agencies	1,500,000
18.	Division of Mental Health, Developmental Disabilities, and Substance Abuse Services - Developmentally Disabled Waiting List for services	5,000,000
19.	Transfer to Preventive Health Services Block Grant for HIV/AIDS education, counseling, and testing	145,819
20.	Division of Facility Services - Mental Health Licensure	213,128
21.	Transfer to the Division of Aging for training provided through Alzheimer's Associations	150,000
TOTAL SOCIAL SERVICES BLOCK GRANT		$ 54,775,307
LOW-INCOME ENERGY BLOCK GRANT		
01.	Energy Assistance Programs	$ 12,775,323

02.	Crisis Intervention	9,192,927
03.	Administration	2,957,339
04.	Weatherization Program	4,212,740
05.	Department of Administration - N.C. State Commission of Indian Affairs	54,840
06.	Heating Air Repair and Replacement Program	1,966,153
TOTAL LOW-INCOME ENERGY BLOCK GRANT		$ 31,159,322
MENTAL HEALTH SERVICES BLOCK GRANT		
01.	Provision of community-based services for severe and persistently mentally ill adults	$ 5,442,798
02.	Provision of community-based services to children	2,513,141
03.	Comprehensive Treatment Services Program for Children	1,500,000
04.	Administration	783,911
TOTAL MENTAL HEALTH SERVICES BLOCK GRANT		$ 10,239,850
SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		
01.	Provision of community-based alcohol and drug abuse services, tuberculosis services, and services provided by the Alcohol and Drug Abuse Treatment Centers	$ 18,901,711
02.	Continuation of services for pregnant women and women with dependent children	8,069,524
03.	Continuation of services to IV drug abusers and others at risk for HIV diseases	4,616,378
04.	Provision of services to children and adolescents	7,740,611
05.	Juvenile Services - Family Focus	851,156
06.	Allocation to the Division of Public Health for HIV/STD Risk Reduction Projects	383,980
07.	Allocation to the Division of Public Health	

	for HIV/STD Prevention by County Health Departments	209,576
08.	Allocation to the Division of Public Health for the Maternal and Child Health Hotline	37,779
09.	Administration	2,596,307
TOTAL SUBSTANCE ABUSE PREVENTION AND TREATMENT BLOCK GRANT		$ 43,407,022
CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		
01.	Child care subsidies	$154,713,475
02.	Quality and availability initiatives	16,449,256
03.	Administrative expenses	6,969,533
04.	Transfer from TANF Block Grant for child care subsidies	79,562,189
TOTAL CHILD CARE AND DEVELOPMENT FUND BLOCK GRANT		$257,694,453
TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		
01.	Work First Cash Assistance	$129,396,275
02.	Work First County Block Grants	94,653,315
03.	Transfer to the Child Care and Development Fund Block Grant for child care subsidies	79,562,189
04.	Child Care Subsidies for TANF Recipients	26,621,241
05.	Child Welfare Workers for local DSS	10,382,391
06.	Transfer to Social Services Block Grant for County Departments of Social Services for Children's Services	4,500,000
07.	Support Our Students – Department of Juvenile Justice and Delinquency Prevention	1,925,000
08.	Residential Substance Abuse Services for Women With Children	2,000,000
09.	Domestic Violence Services for Work First Families	1,200,000

10.	After-School Services for At-Risk Children	1,925,000
11.	Division of Social Services - Administration	400,000
12.	Child Welfare Training	1,600,000
13.	TANF Automation Projects	592,500
14.	Work First/ Boys and Girls Clubs	1,000,000
15.	Work Central Career Advancement Center	550,000
16.	WCH-Teen Pregnancy Prevention	570,000
17.	Transfer to Social Services Block Grant for Child Caring Institutions	1,500,000
18.	Special Children's Adoption Fund	2,000,000
19.	NC Fast Implementation	630,000
20.	Maternity Homes	838,000
21.	Pregnancy Prevention Coalition of North Carolina	127,500
22.	Individual Development Accounts	180,000
TOTAL TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BLOCK GRANT		$362,153,411

MATERNAL AND CHILD HEALTH BLOCK GRANT

01.	Healthy Mothers/Healthy Children Block Grants to Local Health Departments	9,838,074
02.	High-Risk Maternity Clinic Services, Perinatal Education and Training, Childhood Injury Prevention, Public Information and Education, and Technical Assistance to Local Health Departments	2,307,918
03.	Services to Children With Special Health Care Needs	5,078,647
TOTAL MATERNAL AND CHILD HEALTH BLOCK GRANT		$ 17,224,639

PREVENTIVE HEALTH SERVICES BLOCK GRANT

01.	Statewide Health Promotion Programs	$3,282,810

02.	Rape Crisis/Victims' Services Program - Council for Women	197,112
03.	Transfer from Social Services Block Grant - HIV/AIDS education, counseling, and testing	145,819
04.	Office of Minority Health	159,459
05.	Administrative Costs	108,546
TOTAL PREVENTIVE HEALTH SERVICES BLOCK GRANT		$3,893,746

SECTION 5.1.(b) Decreases in Federal Fund Availability. – If the United States Congress reduces federal fund availability in the Social Services Block Grant below the amounts appropriated in this section, then the Department of Health and Human Services shall allocate these decreases giving priority first to those direct services mandated by State or federal law, then to those programs providing direct services that have demonstrated effectiveness in meeting the federally and State-mandated services goals established for the Social Services Block Grant. The Department shall not include transfers from TANF for specified purposes in any calculations of reductions to the Social Services Block Grant.

If the United States Congress reduces the amount of TANF funds below the amounts appropriated in this section after the effective date of this act, then the Department shall allocate the decrease in funds after considering any underutilization of the budget and the effectiveness of the current level of services. Any TANF Block Grant fund changes shall be reported to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Decreases in federal fund availability shall be allocated for the Maternal and Child Health and Preventive Health Services federal block grants by the Department of Health and Human Services after considering the effectiveness of the current level of services.

SECTION 5.1.(c) Increases in Federal Fund Availability. – Any block grant funds appropriated by the United States Congress in addition to the funds specified in this act shall be expended by the Department of Health and Human Services, with the approval of the Office of State Budget and Management, provided the resultant increases are in accordance with federal block grant requirements and are within the scope of the block grant plan approved by the General Assembly.

SECTION 5.1.(d) Changes to the budgeted allocations to the block grants appropriated in this act and new allocations from the block grants not specified in this act shall be submitted to the Joint Legislative Commission on Governmental Operations for review prior to the change and shall be reported immediately to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(e) The Department of Health and Human Services may allow no-cost contract extensions for up to six months for nongovernmental grant recipients under the TANF Block Grant.

SECTION 5.1.(f) If federal funds are received under the Maternal and Child Health Block Grant for abstinence education, pursuant to section 912 of Public Law 104-193 (42 U.S.C. § 710), for the 2003-2004 fiscal year, then those funds shall be transferred to the State Board of Education to be administered by the Department of Public Instruction. The Department of Public Instruction shall use the funds to establish

an Abstinence Until Marriage Education Program and shall delegate to one or more persons the responsibility of implementing the program and G.S. 115C-81(e1)(4). The Department of Public Instruction shall carefully and strictly follow federal guidelines in implementing and administering the abstinence education grant funds.

The Department of Health and Human Services shall contract for the follow-up testing involved with the Newborn Screening Program. The Department may contract for these services with an entity within or outside of the State; however, the Department may only contract with an out-of-state entity if it can be demonstrated that there is a cost-savings associated with contracting with the out-of-state entity. The contract amount shall not exceed twenty-five thousand dollars ($25,000). The amount of the contract shall be covered by funds in the Maternal and Child Health Block Grant.

SECTION 5.1.(g) The sum of four hundred thousand dollars ($400,000) appropriated in this section to the Department of Health and Human Services in the Child Care and Development Fund Block Grant shall be used to develop and implement a Medical Child Care Pilot open to children throughout the State.

SECTION 5.1.(h) Payment for subsidized child care services provided with federal TANF funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 5.1.(i) The sum of four hundred thousand dollars ($400,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to support administration of TANF-funded programs.

SECTION 5.1.(j) The sum of two million dollars ($2,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2003-2004 fiscal year shall be used to provide regional residential substance abuse treatment and services for women with children. The Department of Health and Human Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, in consultation with local departments of social services, area mental health programs, and other State and local agencies or organizations, shall coordinate this effort in order to facilitate the expansion of regionally based substance abuse services for women with children. These services shall be culturally appropriate and designed for the unique needs of TANF women with children.

In order to expedite the expansion of these services, the Secretary of the Department of Health and Human Services may enter into contracts with service providers.

The Department of Health and Human Services, the Division of Social Services, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall report on their progress in complying with this subsection no later than October 1, 2003, and March 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. These reports shall include all of the following:

(1) The number and location of additional beds created.
(2) The types of facilities established.
(3) The delineation of roles and responsibilities at the State and local levels.
(4) Demographics of the women served, the number of women served, and the cost per client.
(5) Demographics of the children served, the number of children served, and the services provided.
(6) Job placement services provided to women.
(7) A plan for follow-up and evaluation of services provided with an emphasis on outcomes.

(8) Barriers identified to the successful implementation of the expansion.
(9) Identification of other resources needed to appropriately and efficiently provide services to Work First recipients.
(10) Other information as requested.

SECTION 5.1.(k) The sum of one million nine hundred twenty-five thousand dollars ($1,925,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services and transferred to the Department of Juvenile Justice and Delinquency Prevention for the 2003-2004 fiscal year shall be used to support the existing Support Our Students Program and to expand the Program statewide, focusing on low-income communities in unserved areas. These funds shall not be used for administration of the Program.

SECTION 5.1.(l) The sum of one million two hundred thousand dollars ($1,200,000) appropriated under this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to provide domestic violence services to Work First recipients. These funds shall be used to provide domestic violence counseling, support, and other direct services to clients. These funds shall not be used to establish new domestic violence shelters or to facilitate lobbying efforts. The Division of Social Services may use up to seventy-five thousand dollars ($75,000) in TANF funds to establish one administrative position within the Division of Social Services to implement this subsection.

Each county department of social services and the local domestic violence shelter program serving the county shall jointly develop a plan for utilizing these funds. The plan shall include the services to be provided and the manner in which the services shall be delivered. The county plan shall be signed by the county social services director or the director's designee and the domestic violence program director or the director's designee and submitted to the Division of Social Services by December 1, 2003. The Division of Social Services, in consultation with the Council for Women, shall review the county plans and shall provide consultation and technical assistance to the departments of social services and local domestic violence shelter programs, if needed.

The Division of Social Services shall allocate these funds to county departments of social services according to the following formula: (i) each county shall receive a base allocation of five thousand dollars ($5,000) and (ii) each county shall receive an allocation of the remaining funds based on the county's proportion of the statewide total of the Work First caseload as of July 1, 2003, and the county's proportion of the statewide total of the individuals receiving domestic violence services from programs funded by the Council for Women as of July 1, 2003. The Division of Social Services may reallocate unspent funds to counties that submit a written request for additional funds.

The Department of Health and Human Services shall report on the uses of these funds no later than March 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(m) The sum of one million nine hundred twenty-five thousand dollars ($1,925,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, shall be used to expand after-school programs and services for at-risk children. The Department shall develop and implement a grant program to award grants to community-based programs that demonstrate the ability to reach children at risk of teen pregnancy and school dropout. The Department shall award grants to community-based organizations that demonstrate the ability to develop and implement linkages with local departments of social services, area mental health programs, schools, and other human services programs in order to provide support services and assistance to the child and family. These funds may be used to establish one position within the Division of Social Services to coordinate at-risk after-school programs and shall not be used for other State

administration. The Department shall report no later than March 1, 2003, on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Subcommittee on Health and Human Services, and the Fiscal Research Division.

SECTION 5.1.(n) The sum of ten million three hundred eighty-two thousand three hundred ninety-one dollars ($10,382,391) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2003-2004 fiscal year for Child Welfare Improvements shall be allocated to the county departments of social services for hiring or contracting staff to investigate and provide services in Child Protective Services cases; to provide foster care and support services; to recruit, train, license, and support prospective foster and adoptive families; and to provide interstate and post-adoption services for eligible families.

SECTION 5.1.(o) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this section in the Mental Health Block Grant to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, for the 2003-2004 fiscal year and the sum of four hundred twenty-two thousand three dollars ($422,003) appropriated in this section in the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for the 2003-2004 fiscal year shall be used to continue a Comprehensive Treatment Services Program for Children in accordance with Section 21.60 of S.L. 2001-424, as amended.

SECTION 5.1.(p) The sum of one million six hundred thousand dollars ($1,600,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for fiscal year 2003-2004 shall be used to support various child welfare training projects as follows:

(1) Provide a regional training center in southeastern North Carolina.
(2) Support the Masters Degree in Social Work/Baccalaureate Degree in Social Work Collaborative.
(3) Provide training for residential child care facilities.
(4) Provide for various other child welfare training initiatives.

SECTION 5.1.(q) If funds appropriated through the Child Care and Development Fund Block Grant for any program cannot be obligated or spent in that program within the obligation or liquidation periods allowed by the federal grants, the Department may move funds to child care subsidies, unless otherwise prohibited by federal requirements of the grant, in order to use the federal funds fully.

SECTION 5.1.(r) The sum of eight hundred thirty-eight thousand dollars ($838,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services shall be used to purchase services at maternity homes throughout the State.

SECTION 5.1.(s) The sum of two million dollars ($2,000,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Special Children Adoption Fund, for the 2003-2004 fiscal year shall be used to implement this subsection. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services program. No local match shall be required as a condition for receipt of these funds.

SECTION 5.1.(t) The sum of one million five hundred thousand dollars ($1,500,000) appropriated in this act in the TANF Block Grant and transferred to the Social Services Block Grant to the Department of Health and Human Services, Division of Social Services, for child caring agencies for the 2003-2004 fiscal year shall be

allocated to the State Private Child Caring Agencies Fund. These funds shall be combined with all other funds allocated to the State Private Child Caring Agencies Fund for the reimbursement of the State's portion of the cost of care for the placement of certain children by the county departments of social services who are not eligible for federal IV-E funds. These funds shall not be used to match other federal funds.

SECTION 5.1.(u) The sum of one million dollars ($1,000,000) appropriated in this section to the Department of Health and Human Services in the TANF Block Grant for Boys and Girls Clubs shall be used to make grants for approved programs. The Department of Health and Human Services, in accordance with federal regulations for the use of TANF Block Grant funds, shall administer a grant program to award funds to the Boys and Girls Clubs across the State in order to implement programs that improve the motivation, performance, and self-esteem of youths and to implement other initiatives that would be expected to reduce school dropout and teen pregnancy rates. The Department shall encourage and facilitate collaboration between the Boys and Girls Clubs and Support Our Students, Communities in Schools, and similar programs to submit joint applications for the funds if appropriate.

Requested by: Representatives Fox, West

NER BLOCK GRANT FUNDS

SECTION 5.2.(a) Appropriations from federal block grant funds are made for the fiscal year ending June 30, 2004, according to the following schedule:

COMMUNITY DEVELOPMENT BLOCK GRANT

01.	State Administration	$1,000,000
02.	Urgent Needs and Contingency	50,000
03.	Scattered Site Housing	13,200,000
04.	Economic Development	
	a. Administered by Rural Economic Development Center, Inc.	2,250,000
	b. Administered by Finance Center of the Department of Commerce	8,710,000
05.	Community Revitalization	12,200,000
06.	State Technical Assistance	450,000
07.	Housing Development	2,000,000
08.	Infrastructure	5,140,000
TOTAL COMMUNITY DEVELOPMENT BLOCK GRANT – 2004 Program Year		$45,000,000

SECTION 5.2.(b) Decreases in Federal Fund Availability. – If federal funds are reduced below the amounts specified above after the effective date of this act, then every program in each of these federal block grants shall be reduced by the same percentage as the reduction in federal funds.

SECTION 5.2.(c) Increases in Federal Fund Availability for Community Development Block Grant. – Any block grant funds appropriated by the Congress of the United States in addition to the funds specified in this section shall be expended as

follows: Each program category under the Community Development Block Grant shall be increased by the same percentage as the increase in federal funds.

SECTION 5.2.(d) Limitations on Community Development Block Grant Funds. – Of the funds appropriated in this section for the Community Development Block Grant, the following shall be allocated in each category for each program year: up to one million dollars ($1,000,000) may be used for State administration; not less than fifty thousand ($50,000) may be used for Urgent Needs and Contingency; up to thirteen million two hundred thousand dollars ($13,200,000) may be used for Scattered Site Housing; up to ten million nine hundred sixty thousand dollars ($10,960,000) may be used for Economic Development, including Urban Redevelopment grants; not less than twelve million two hundred thousand dollars ($12,200,000) shall be used for Community Revitalization; up to four hundred fifty thousand dollars ($450,000) may be used for State Technical Assistance; up to two million dollars ($2,000,000) may be used for Housing Development; up to five million one hundred forty thousand dollars ($5,140,000) may be used for Infrastructure. If federal block grant funds are reduced or increased by the Congress of the United States after the effective date of this act, then these reductions or increases shall be allocated in accordance with subsection (b) or (c) of this section, as applicable.

SECTION 5.2.(e) Increase Capacity for Nonprofit Organizations. – Assistance to nonprofit organizations to increase their capacity to carry out CDBG-eligible activities in partnership with units of local government is an eligible activity under any program category in accordance with federal regulations. Capacity building grants may be made from funds available within program categories, program income, or unobligated funds.

SECTION 5.2.(f) Up to four million dollars ($4,000,000) of funds for Economic Development may be used for Urgent Needs and Contingency for drought recovery.

PART VI. GENERAL PROVISIONS

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

SPECIAL FUNDS, FEDERAL FUNDS, AND DEPARTMENTAL RECEIPTS, AND AUTHORIZATION FOR EXPENDITURES

SECTION 6.1. There is appropriated out of the cash balances, federal receipts, and departmental receipts available to each department, sufficient amounts to carry on authorized activities included under each department's operations. All these cash balances, federal receipts, and departmental receipts shall be expended and reported in accordance with provisions of the Executive Budget Act, except as otherwise provided by statute, and shall be expended at the level of service authorized by the General Assembly. If the receipts, other than gifts and grants that are unanticipated and are for a specific purpose only, collected in a fiscal year by an institution, department, or agency exceed the receipts certified for it in General Fund Codes or Highway Fund Codes, then the Director of the Budget shall decrease the amount he allots to that institution, department, or agency from appropriations from that Fund by the amount of the excess, unless the Director of the Budget finds that the appropriations from the Fund are necessary to maintain the function that generated the receipts at the level anticipated in the certified Budget Codes for that Fund.

Funds that become available from overrealized receipts in General Fund Codes and Highway Fund Codes may be used for new permanent employee positions or to raise the salary of existing employees only as follows:

(1) As provided in G.S. 116-30.1, 116-30.2, 116-30.3, 116-30.4; or

(2) If the Director of the Budget finds that the new permanent employee positions are necessary to maintain the function that generated the receipts at the level anticipated in the certified budget codes for that

Fund. The Director of the Budget shall notify the President Pro Tempore of the Senate, the Speakers of the House of Representatives, the Chairs of the Appropriations Committees of the Senate and the House of Representatives, and the Fiscal Research Division of the Legislative Services Office that he intends to make such a finding at least 10 days before he makes the finding. The notification shall set out the reason the positions are necessary to maintain the function.

The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office within 30 days after the end of each quarter the General Fund Codes or Highway Fund Codes that did not result in a corresponding reduced allotment from appropriations from that Fund.

This section shall expire June 30, 2004.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

NO EXPENDITURE OF UNBUDGETED RECEIPTS

SECTION 6.2. Effective July 1, 2004, G.S. 143-27 reads as rewritten:

"**§ 143-27. Appropriations to educational, charitable and correctional institutions are in addition to receipts by them.**

All appropriations now or hereafter made to the educational institutions, and to the charitable and correctional institutions, and to such other departments and agencies of the State as receive moneys available for expenditure by them are declared to be in addition to such receipts of said institutions, departments or agencies, and are to be available as and to the extent that such receipts are insufficient to meet the costs anticipated in the budget authorized by the General Assembly, of maintenance of such institutions, departments, and agencies; Provided, however, that if the receipts, other than gifts and grants that are unanticipated and are for a specific purpose only, collected in a fiscal year by an institution, department, or agency exceed the receipts certified for it in General Fund Codes, Highway Fund Codes, or Wildlife Fund Codes, the Director of the Budget shall decrease the amount he allots to that institution, department, or agency from appropriations from that Fund by the amount of the ~~excess, unless the Director of the Budget has consulted with the Joint Legislative Commission on Governmental Operations and unless the Director of the Budget finds that (i) the appropriations from that Fund are necessary to maintain the function that generated the receipts at the level anticipated in the certified Budget Codes for that Fund and (ii) the funds may be expended in accordance with G.S. 143-23.~~excess. Notwithstanding the foregoing provisions of this section, receipts within The University of North Carolina realized in excess of budgeted levels shall be available, up to a maximum of ten percent (10%) above budgeted levels, for each Budget Code, in addition to appropriations, to support the operations generating such receipts, as approved by the Director of the Budget.

The Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office within 30 days after the end of each quarter on expenditures of receipts in excess of the amounts certified in General Fund Codes, Highway Fund Codes, or Wildlife Fund Codes, that did not result in a corresponding reduced allotment from appropriations from that Fund."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

PREPARE TO BUDGET PAYROLL AT ACTUAL COST

SECTION 6.3. The Office of State Budget and Management shall prepare and present to the General Assembly no later than 10 days after the convening of the 2004 Regular Session of the 2003 General Assembly such adjustments as are necessary

to rebudget the payroll costs of State departments, agencies, and institutions in fiscal year 2004-2005 at levels that reflect actual payroll requirements. Proposed adjustments shall include changes in related expenditure lines that have been underbudgeted with the expectation that shortfalls could be met with lapsed salary funds.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CONTINGENCY AND EMERGENCY FUND ALLOCATIONS

SECTION 6.4. Funds in the amount of five million dollars ($5,000,000) for the 2003-2004 fiscal year and five million dollars (5,000,000) for the 2004-2005 fiscal year appropriated in this act to the Contingency and Emergency Fund may be expended only for the purposes outlined in G.S. 143-23(a1)(2).

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CHANGE EFFECTIVE DATE - PRIVATE PLATES ON PUBLIC VEHICLES

SECTION 6.5.(a) The introductory language to Section 6.14(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 6.14.(b)** Effective October 1, ~~2003,~~ 2004, G.S. 20-39.1(b), as enacted in subsection (a) of this section, reads as rewritten:".

SECTION 6.5.(b) Section 6.14(h) of S.L. 2001-424 reads as rewritten:

"**SECTION 6.14.(h)** Subsection (b) of this section becomes effective October 1, ~~2003.~~ 2004. Except as provided in subsection (c) of this section, the remainder of this section is effective when it becomes law."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

HIPAA RESERVE

SECTION 6.6. Funds in the amount of two million dollars ($2,000,000) are appropriated in this act to the Reserve to Implement HIPAA. This reserve shall be located in the Office of State Budget and Management.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

HIPAA IMPLEMENTATION

SECTION 6.7. The Governor or the Governor's designee shall coordinate the State's implementation of the federal Health Insurance Portability and Accountability Act ("HIPAA"), Title II Subtitle F (Administrative Simplification). Specifically, the scope of coordination shall include the following:

(1) Coordinating correspondence between the State and the United States government on all matters relating to HIPAA Administrative Simplification requirements under Subtitle F of Title II of HIPAA.

(2) Coordinating official State comments on proposed federal regulations and the federal rule-making process pertaining to HIPAA Administrative Simplification.

(3) Obtaining from the North Carolina Attorney General legal interpretations of federal rules pertaining to HIPAA Administrative Simplification compliance, implementation, and enforcement.

(4) Establishing deadlines and benchmarks for State agencies to provide the necessary data required to monitor compliance with HIPAA Administrative Simplification requirements.

The Information Resource Management Commission ("IRMC") shall cooperate with the Governor to ensure that IRMC policies and activities and State HIPAA implementation are complementary to ensure effective and efficient monitoring of HIPAA Administrative Simplification requirements.

SECTION 6.7. The University of North Carolina System and the Teachers' and State Employees' Comprehensive Major Medical Plan may develop and implement HIPAA Administrative Simplification compliance and shall report bimonthly to the Governor on the status of implementation.

SECTION 6.7. Funds appropriated to the Reserve for Health Insurance Portability and Accountability Compliance that are unexpended and unencumbered at the end of the fiscal year shall not revert to the General Fund but shall remain in the Reserve for use in accordance with the purposes of the Reserve.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

STATE SURPLUS REAL PROPERTY SYSTEM

SECTION 6.8.(a) The Department of Administration, in consultation with the Office of State Budget and Management and other affected State departments, shall develop and implement a uniform real property disposal system that will continuously identify, evaluate, and dispose of all unused or underused State-owned land and buildings. In order to comply with this section, the Department of Administration, in consultation with the Office of State Budget and Management and other affected State departments, shall do all of the following:

(1) Review the current inventory of State-owned land and buildings for accuracy and completeness.

(2) Determine how and when State-owned land and buildings should be declared surplus.

(3) Determine whether State agencies have the authority to retain funds from the disposal of surplus real property and whether this is consistent among agencies and conducive to the disposal of unneeded property.

(4) Consider the use of private real estate brokers, auction, and any other method determined to be suitable in order to efficiently and effectively dispose of surplus real property.

(5) Review the real property held by a selected number of State agencies to determine whether the agency has any property that meets the criteria as set forth in this section.

(6) Assess the need for additional staff to effectively administer the system.

(7) Examine current State law to assess the need for changes in order to support a uniform system to identify, evaluate, and dispose of all unused or underused State-owned land and buildings.

The Department may retain consultants to assist the accomplishment of the objectives set forth in subdivisions (1) through (7) of this subsection. The Department shall report its findings and recommendations to the General Assembly no later than March 1, 2004.

SECTION 6.8.(b) There is established the Real Property Management Advisory Council in the Department of Administration. The Advisory Council shall examine the use of State-owned real property and shall advise the Secretary of Administration as to the identification of those properties that are unneeded or underutilized. The Advisory Council shall consist of the following members:

(1) Four members appointed by the Speaker of the House of Representatives, including one member who shall be designated as House cochair.

(2) Four members appointed by the President Pro Tempore of the Senate, including one member who shall be designated as Senate cochair.

(3) Four members appointed by the Governor.

The Advisory Council shall meet upon the call of the cochairs.

Members of the Advisory Council shall serve for a term of two years beginning July 1, 2003, and shall receive subsistence and travel expenses as provided in G.S. 138-5. Staff support to the Advisory Council shall be provided by the Department of Administration.

SECTION 6.8.(c) Of funds appropriated in this act to the Department of Administration, a sum not exceeding two hundred fifty thousand dollars ($250,000) shall be used to accomplish the purposes set forth in this section.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

EXPEDITE SALE OF SURPLUS LAND

SECTION 6.9. The Department of Administration shall work with all State departments, agencies, and institutions, including the Department of Transportation and The University of North Carolina, to identify surplus state-owned real property and to expedite the sale of that property. Unless otherwise provided by law, the clear proceeds of the sale of surplus real property shall be credited to the General Fund. It is the intent of the General Assembly that these proceeds shall partially offset debt service costs occasioned by the use of Certificates of Participation to finance the repair and renovation of State buildings. The Department of Administration shall report to the Joint Legislative Commission on Governmental Operations no later than December 1, 2003, regarding the extraordinary measures being taken to comply with this provision.

Requested by: Representatives Culpepper, Crawford, Earle, Owens, Wright

GOVERNMENT AGENCIES TO USE PRODUCTS OF RECYCLED STEEL

SECTION 6.10. G.S. 130A-309.14 is amended by adding a new subsection to read:

"(l) Any State agency or agency of a political subdivision of the State that is using State funds, or any person contracting with any agency with respect to work performed under contract, shall procure products of recycled steel if all of the following conditions are satisfied:

(1) The product must be acquired competitively within a reasonable time frame.

(2) The product must meet appropriate performance standards.

(3) The product must be acquired at a reasonable price."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

IMPLEMENT A PILOT PROJECT FOR LONG-TERM CARE COMMUNITY SERVICE COORDINATION

SECTION 6.11.(a) In accordance with the recommendations in the final report from the Institute of Medicine Task Force on Long-Term Care and the study report recommendations resulting from S.L. 2001-491, Part XXII, the Department of Health and Human Services shall implement a communications and coordination initiative to support local coordination of long-term care and shall pilot the establishment of local lead agencies to facilitate the long-term care coordination process at the county or regional level. For those counties that voluntarily participate, the local long-term care coordination initiative shall aid in the development of core services, coordinate local services, and streamline access to services. The initiative shall eliminate fragmentation and barriers to information and services; provide a seamless connection among State agencies and local entities, regardless of funding sources; and allow consumers to efficiently and effectively navigate among long-term care services.

SECTION 6.11.(b) The Department shall submit an interim report on the pilot project for local long-term care coordination to the North Carolina Study Commission on Aging by October 1, 2004, and a final report by October 1, 2005.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

JOINT COMMITTEE ON EXECUTIVE BUDGET ACT REVISIONS

SECTION 6.12.(a) There is created a Joint Committee on Executive Budget Act Revisions. The Committee shall be composed of 12 members, six of whom shall be Representatives appointed by the Speaker of the House of Representatives and six of whom shall be Senators appointed by the President Pro Tempore of the Senate. The Speaker of the House of Representatives shall designate one member as cochair and the President Pro Tempore of the Senate shall designate one member as cochair. The Committee shall meet upon call of the cochairs.

SECTION 6.12.(b) The Committee shall consider contemporary financial management practices in reviewing the current budget process. The Committee shall recommend any changes to the Executive Budget Act that are needed to modernize and improve the processes of budget preparation, budget adoption, budget execution, and program evaluation. The Committee shall report its recommendations to the 2003 General Assembly on or before April 1, 2004.

SECTION 6.12.(c) The Legislative Services Office shall assign professional and clerical staff to assist the Committee in its work. Members of the Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

ISSUE REQUEST FOR INFORMATION/ENERGY MANAGEMENT

SECTION 6.13. The Department of Administration (Department) shall issue a Request for Information (RFI) to identify companies interested in providing, and qualified to provide, comprehensive energy management services to State departments, agencies, and institutions. The Department shall evaluate information collected through the RFI to determine the:

(1) Number of qualified companies interested in doing energy management business with State government.
(2) Types of energy management services available and applicable to State-owned facilities.
(3) Long-term cost savings potentially available to the State from the implementation of various energy management services.
(4) Modifications to State law or regulations that may be necessary to acquire and utilize successfully energy management services.

By March 1, 2004, the Department shall report its findings, conclusions, and recommendations to the Chairs of the Senate and House of Representatives Appropriations Committees.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

BLUE RIBBON COMMISSION ON MEDICAID REFORM

SECTION 6.14.(a) There is established the North Carolina Blue Ribbon Commission on Medicaid Reform (Commission). The Commission shall examine the State's Medicaid program and make comprehensive recommendations for fundamental reform. The Commission shall consider:

(1) Methods to responsibly restrain the growth in Medicaid spending.
(2) Best practices in both the public and private sectors in managing and administering health care.
(3) Options for maximizing existing resources while controlling Medicaid program costs.

(4) Current array of services available within the State Medicaid program to determine the appropriateness of the type, frequency, and duration of those services.
(5) Opportunities for long-term, systemic change in the Medicaid program through the use of federal waivers and other management tools.
(6) Any other matter relating to reform of the State Medicaid program.

SECTION 6.14.(b) The Commission shall consist of 12 members appointed as follows:

(1) Six members appointed by the Speaker of the House of Representatives, including one member who shall be designated as House Cochair. No more than three may be legislators.
(2) Six members appointed by the President Pro Tempore of the Senate, including one member who shall be designated as Senate Cochair. No more than three may be legislators.

The appointing officer shall fill vacancies. The Commission shall meet at the call of the Cochairs. Members of the Commission shall receive per diem, subsistence, and travel expenses as provided in G.S. 120-3.1, G.S. 138-5, or G.S. 138-6, as appropriate. The Commission may contract for consultant services as provided in G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and Senate Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may exercise all of the powers provided under G.S. 120-19 through G.S. 120-19.4 while in the discharge of its official duties.

SECTION 6.14.(c) By April 1, 2004, the Commission shall make an interim report to the 2003 General Assembly. The Commission shall make its final report to the 2005 General Assembly by February 1, 2005, and shall expire upon submitting that report.

Requested by: Representatives Howard, Crawford, Sherrill, Baker

COMPETITIVELY BID BEVERAGES CONTRACTS

SECTION 6.15.(a) Article 3 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"**§ 143-64. Beverages contracts.**

Notwithstanding any other provision of law, local school administrative units, community colleges, and constituent institutions of The University of North Carolina shall competitively bid contracts that involve the sale of juice or bottled water. The local school administrative units, community colleges, and constituent institutions may set quality standards for these beverages, and these standards may be used to accept or reject a bid."

SECTION 6.15.(b) This section is effective when it becomes law and applies to contracts bid on or after that date.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

DISTINGUISHED PROFESSORS ENDOWMENT TRUST FUND

SECTION 6.16.(a) G.S. 116-41.15 reads as rewritten:

"**§ 116-41.15. Distinguished Professors Endowment Trust Fund; allocation; administration.**

(a) As used in this Part, "focused growth institution" means Elizabeth City State University, Fayetteville State University, North Carolina Agricultural and Technical University, North Carolina Central University, the University of North Carolina at Pembroke, Western Carolina University, and Winston-Salem State University. As used

in this Part, "special needs institution" means the North Carolina School of the Arts and the University of North Carolina at Asheville.

(b) For constituent institutions other than focused growth institutions and special needs institutions, ~~The~~the amount appropriated to the trust shall be allocated by the Board as follows:

(1) On the basis of one three hundred thirty-four thousand dollar ($334,000) challenge grant for each six hundred sixty-six thousand dollars ($666,000) raised from private sources; or

(2) On the basis of one one hundred sixty-seven thousand dollar ($167,000) challenge grant for each three hundred thirty-three thousand dollars ($333,000) raised from private sources.

If an institution chooses to pursue the use of the allocated challenge grant funds described in either subdivision (1) or subdivision (2) of this ~~section,~~subsection, the funds shall be matched on a two-to-one basis.

(c) For focused growth institutions and special needs institutions, subsection (b) of this section shall be applied such that the amount appropriated to the trust shall be allocated by the Board on a one-to-one basis instead of a one-to-two basis.

(d) Matching funds shall come from contributions made after July 1, 1985, and pledged for the purposes specified by G.S. 116-41.14. Each participating constituent institution's board of trustees shall establish its own Distinguished Professors Endowment Trust Fund, and shall maintain it pursuant to the provision of G.S. 116-36 to function as a depository for private contributions and for the State matching funds for the challenge grants. The State matching funds shall be transferred to the constituent institution's Endowment Fund upon notification that the institution has received and deposited the appropriate amount required by this section in its own Distinguished Professors Endowment Trust Fund. Only the net income from that account shall be expended in support of the distinguished professorship thereby created."

SECTION 6.16.(b) G.S. 116-41.16 reads as rewritten:

"**§ 116-41.16. Distinguished Professors Endowment Trust Fund; contribution commitments.**

(a) For constituent institutions other than focused growth institutions and special needs institutions, ~~Contributions~~ contributions may also be eligible for matching if there is:

(1) A commitment to make a donation of at least six hundred sixty-six thousand dollars ($666,000), as prescribed by G.S. 143-31.4, and an initial payment of one hundred eleven thousand dollars ($111,000) to receive a grant described in G.S. 116-41.15(b)(1); or

(2) A commitment to make a donation of at least three hundred thirty-three thousand dollars ($333,000), as prescribed by G.S. 143-31.4, and an initial payment of fifty-five thousand five hundred dollars ($55,500) to receive a grant described in G.S. 116-41.15(b)(2);

and if the initial payment is accompanied by a written pledge to provide the balance within five years after the date of the initial payment. Each payment on the balance shall be no less than the amount of the initial payment and shall be made on or before the anniversary date of the initial payment. Pledged contributions may not be matched prior to the actual collection of the total funds. Once the income from the institution's Distinguished Professors Endowment Trust Fund can be effectively used pursuant to G.S. 116-41.17, the institution shall proceed to implement plans for establishing an endowed chair.

(b) For focused growth institutions and special needs institutions, subsection (a) of this section is modified such that contributions may be eligible for matching based on a schedule to be adopted by the Board of Governors such that at least one-sixth of the commitment will be donated each year."

Requested by: Representatives Wainwright, Lucas, Culpepper

ECONOMIC INCENTIVES RESERVE ALLOCATIONS

SECTION 6.17. Of the funds appropriated by this act to the Economic Incentives Reserve in Section 2.1 of this act, the sum of nine hundred twenty-eight thousand two hundred sixty-four dollars ($928,264) for the 2003-2004 fiscal year shall be allocated by the Office of State Budget and Management as follows:

Opportunities Industrialization Centers	$ 9,500
Rural Economic Development Center for new and emerging CDCs	56,410
Commerce State-Aid Non-profits	222,354
Coalition of Farm & Rural Families	50,000
North Carolina State Bar	590,000.

Requested by: Representatives Wainwright, Culpepper

NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY MATCHING FUNDS

SECTION 6.18. Of the funds appropriated by this act from the General Fund to the Board of Governors of The University of North Carolina, the sum of three million eighty-nine thousand seven hundred forty dollars ($3,089,740) for the 2003-2004 fiscal year shall be allocated to North Carolina Agricultural and Technical State University to match federal funds to conduct agricultural research and Cooperative Extension Service work.

PART VII. PUBLIC SCHOOLS

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

TEACHER SALARY SCHEDULES

SECTION 7.1.(a) Effective for the 2003-2004 school year, the Director of the Budget shall transfer from the Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools for the 2003-2004 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 and one-half percent (1.5%) of base salary for 10 to 14 years of State service, two and twenty-five hundredths percent (2.25%) of base salary for 15 to 19 years of State service, three and twenty-five hundredths percent (3.25%) 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, 2003, 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. The longevity payment shall be paid in a lump sum once a year.

SECTION 7.1.(b) For the 2003-2004 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.

2003-2004 MONTHLY SALARY SCHEDULE
"A" TEACHERS

Years of Experience	"A" Teachers	NBPTS Certification
0	$2,525	N/A
1	$2,567	N/A
2	$2,611	N/A
3	$2,764	$3,096
4	$2,904	$3,252
5	$3,036	$3,400
6	$3,164	$3,544
7	$3,266	$3,658

8	$3,314	$3,712
9	$3,362	$3,765
10	$3,412	$3,821
11	$3,461	$3,876
12	$3,511	$3,932
13	$3,561	$3,988
14	$3,614	$4,048
15	$3,667	$4,107
16	$3,722	$4,169
17	$3,777	$4,230
18	$3,834	$4,294
19	$3,892	$4,359
20	$3,950	$4,424
21	$4,011	$4,492
22	$4,072	$4,561
23	$4,136	$4,632
24	$4,200	$4,704
25	$4,264	$4,776
26	$4,330	$4,850
27	$4,398	$4,926
28	$4,467	$5,003
29	$4,538	$5,083
30+	$4,538	$5,083

2003-2004 MONTHLY SALARY SCHEDULE
"M" TEACHERS

Years of Experience	"M" Teachers	NBPTS Certification
0	$2,778	N/A
1	$2,824	N/A
2	$2,872	N/A
3	$3,040	$3,405
4	$3,194	$3,577
5	$3,340	$3,741
6	$3,480	$3,898
7	$3,593	$4,024
8	$3,645	$4,082
9	$3,698	$4,142
10	$3,753	$4,203
11	$3,807	$4,264
12	$3,862	$4,325
13	$3,917	$4,387
14	$3,975	$4,452
15	$4,034	$4,518
16	$4,094	$4,585
17	$4,155	$4,654
18	$4,217	$4,723
19	$4,281	$4,795
20	$4,345	$4,866
21	$4,412	$4,941
22	$4,479	$5,016
23	$4,550	$5,096
24	$4,620	$5,174
25	$4,690	$5,253
26	$4,763	$5,335

27	$4,838	$5,419
28	$4,914	$5,504
29	$4,992	$5,591
30+	$4,992	$5,591

SECTION 7.1.(c) 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 "M" 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 "M" teachers.

SECTION 7.1.(d) Effective for the 2003-2004 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 "M" 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.

SECTION 7.1.(e) Effective for the 2003-2004 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.

SECTION 7.1.(f) Certified school nurses who are employed in the public schools as nurses shall be paid on the "M" salary schedule.

SECTION 7.1.(g) As used in this section, the term "teacher" shall also include instructional support personnel.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

SCHOOL-BASED ADMINISTRATOR SALARY SCHEDULE

SECTION 7.2.(a) Effective for the 2003-2004 school year, the Director of the Budget shall transfer from Reserve for Experience Step Salary Increase for Teachers and Principals in Public Schools for the 2003-2004 fiscal year funds necessary to implement the salary schedule for school-based administrators as provided in this section. These funds shall be used for State-paid employees only.

SECTION 7.2.(b) The base salary schedule for school-based administrators shall apply only to principals and assistant principals. The base salary schedule for the 2003-2004 fiscal year, commencing July 1, 2003, is as follows:

2003-2004

PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES

CLASSIFICATION

Yrs of Exp	Assistant Principal	Prin I (0-10)	Prin II (11-21)	Prin III (22-32)	Prin IV (33-43)
0-4	$3,226	-	-	-	-
5	$3,373	-	-	-	-
6	$3,515	-	-	-	-
7	$3,629	-	-	-	-
8	$3,681	$3,681	-	-	-
9	$3,735	$3,735	-	-	-
10	$3,791	$3,791	$3,845	-	-
11	$3,845	$3,845	$3,901	-	-
12	$3,901	$3,901	$3,956	$4,015	-
13	$3,956	$3,956	$4,015	$4,074	$4,135
14	$4,015	$4,015	$4,074	$4,135	$4,197
15	$4,074	$4,074	$4,135	$4,197	$4,259
16	$4,135	$4,135	$4,197	$4,259	$4,324
17	$4,197	$4,197	$4,259	$4,324	$4,388
18	$4,259	$4,259	$4,324	$4,388	$4,456
19	$4,324	$4,324	$4,388	$4,456	$4,524
20	$4,388	$4,388	$4,456	$4,524	$4,596
21	$4,456	$4,456	$4,524	$4,596	$4,666
22	$4,524	$4,524	$4,596	$4,666	$4,737
23	$4,596	$4,596	$4,666	$4,737	$4,811
24	$4,666	$4,666	$4,737	$4,811	$4,886
25	$4,737	$4,737	$4,811	$4,886	$4,963
26	$4,811	$4,811	$4,886	$4,963	$5,042
27	$4,886	$4,886	$4,963	$5,042	$5,143
28	$4,963	$4,963	$5,042	$5,143	$5,246
29	$5,042	$5,042	$5,143	$5,246	$5,351
30	$5,143	$5,143	$5,246	$5,351	$5,458
31	$5,246	$5,246	$5,351	$5,458	$5,567
32	-	$5,351	$5,458	$5,567	$5,678
33	-	-	$5,567	$5,678	$5,792
34	-	-	$5,678	$5,792	$5,908
35	-	-	-	$5,908	$6,026
36	-	-	-	$6,026	$6,147
37	-	-	-	-	$6,270

2003-2004

PRINCIPAL AND ASSISTANT PRINCIPAL SALARY SCHEDULES

CLASSIFICATION

Yrs of Exp	Prin V (44-54)	Prin VI (55-65)	Prin VII (66-100)	Prin VIII (101+)
14	$4,259	-	-	-
15	$4,324	-	-	-
16	$4,388	$4,456	-	-
17	$4,456	$4,524	$4,666	-
18	$4,524	$4,596	$4,737	$4,811
19	$4,596	$4,666	$4,811	$4,886
20	$4,666	$4,737	$4,886	$4,963
21	$4,737	$4,811	$4,963	$5,042
22	$4,811	$4,886	$5,042	$5,143

	23	$4,886	$4,963	$5,143	$5,246
	24	$4,963	$5,042	$5,246	$5,351
	25	$5,042	$5,143	$5,351	$5,458
	26	$5,143	$5,246	$5,458	$5,567
	27	$5,246	$5,351	$5,567	$5,678
	28	$5,351	$5,458	$5,678	$5,792
	29	$5,458	$5,567	$5,792	$5,908
	30	$5,567	$5,678	$5,908	$6,026
	31	$5,678	$5,792	$6,026	$6,147
	32	$5,792	$5,908	$6,147	$6,270
	33	$5,908	$6,026	$6,270	$6,395
	34	$6,026	$6,147	$6,395	$6,523
	35	$6,147	$6,270	$6,523	$6,653
	36	$6,270	$6,395	$6,653	$6,786
	37	$6,395	$6,523	$6,786	$6,922
	38	$6,523	$6,653	$6,922	$7,060
	39	-	$6,786	$7,060	$7,201
	40	-	$6,922	$7,201	$7,345
	41	-	-	$7,345	$7,492

SECTION 7.2.(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.

SECTION 7.2.(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. A principal or assistant principal shall also continue to receive any additional State-funded percentage increases earned for the 1997-1998, 1998-1999, and the 1999-2000 school years for improvement in student performance or maintaining a safe and orderly school.

SECTION 7.2.(e) 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.

SECTION 7.2.(f) 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 1992-1993 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 1992-1993 fiscal year.

SECTION 7.2.(g) Longevity pay for principals and assistant principals shall be as provided for State employees under the State Personnel Act.

SECTION 7.2.(h)

(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 subsection 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 subsection for one calendar year following the date of the merger.

SECTION. 7.2.(i) 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. The stipend shall not exceed the difference between the beginning salary of an assistant principal and any fellowship funds received by the intern as a full-time student, including awards of the Principal Fellows Program. The Principal Fellows Program or the school of education where the intern participates in a full-time masters in school administration program shall supply the Department of Public Instruction with certification of eligible full-time interns.

SECTION 7.2.(j) During the 2003-2004 fiscal year, the placement on the salary schedule of an administrator with a one-year provisional assistant principal's certificate shall be at the entry-level salary for an assistant principal or the appropriate step on the teacher salary schedule, whichever is higher.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

CENTRAL OFFICE SALARIES

SECTION 7.3.(a) The monthly salary ranges that follow apply to assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers for the 2003-2004 fiscal year, beginning July 1, 2003. The top of these ranges shall be increased by one and sixth-tenths percent (1.6%) annually for full-time employees.

School Administrator I	$2,932	$5,266
School Administrator II	$3,112	$5,586
School Administrator III	$3,303	$5,925
School Administrator IV	$3,436	$6,162
School Administrator V	$3,574	$6,410
School Administrator VI	$3,792	$6,799
School Administrator VII	$3,945	$7,072

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, 2003.

SECTION 7.3.(b) The monthly salary ranges that follow apply to public school superintendents for the 2003-2004 fiscal year, beginning July 1, 2003. The top of these ranges shall be increased by one and sixth-tenths percent (1.6%) annually for full-time employees.

Superintendent I	$4,187	$7,503
Superintendent II	$4,445	$7,956
Superintendent III	$4,716	$8,441
Superintendent IV	$5,005	$8,953
Superintendent V	$5,312	$9,499

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 7.2.(f) of this act.

SECTION 7.3.(c) Longevity pay for superintendents, assistant superintendents, associate superintendents, directors/coordinators, supervisors, and finance officers shall be as provided for State employees under the State Personnel Act.

SECTION 7.3.(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 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.

SECTION 7.3.(e). The State Board of Education shall not permit local school administrative units to transfer State funds from other funding categories for salaries for public school central office administrators.

SECTION 7.3.(f). The Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act for fiscal year 2003-2004, beginning July 1, 2003, funds necessary to provide an average annual salary increase of one and six-tenths percent (1.6%), including funds for the employer's retirement and social security contributions, commencing July 1, 2003, 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.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

NONCERTIFIED PERSONNEL

SECTION 7.4.(a) The Director of the Budget shall transfer from the Reserve for Compensation Increases created in this act for fiscal year 2003-2004, commencing July 1, 2003, funds necessary to provide a salary increase of one and six-tenths percent (1.6%), including funds for the employer's retirement and social security contribution, commencing July 1, 2003, for all noncertified public school employees whose salaries are supported from the State's General Fund.

SECTION 7.4.(b) Local boards of education shall increase the rates of pay for all such employees who were employed for all or part of fiscal year 2002-2003 and who continue their employment for fiscal year 2003-2004 by at least one and six-tenths percent (1.6%), commencing July 1, 2003. For part-time employees, the pay increase shall be pro rata based on the number of hours worked.

SECTION 7.4.(c) These funds shall not be used for any purpose other than for the salary increases and necessary employer contributions provided by this section.

SECTION 7.4.(d) The State Board of Education may adopt salary ranges for noncertified personnel to support increases of one and six-tenths percent (1.6%) for the 2003-2004 school year.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

RESERVE FOR EXPERIENCE STEP INCREASE FOR TEACHERS AND PRINICPALS IN PUBLIC SCHOOLS

SECTION 7.5.(a) Funds in the Reserve for Experience Step Increase for Teachers and Principals in Public Schools shall be used for experience step increases for employees of schools operated by a local board of education, the Department of Health and Human Services, the Department of Correction, or the Department of Juvenile Justice and Delinquency Prevention, who are paid on the teacher salary schedule or the principal and assistant principal salary schedule.

SECTION 7.5.(b) Effective July 1, 2003, any permanent certified personnel employed on July 1, 2003, and paid on the teacher salary schedule with 29+ years of experience shall receive a one-time bonus equivalent to the average increase of the 26 to 29 year steps. Effective July 1, 2003, any permanent personnel employed on July 1, 2003, and paid at the top of the principal and assistant principal salary schedule shall receive a one-time bonus equivalent to two percent (2%). For permanent part-time personnel, the one-time bonus shall be adjusted pro rata. Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

SUPPLEMENTAL FUNDING IN LOW-WEALTH COUNTIES

SECTION 7.6.(a) Funds for Supplemental Funding. – The General Assembly finds that it is appropriate to provide supplemental funds in low-wealth counties to allow those counties to enhance the instructional program and student achievement. Therefore, funds are appropriated to State Aid to Local School Administrative Units for the 2003-2004 fiscal year and the 2004-2005 fiscal year to be used for supplemental funds for the schools.

SECTION 7.6.(b) Use of Funds for Supplemental Funding. – All funds received pursuant to this section shall be used only: (i) to provide instructional positions, instructional support positions, teacher assistant positions, clerical positions, school computer technicians, instructional supplies and equipment, staff development, and textbooks; (ii) for salary supplements for instructional personnel and instructional support personnel; and (iii) to pay an amount not to exceed ten thousand dollars ($10,000) of the plant operation contract cost charged by the Department of Public Instruction for services.

Local boards of education are encouraged to use at least twenty-five percent (25%) of the funds received pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of education shall report to the State Board of Education on an annual basis on funds used for this purpose, and the State Board shall report this information to the Joint Legislative Education Oversight Committee. These reports shall specify how these funds were targeted and used to implement specific improvement strategies of each local school administrative unit and its schools, such as teacher recruitment, closing the achievement gap, improving student accountability, addressing the needs of at-risk students, and establishing and maintaining safe schools.

SECTION 7.6.(c) Definitions. – As used in this section:

(1) "Anticipated county property tax revenue availability" means the county-adjusted property tax base multiplied by the effective State average tax rate.

(2) "Anticipated total county revenue availability" means the sum of the:
- a. Anticipated county property tax revenue availability,
- b. Local sales and use taxes received by the county that are levied under Chapter 1096 of the 1967 Session Laws or under Subchapter VIII of Chapter 105 of the General Statutes,
- c. Food stamp exemption reimbursement received by the county under G.S. 105-164.44C,
- d. Homestead exemption reimbursement received by the county under G.S. 105-277.1A,
- e. Inventory tax reimbursement received by the county under G.S. 105-275.1 and G.S. 105-277.001,
- f. Intangibles tax distribution and reimbursement received by the county under G.S. 105-275.2, and
- g. Fines and forfeitures deposited in the county school fund for the most recent year for which data are available.

(3) "Anticipated total county revenue availability per student" means the anticipated total county revenue availability for the county divided by the average daily membership of the county.

(4) "Anticipated State average revenue availability per student" means the sum of all anticipated total county revenue availability divided by the average daily membership for the State.

(5) "Average daily membership" means average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education. If a county contains only part of a local school administrative unit, the average daily membership of that county includes all students who reside within the county and attend that local school administrative unit.

(6) "County-adjusted property tax base" shall be computed as follows:
- a. Subtract the present-use value of agricultural land, horticultural land, and forestland in the county, as defined in G.S. 105-277.2, from the total assessed real property valuation of the county,
- b. Adjust the resulting amount by multiplying by a weighted average of the three most recent annual sales assessment ratio studies,
- c. Add to the resulting amount the:
  - 1. Present-use value of agricultural land, horticultural land, and forestland, as defined in G.S. 105-277.2,
  - 2. Value of property of public service companies, determined in accordance with Article 23 of Chapter 105 of the General Statutes, and
  - 3. Personal property value for the county.

(7) "County-adjusted property tax base per square mile" means the county-adjusted property tax base divided by the number of square miles of land area in the county.

(8) "County wealth as a percentage of State average wealth" shall be computed as follows:
- a. Compute the percentage that the county per capita income is of the State per capita income and weight the resulting percentage by a factor of five-tenths,
- b. Compute the percentage that the anticipated total county revenue availability per student is of the anticipated State

average revenue availability per student and weight the resulting percentage by a factor of four-tenths,

c. Compute the percentage that the county-adjusted property tax base per square mile is of the State-adjusted property tax base per square mile and weight the resulting percentage by a factor of one-tenth,

d. Add the three weighted percentages to derive the county wealth as a percentage of the State average wealth.

(9) "Effective county tax rate" means the actual county tax rate multiplied by a weighted average of the three most recent annual sales assessment ratio studies.

(10) "Effective State average tax rate" means the average of effective county tax rates for all counties.

(10a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(11) "Per capita income" means the average for the most recent three years for which data are available of the per capita income according to the most recent report of the United States Department of Commerce, Bureau of Economic Analysis, including any reported modifications for prior years as outlined in the most recent report.

(12) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(13) "State average current expense appropriations per student" means the most recent State total of county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(14) "State average adjusted property tax base per square mile" means the sum of the county-adjusted property tax bases for all counties divided by the number of square miles of land area in the State.

(14a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(15) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

SECTION 7.6.(d) Eligibility for Funds. – Except as provided in subsection (h) of this section, the State Board of Education shall allocate these funds to local school administrative units located in whole or in part in counties in which the county wealth as a percentage of the State average wealth is less than one hundred percent (100%).

SECTION 7.6.(e) Allocation of Funds. – Except as provided in subsection (g) of this section, the amount received per average daily membership for a county shall be the difference between the State average current expense appropriations per student and the current expense appropriations per student that the county could provide given the county's wealth and an average effort to fund public schools. (To derive the current expense appropriations per student that the county could be able to provide given the county's wealth and an average effort to fund public schools, multiply the county wealth

as a percentage of State average wealth by the State average current expense appropriations per student.)

The funds for the local school administrative units located in whole or in part in the county shall be allocated to each local school administrative unit located in whole or in part in the county based on the average daily membership of the county's students in the school units.

If the funds appropriated for supplemental funding are not adequate to fund the formula fully, each local school administrative unit shall receive a pro rata share of the funds appropriated for supplemental funding.

SECTION 7.6.(f) Formula for Distribution of Supplemental Funding Pursuant to This Section Only. – The formula in this section is solely a basis for distribution of supplemental funding for low-wealth counties and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for low-wealth counties.

SECTION 7.6.(g) Minimum Effort Required. – Counties that had effective tax rates in the 1996-1997 fiscal year that were above the State average effective tax rate but that had effective rates below the State average in the 1997-1998 fiscal year or thereafter shall receive reduced funding under this section. This reduction in funding shall be determined by subtracting the amount that the county would have received pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws from the amount that the county would have received if qualified for full funding and multiplying the difference by ten percent (10%). This method of calculating reduced funding shall apply one time only.

This method of calculating reduced funding shall not apply in cases in which the effective tax rate fell below the statewide average effective tax rate as a result of a reduction in the actual property tax rate. In these cases, the minimum effort required shall be calculated in accordance with Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

If the county documents that it has increased the per student appropriation to the school current expense fund in the current fiscal year, the State Board of Education shall include this additional per pupil appropriation when calculating minimum effort pursuant to Section 17.1(g) of Chapter 507 of the 1995 Session Laws.

SECTION 7.6.(h) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2003-2005 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show: (i) that it has remedied the deficiency in funding, or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

SECTION 7.6.(i) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2004, if it determines that counties have supplanted funds.

SECTION 7.6.(j) Department of Revenue Reports. – The Department of Revenue shall provide to the Department of Public Instruction a preliminary report for

the current fiscal year of the assessed value of the property tax base for each county prior to March 1 of each year and a final report prior to May 1 of each year. The reports shall include for each county the annual sales assessment ratio and the taxable values of (i) total real property, (ii) the portion of total real property represented by the present-use value of agricultural land, horticultural land, and forestland as defined in G.S. 105-277.2, (iii) property of public service companies determined in accordance with Article 23 of Chapter 105 of the General Statutes, and (iv) personal property.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

SMALL SCHOOL SYSTEM SUPPLEMENTAL FUNDING

SECTION 7.7.(a) Funds for Small School Systems. – Except as provided in subsection (b) of this section, the State Board of Education shall allocate funds appropriated for small school system supplemental funding (i) to each county school administrative unit with an average daily membership of fewer than 3,175 students and (ii) to each county school administrative unit with an average daily membership from 3,175 to 4,000 students if the county in which the local school administrative unit is located has a county-adjusted property tax base per student that is below the State-adjusted property tax base per student and if the total average daily membership of all local school administrative units located within the county is from 3,175 to 4,000 students. The allocation formula shall:

(1) Round all fractions of positions to the next whole position.

(2) Provide five and one-half additional regular classroom teachers in counties in which the average daily membership per square mile is greater than four, and seven additional regular classroom teachers in counties in which the average daily membership per square mile is four or fewer.

(3) Provide additional program enhancement teachers adequate to offer the standard course of study.

(4) Change the duty-free period allocation to one teacher assistant per 400 average daily membership.

(5) Provide a base for the consolidated funds allotment of at least five hundred seventy-seven thousand one hundred eleven dollars ($577,111), excluding textbooks.

(6) Allot vocational education funds for grade 6 as well as for grades 7-12.

If funds appropriated for each fiscal year for small school system supplemental funding are not adequate to fund fully the program, the State Board of Education shall reduce the amount allocated to each county school administrative unit on a pro rata basis. This formula is solely a basis for distribution of supplemental funding for certain county school administrative units and is not intended to reflect any measure of the adequacy of the educational program or funding for public schools. The formula is also not intended to reflect any commitment by the General Assembly to appropriate any additional supplemental funds for such county administrative units.

SECTION 7.7.(b) Nonsupplant Requirement. – A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds. For the 2003-2005 fiscal biennium, the State Board of Education shall not allocate funds under this section to a county found to have used these funds to supplant local per student current expense funds. The State Board of Education shall make a finding that a county has used these funds to supplant local current expense funds in the prior year, or the year for which the most recent data are available, if:

(1) The current expense appropriation per student of the county for the current year is less than ninety-five percent (95%) of the average of the local current expense appropriations per student for the three prior fiscal years; and

(2) The county cannot show: (i) that it has remedied the deficiency in funding, or (ii) that extraordinary circumstances caused the county to supplant local current expense funds with funds allocated under this section.

The State Board of Education shall adopt rules to implement this section.

SECTION 7.7.(c) Phase-Out Provisions. – If a local school administrative unit becomes ineligible for funding under this formula solely because of an increase in the county-adjusted property tax base per student of the county in which the local school administrative unit is located, funding for that unit shall be phased out over a two-year period. For the first year of ineligibility, the unit shall receive the same amount it received for the prior fiscal year. For the second year of ineligibility, it shall receive one-half of that amount.

If a local school administrative unit becomes ineligible for funding under this formula solely because of an increase in the population of the county in which the local school administrative unit is located, funding for that unit shall be continued for five years after the unit becomes ineligible.

SECTION 7.7.(d) Definitions. – As used in this section:

(1) "Average daily membership" means within two percent (2%) of the average daily membership as defined in the North Carolina Public Schools Allotment Policy Manual, adopted by the State Board of Education.

(2) "County-adjusted property tax base per student" means the total assessed property valuation for each county, adjusted using a weighted average of the three most recent annual sales assessment ratio studies, divided by the total number of students in average daily membership who reside within the county.

(2a) "Local current expense funds" means the most recent county current expense appropriations to public schools, as reported by local boards of education in the audit report filed with the Secretary of the Local Government Commission pursuant to G.S. 115C-447.

(3) "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

(4) "State-adjusted property tax base per student" means the sum of all county adjusted property tax bases divided by the total number of students in average daily membership who reside within the State.

(4a) "Supplant" means to decrease local per student current expense appropriations from one fiscal year to the next fiscal year.

(5) "Weighted average of the three most recent annual sales assessment ratio studies" means the weighted average of the three most recent annual sales assessment ratio studies in the most recent years for which county current expense appropriations and adjusted property tax valuations are available. If real property in a county has been revalued one year prior to the most recent sales assessment ratio study, a weighted average of the two most recent sales assessment ratios shall be used. If property has been revalued during the year of the most recent sales assessment ratio study, the sales assessment ratio for the year of revaluation shall be used.

SECTION 7.7.(e) Reports. – The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to May 1, 2004, if it determines that counties have supplanted funds.

SECTION 7.7.(f) Use of Funds. – Local boards of education are encouraged to use at least twenty percent (20%) of the funds they receive pursuant to this section to improve the academic performance of children who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 and children who are performing at Level I or II on the writing tests in grades 4 and 7. Local boards of

education shall report to the State Board of Education on an annual basis on funds used for this purpose and the State Board shall report this information to the Joint Legislative Education Oversight Committee. These reports shall specify how these funds were targeted and used to implement specific improvement strategies of each local school administrative unit and its schools such as teacher recruitment, closing the achievement gap, improving student accountability, addressing the needs of at-risk students, and establishing and maintaining safe schools.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

APPROPRIATIONS FOR CONTINUALLY LOW-PERFORMING SCHOOLS

SECTION 7.8. Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of one million nine hundred fifty-six thousand one hundred fifteen dollars ($1,956,115) for the 2003-2004 and 2004-2005 fiscal years shall be used to provide the State's chronically low-performing schools with tools needed to dramatically improve student achievement. These funds shall be used to implement any of the following strategies at the schools that have not previously been implemented with State or other funds:

(1) The sum of one million six hundred fifty-seven thousand three hundred forty-five dollars ($1,657,345) for the 2003-2004 and 2004-2005 fiscal years shall be used to reduce class size at a continually low-performing school to ensure that the number of teachers allotted for students in grades four and five is one for every 17 students, and that the number of teachers allotted in grades six through eight is one for every 17 students, and that the number of teachers allotted in grades nine through twelve is one for every 20 students; and

(2) The sum of two hundred ninety-eight thousand seven hundred seventy dollars ($298,770) for the 2003-2004 and 2004-2005 fiscal years shall be used to extend teachers' contracts for a total of 10 days, including five days of additional instruction with related costs for other than teachers' salaries for the 2003-2004 and 2004-2005 school years.

Notwithstanding any other provision of law, the State Board of Education may implement intervention strategies for the 2003-2004 and 2004-2005 school years that it deems appropriate.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

IMMEDIATE ASSISTANCE TO THE HIGHEST PRIORITY ELEMENTARY SCHOOLS

SECTION 7.9. Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of ten million one hundred thirty-four thousand six hundred seven dollars ($10,134,607) for the 2003-2004 and 2004-2005 fiscal years shall be budgeted to provide the State's lowest performing elementary schools with the tools needed to dramatically improve student achievement. These funds shall be used for the 37 elementary schools at which, for the 1999-2000 school year over eighty percent (80%) of the students qualified for free or reduced-price lunches, and no more than fifty-five percent (55%) of the students performed at or above grade level. Of these funds:

(1) The sum of six million ninety-three thousand one hundred eighty-one dollars ($6,093,181) for the 2003-2004 and 2004-2005 fiscal years shall be used to reduce class size at each of these schools to ensure that no class kindergarten through third grade has more than 15 students;

(2) The sum of two million two hundred sixty-six thousand twenty-six dollars ($2,266,026) for the 2003-2004 and 2004-2005 fiscal years shall be used to extend all teachers' contracts at these schools for a total of 10 days, with five days for staff development, including staff development on methods to individualize instruction in smaller

classes, and preparation for the 2003-2004 and 2004-2005 school years, and five additional days of instruction with related costs for other than teachers' salaries; and

(3) The sum of one million seven hundred seventy-five thousand four hundred dollars ($1,775,400) for the 2003-2004 and 2004-2005 fiscal years shall be used to provide one additional instructional support position at each priority school.

No funds from the teacher assistant allotment category may be allotted to the local school administrative units for students assigned to these schools. Any teacher assistants displaced from jobs in these high-priority elementary schools shall be given preferential consideration for vacant teacher assistant positions at other schools, provided their job performance has been satisfactory. Nothing in this section prevents the local school administrative unit from placing teacher assistants in these schools.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

EVALUATION OF INITIATIVES TO ASSIST HIGH-PRIORITY SCHOOLS

SECTION 7.10.(a) In order for the high-priority schools identified in Section 7.9 of this act to remain eligible for the additional resources provided in this section, the schools must meet the expected growth for each year and must achieve high growth for at least two out of three years based on the State Board of Education's annual performance standards set for each school. No adjustment in the allotment of resources based on performance shall be made until the 2004-2005 school year.

SECTION 7.10.(b) All teaching positions allotted for students in high-priority schools and continually low-performing schools in those grades targeted for smaller class sizes shall be assigned to and teach in those grades and in those schools. The maximum class size in grades K-3 in high-priority schools and in grades K-5 in continually low-performing schools shall be no more than one student above the allotment ratio in that grade. The Department of Public Instruction shall monitor class sizes at these schools at the end of the first month of school and report to the State Board of Education on the actual class sizes at these schools. If the local school administrative unit notifies the State Board of Education that they do not have sufficient resources to adhere to the class size maximum requirements and requests additional teaching positions, the State Board shall verify the need for additional positions. If the additional resources are determined necessary, the State Board of Education may allocate additional teaching positions to the unit from the Reserve for Average Daily Membership adjustments.

SECTION 7.10.(c) Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of five hundred thousand dollars ($500,000) for fiscal year 2003-2004 and the sum of five hundred thousand dollars ($500,000) for fiscal year 2004-2005 shall be used by the State Board of Education to contract with an outside organization to evaluate the initiatives set forth in this section. The evaluation shall include:

(1) An assessment of the overall impact these initiatives have had on student achievement;

(2) An assessment of the effectiveness of each individual initiative set for this section in improving student achievement;

(3) An identification of changes in staffing patterns, instructional methods, staff development, and parental involvement as a result of these initiatives;

(4) An accounting of how funds and personnel resources made available for these schools were utilized and the impact of varying patterns of utilization on changes in student achievement;

(5) An assessment of the impact of bonuses for mathematics, science, and special education teachers on (i) the retention of these teachers in the targeted schools, (ii) the recruitment of teachers in these specialties

into targeted schools, (iii) the recruitment of teachers certified in these disciplines, and (iv) student achievement in schools at which these teachers receive these bonuses; and

(6) Recommendations for the continuance and improvement of these initiatives.

The State Board of Education shall make a report to the Joint Legislative Education Oversight Committee regarding the results of this evaluation by December 1 of each year. The State Board of Education shall submit its recommendations for changes to these initiatives to the Committee at anytime.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

AT-RISK STUDENT SERVICES/ALTERNATIVE SCHOOLS

SECTION 7.11. The State Board of Education may use up to two hundred thousand dollars ($200,000) of the funds in the Alternative Schools/At-Risk Student allotment each year for the 2003-2004 fiscal year and for the 2004-2005 fiscal year to implement G.S. 115C-12(24).

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

ADDITIONAL TEACHER POSITIONS FOR SECOND GRADE

SECTION 7.12.(a) The maximum class size limits for second grade established by the State Board of Education for the 2003-2004 school year shall be reduced by two from the 2002-2003 limits, based on an allotment ratio of one teacher for every 18 students.

SECTION 7.12.(b) For the 2003-2004 school year, local school administrative units shall use these additional teacher positions to reduce class size in second grade.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

CHILDREN WITH DISABILITIES

SECTION 7.13. The State Board of Education shall allocate funds for children with disabilities on the basis of two thousand six hundred seventy dollars and twenty-eight cents ($2,670.28) per child for a maximum of 165,266 children for the 2003-2004 school year. Each local school administrative unit shall receive funds for the lesser of (i) all children who are identified as children with disabilities or (ii) twelve and five-tenths percent (12.5%) of the 2003-2004 allocated average daily membership in the local school administrative unit.

The dollar amounts allocated under this section for children with disabilities shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve children with disabilities.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

FUNDS FOR ACADEMICALLY GIFTED CHILDREN

SECTION 7.14. The State Board of Education shall allocate funds for academically or intellectually gifted children on the basis of eight hundred eighty-four dollars and fifty-five cents ($884.55) per child. A local school administrative unit shall receive funds for a maximum of four percent (4%) of its 2003-2004 allocated average daily membership, regardless of the number of children identified as academically or intellectually gifted in the unit. The State Board shall allocate funds for no more than 53,712 children for the 2003-2004 school year.

The dollar amounts allocated under this section for academically or intellectually gifted children shall also adjust in accordance with legislative salary increments, retirement rate adjustments, and health benefit adjustments for personnel who serve academically or intellectually gifted children.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

STUDENTS WITH LIMITED ENGLISH PROFICIENCY

SECTION 7.15.(a) The State Board of Education shall develop guidelines for identifying and providing services to students with limited proficiency in the English language.

The State Board shall allocate these funds to local school administrative units and to charter schools under a formula that takes into account the average percentage of students in the units or the charters over the past three years who have limited English proficiency. The State Board shall allocate funds to a unit or a charter school only if (i) average daily membership of the unit or the charter school includes at least 20 students with limited English proficiency or (ii) students with limited English proficiency comprise at least two and one-half percent (2.5%) of the average daily membership of the unit or charter school. For the portion of the funds that is allocated on the basis of the number of identified students, the maximum number of identified students for whom a unit or charter school receives funds shall not exceed 10 and six-tenths percent (10.6%) of its average daily membership.

Local school administrative units shall use funds allocated to them to pay for classroom teachers, teacher assistants, tutors, textbooks, classroom materials/instructional supplies/equipment, transportation costs, and staff development of teachers for students with limited English proficiency.

A county in which a local school administrative unit receives funds under this section shall use the funds to supplement local current expense funds and shall not supplant local current expense funds.

SECTION 7.15.(b) The Department of Public Instruction shall prepare a current head count of the number of students classified with limited English proficiency by December 1 of each year.

Students in the head count shall be assessed at least once every three years to determine their level of English proficiency. A student who scores "superior" on the standard English language proficiency assessment instrument used in this State shall not be included in the head count of students with limited English proficiency.

SECTION 7.15.(c) The State Board of Education shall review the allotment formula for funding for students with limited English proficiency. In its review, the Board shall consider whether the proportion of funds allotted on the basis of concentration of students with limited English proficiency in a local school administrative unit is at the proper level or should be revised. The Board shall report the results of its review and its recommendations to the Joint Legislative Education Oversight Committee by November 15, 2003.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

FUNDS TO IMPLEMENT THE ABCS OF PUBLIC EDUCATION

SECTION 7.16.(a) The State Board of Education shall use funds appropriated for State Aid to Local School Administrative Units for the 2003-2004 fiscal year to provide incentive funding for schools that met or exceeded the projected levels of improvement in student performance during the 2002-2003 school year, in accordance with the ABCs of Public Education Program. In accordance with State Board of Education policy:

(1) Incentive awards in schools that achieve higher than expected improvements may be up to:
   a. One thousand five hundred dollars ($1,500) for each teacher and for certified personnel; and
   b. Five hundred dollars ($500.00) for each teacher assistant.

(2) Incentive awards in schools that meet the expected improvements may be up to:
   a. Seven hundred fifty dollars ($750.00) for each teacher and for certified personnel; and

b. Three hundred seventy-five dollars ($375.00) for each teacher assistant.

SECTION 7.16.(b) The State Board of Education may use funds appropriated to State Aid to Local School Administrative Units for assistance teams to low-performing schools.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

LEA ASSISTANCE PROGRAM

SECTION 7.17. Of funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of five hundred thousand dollars ($500,000) for fiscal year 2003-2004 shall be used to provide assistance to the State's low-performing Local School Administrative Units (LEAs) and to assist schools in meeting adequate yearly progress in each subgroup identified in the No Child Left Behind Act of 2001. The State Board of Education shall report to the Office of State Budget and Management, the Fiscal Research Division, and the Joint Legislative Education Oversight Committee on the expenditure of these funds by May 15, 2004, and by December 15, 2005. The report shall contain: (1) the criteria for selecting LEAs and schools to receive assistance, (2) measurable goals and objectives for the assistance program, (3) an explanation of the assistance provided, (4) findings from the assistance program, (5) actual expenditures by category, (6) recommendations for the continuance of this program, and (7) any other information the State Board deems necessary.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

EXPENDITURE OF FUNDS TO IMPROVE STUDENT ACCOUNTABILITY

SECTION 7.18.(a) Funds appropriated for the 2003-2004 and 2004-2005 fiscal years for Student Accountability Standards shall be used to assist students to perform at or above grade level in reading and mathematics in grades 3-8 as measured by the State's end-of-grade tests. The SBE shall allocate these funds to LEAs based on the number of students who score at Level I or Level II on either reading or mathematics end-of-grade tests in grades 3-8. Funds in the allocation category shall be used to improve the academic performance of (i) students who are performing at Level I or II on either reading or mathematics end-of-grade tests in grades 3-8 or (ii) students who are performing at Level I or II on the writing tests in grades 4 and 7. These funds may also be used to improve the academic performance of students who are performing at Level I or II on the high school end-of-course tests. These funds shall not be transferred to other allocation categories or otherwise used for other purposes. Except as otherwise provided by law, local boards of education may transfer other funds available to them into this allocation category.

The principal of a school receiving these funds, in consultation with the faculty and the site-based management team, shall implement plans for expending these funds to improve the performance of students.

Local boards of education are encouraged to use federal funds such as Title I Comprehensive School Reform Development Funds and to examine the use of State funds to ensure that every student is performing at or above grade level in reading and mathematics.

These funds shall be allocated to local school administrative units for the 2003-2004 fiscal year within 30 days of the date this act becomes law.

SECTION 7.18.(b) Funds appropriated for Student Accountability Standards shall not revert at the end of each fiscal year but shall remain available for expenditure until August 31 of the subsequent fiscal year.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

FUNDS FOR TEACHER RECRUITMENT INITIATIVES

SECTION 7.19. The State Board of Education may use up to two hundred thousand dollars ($200,000) of the funds appropriated for State Aid to Local School

Administrative Units each year for the 2003-2004 fiscal year and for the 2004-2005 fiscal year to enable teachers who have received NBPTS certification or who have otherwise received special recognition to advise the State Board of Education on teacher recruitment and other strategic priorities of the State Board.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

RECRUITMENT AND RETENTION INITIATIVE TO ADDRESS TEACHER SHORTAGE

SECTION 7.20.(a) Of the funds appropriated from the General Fund to State Aid to Local School Administrative Units, the sum of two million eight hundred ninety thousand dollars ($2,890,000) for the 2003-2004 and 2004-2005 fiscal years shall be used to provide annual bonuses of one thousand eight hundred dollars ($1,800) to teachers certified in and teaching in the fields of mathematics, science, or special education in grades 6 through 12 at middle and high schools with eighty percent (80%) or more of the students eligible for free or reduced lunch or with fifty percent (50%) or more of students performing below grade level in Algebra I and Biology. The bonus shall be paid monthly with matching benefits. Teachers shall remain eligible for the bonuses so long as they continue to teach in one of these disciplines at a school that was eligible for the bonus program when the teacher first received this bonus.

SECTION 7.20.(b) In accordance with G.S. 115C-325 and by way of clarification, it shall not constitute a demotion as that term is defined in G.S. 115C-325(a)(4) if:

(1) A teacher who receives a bonus pursuant to this section is reassigned to a school at which there is no such bonus;

(2) A teacher who receives a bonus pursuant to this section is reassigned to teach in a field for which there is no such bonus; or

(3) A teacher receives a bonus pursuant to this section and the bonus is subsequently discontinued or reduced.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

FUNDS FOR THE TESTING AND IMPLEMENTATION OF THE NEW STUDENT INFORMATION SYSTEM

SECTION 7.21.(a) The State Board of Education may transfer up to one million dollars ($1,000,000) in funds appropriated for the Uniform Education Reporting System for the 2003-2004 fiscal year and up to one million dollars ($1,000,000) in funds appropriated for the Uniform Education Reporting System for the 2004-2005 fiscal year to the Department of Public Instruction to lease or purchase equipment necessary for the testing and implementation of NC WISE, the new student information system in the public schools.

Testing shall include an emphasis on the security of the system.

SECTION 7.21.(b) Funds appropriated for the Uniform Education Reporting System shall not revert at the end of the 2003-2004 and 2004-2005 fiscal years, but shall remain available until expended.

SECTION 7.21.(c) This section becomes effective June 30, 2003.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

LITIGATION RESERVE FUNDS

SECTION 7.22. The State Board of Education may expend up to five hundred thousand dollars ($500,000) each year for the 2003-2004 and 2004-2005 fiscal years from unexpended funds for certified employees' salaries to pay expenses related to pending litigation.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

LOCAL EDUCATION AGENCY FLEXIBILITY

SECTION 7.23. Within 14 days of the date this act becomes law, the State Board of Education shall notify each local school administrative unit of the amount the unit must reduce from State General Fund appropriations. The State Board shall determine the amount of the reduction for each unit on the basis of average daily membership.

Each unit shall report to the Department of Public Instruction on the discretionary budget reductions it has identified for the unit within 30 days of the date this act becomes law. No later than December 31, 2003, the State Board of Education shall make a summary report to the Office of State Budget and Management and the Fiscal Research Division on all reductions made by the LEAs to achieve this reduction.

For fiscal year 2003-2004, the Governor urges local school administrators to make every effort to reduce spending whenever and wherever such budget reductions are appropriate as long as the targeted reductions do not directly impact classroom services or any services for students at risk or children with special needs, including those services or supports that are called for in students' Personal Education Plans (PEP) and/or Individual Education Plans (IEP). If reductions to the allotment categories listed in this paragraph are necessary in order to meet the reduction target, the local board of education shall submit an explanation of the anticipated impact of the reductions to student services along with the budget reductions to the Department of Public Instruction. By February 15, 2004, for fiscal year 2004-2005, the State Board of Education will determine the changes to the allotment categories to make such reductions permanent.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

BASE BUDGET REDUCTION TO DEPARTMENT OF PUBLIC INSTRUCTION

SECTION 7.24. Notwithstanding any other provision of law, the Department of Public Instruction may use salary reserve funds and other funds, and may transfer funds within the Department's continuation budget to implement budget reductions for the 2003-2004 fiscal year.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

REPLACEMENT SCHOOL BUSES FUNDS

SECTION 7.25.(a) Of the funds appropriated to the State Board of Education, the Board may use up to fifteen million dollars ($15,000,000) for the 2003-2004 fiscal year and up to forty-seven million seven hundred fifty-two thousand eight hundred thirteen dollars ($47,752,813) for the 2004-2005 fiscal year for allotments to local boards of education for replacement school buses under G.S. 115C-249(c) and (d). In making these allotments, the State Board of Education may impose any of the following conditions:

(1) The local board of education must use the funds only to make the first or second year's payment on a financing contract entered into pursuant to G.S. 115C-528.

(2) The term of a financing contract entered into under this section shall not exceed three years.

(3) The local board of education must purchase the buses only from vendors selected by the State Board of Education and on terms approved by the State Board of Education.

(4) The State Board of Education shall solicit bids for the direct purchase of buses and for the purchasing of buses through financing. The State Board of Education may solicit separate bids for financing if the Board determines that multiple financing options are more cost-efficient.

(5) A bus financed pursuant to this section must meet all federal motor vehicle safety regulations for school buses.

(6) Any other condition the State Board of Education considers appropriate.

SECTION 7.25.(b) Any term contract for the purchase or lease-purchase of school buses or school activity buses shall not require vendor payment of the electronic procurement transaction fee of the North Carolina E-Procurement Service.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

EXPENDITURES FOR DRIVING ELIGIBILITY CERTIFICATES

SECTION 7.26. The State Board of Education may use funds appropriated for drivers education for the 2003-2004 fiscal year and for the 2004-2005 fiscal year for driving eligibility certificates.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

DISCREPANCIES BETWEEN ANTICIPATED AND ACTUAL ADM

SECTION 7.27.(a) If the State Board of Education does not have sufficient resources in the ADM Contingency Reserve line item to make allotment adjustments in accordance with the Allotment Adjustments for ADM Growth provisions of the North Carolina Public Schools Allotment Policy Manual, the State Board of Education may use funds appropriated to State Aid for Public Schools for this purpose.

SECTION 7.27.(b) If the higher of the first or second month average daily membership in a local school administrative unit is at least two percent (2%) or 100 students lower than the anticipated average daily membership used for allotments for the unit, the State Board of Education shall reduce allotments for the unit. The reduced allotments shall be based on the higher of the first or second month average daily membership plus one-half of the number of students overestimated in the anticipated average daily membership.

The allotments reduced pursuant to this subsection shall include only those allotments that may be increased pursuant to the Allotment Adjustments for ADM Growth provisions of the North Carolina Public Schools Allotment Policy Manual.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

CHARTER SCHOOL ADVISORY COMMITTEE/CHARTER SCHOOL EVALUATION

SECTION 7.28. The State Board of Education may spend up to fifty thousand dollars ($50,000) a year from the State Aid to Local School Administrative Units for the 2003-2004 and 2004-2005 fiscal years to continue support of a charter school advisory committee and to continue to evaluate charter schools.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

STUDY OF ISSUES RELATED TO RAPID GROWTH IN STUDENT POPULATION

SECTION 7.29. The Joint Legislative Education Oversight Committee shall study the effects of rapid growth in student population on local school administrative units. In the course of the study, the Committee shall consider issues related to rapid growth and strategies for addressing these issues. The Committee shall report to the 2004 Regular Session of the General Assembly on its findings and recommendations.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

MENTOR TEACHER FUNDS MAY BE USED FOR FULL-TIME MENTORS

SECTION 7.30.(a) The State Board of Education shall grant flexibility to a local board of education regarding the use of mentor funds to provide mentoring support, provided the local board submits a detailed plan on the use of the funds to the State Board and the State Board approves that plan. The plan shall include information on how all mentors in the local school administrative unit have been or will be adequately trained to provide mentoring support.

Local boards of education shall use funds allocated for mentor teachers to provide mentoring support to all State-paid newly certified teachers, second-year teachers who were assigned mentors during the prior school year, and entry-level instructional support personnel who have not previously been teachers.

SECTION 7.30.(b) The State Board of Education, after consultation with the Professional Teaching Standards Commission, shall adopt standards for mentor training.

SECTION 7.30.(c) Each local board of education with a plan approved pursuant to subsection (a) of this section shall report to the State Board of Education on the impact of its mentor program on teacher retention. The State Board of Education shall report to the Joint Legislative Education Oversight Committee by October 1, 2004, on the characteristics of mentor programs that are most effective in retaining teachers.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

EXPLORNET AUDIT

SECTION 7.31. No State funds appropriated for distribution to ExplorNet, Incorporated, shall be disbursed until the State Auditor and the Office of State Budget and Management certify that ExplorNet, Incorporated, has received an audit report for the 2001-2002 fiscal year that is free of audit exceptions. A copy of the certification by the State Auditor and the Office of State Budget and Management shall be sent to the Joint Legislative Education Oversight Committee and to the Joint Legislative Commission on Governmental Operations.

PART VIII. COMMUNITY COLLEGES

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

COMMUNITY COLLEGE FUNDING FLEXIBILITY

SECTION 8.1. A local community college may use all State funds allocated to it, except for Literacy Funds and Funds for New and Expanding Industries, for any authorized purpose that is consistent with the college's Institutional Effectiveness Plan. Each local community college shall include in its Institutional Effectiveness Plan a section on how funding flexibility allows the college to meet the demands of the local community and to maintain a presence in all previously funded categorical programs.

No more than two percent (2%) systemwide shall be transferred from faculty salaries without the approval of the State Board of Community Colleges. The State Board shall report on any such transfers above two percent (2%) systemwide to the Office of State Budget and Management and the Joint Legislative Commission on Governmental Operations at its next meeting.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

FLEXIBILITY TO IMPLEMENT BUDGET REDUCTIONS

SECTION 8.2. Notwithstanding G.S. 143-23 or any other provision of law, the State Board of Community Colleges may use salary reserve funds and other funds, and may transfer funds within the Community College System Office continuation budget to the extent necessary to implement budget reductions for the 2003-2004 fiscal year.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

STATE BOARD OF COMMUNITY COLLEGE MANAGEMENT FLEXIBILITY

SECTION 8.3. Within 30 days of the date this act becomes law, the State Board of Community Colleges shall notify each college of the amount the college must reduce from State General Fund appropriations. The State Board shall determine the amount of the reduction for each unit on the basis of FTE or another method that accounts for the unique needs of specific colleges.

Each college shall report to the State Board of Community Colleges on the discretionary budget reductions it has identified for the college within 60 days of the date this act becomes law. No later than December 31, 2003, the State Board of Community Colleges shall make a summary report to the Office of State Budget and Management and the Fiscal Research Division on all reductions made by the colleges to achieve this reduction.

For fiscal year 2003-2004, the General Assembly urges local college administrators to make every effort to reduce spending whenever and wherever such budget reductions are appropriate and as long as the targeted reductions do not directly impact classroom services or those services that are identified in this act as a high-need area for the State. If reductions to the allotment categories listed in this paragraph are necessary in order to meet the reduction target, the local college administration shall submit an explanation of the anticipated impact of the reductions to student services along with the budget reductions to the State Board of Community Colleges.

By February 15, 2004, for fiscal year 2004-2005, the State Board of Community Colleges will determine the changes to the allotment categories to make such reductions permanent.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

REGISTRATION FEES FOR OCCUPATIONAL CONTINUING EDUCATION OR FOCUSED INDUSTRIAL TRAINING

SECTION 8.4. Of the funds appropriated to the North Carolina Community College System for the 2003-2005 biennium, the State Board of Community Colleges may use up to one hundred thousand dollars ($100,000) each year to pay registration fees and material costs for Occupational Continuing Education or Focused Industrial Training safety courses provided to companies that (i) are eligible to participate in the Focused Industrial Training Program, (ii) have less than 150 employees, and (iii) are found by community college representatives and regional customized training directors to face challenges in paying these fees and costs. These funds shall not be expended without the prior approval of the North Carolina Community College System Office, Division of Economic and Workforce Development.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

SUMMER SCHOOL FUNDING

SECTION 8.5. The General Assembly encourages the North Carolina Community Colleges System to use funds appropriated to support summer term curriculum FTE to address issues associated with worker shortages in high-needs industries such as (i) Business Technology, (ii) Health Sciences, (iii) Child Care Training, and (iv) Public Service Technologies including law enforcement, fire protection, and education.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

CARRY FORWARD FOR EQUIPMENT

SECTION 8.6.(a) Subject to cash availability, the North Carolina Community Colleges System may carry forward an amount not to exceed fifteen million dollars ($15,000,000) of the operating funds held in reserve that were not reverted in fiscal year 2002-2003 to be reallocated to the State Board of Community Colleges' Equipment Reserve Fund. These funds should be distributed to colleges consistent with G.S. 115D-31.

SECTION 8.6.(b) This section becomes effective June 30, 2003.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

HOSIERY CENTER FUNDS

SECTION 8.7. Notwithstanding any other provision of law, all fees collected by the Hosiery Technology Center of Catawba Valley Community College for

the testing of hosiery products shall be retained by the Center and used for the operations of the Center. Purchases made by the Center using these funds are not subject to the provisions of Article 3 of Chapter 143 of the General Statutes.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

SCHOLARSHIPS FOR PROSPECTIVE TEACHERS

SECTION 8.8. Of the funds appropriated in this act to the State Board of Community Colleges, the State Board may use up to one million dollars ($1,000,000) for a nonrecurring grant to the North Carolina Community College Foundation. These funds shall be used to match the Glaxo Smith Kline Foundation challenge grant establishing a two million dollar ($2,000,000) endowment for the creation of a new scholarship program for prospective teachers enrolled in baccalaureate completion programs at State community college campuses and for the development of teacher preparation courses.

This provision is contingent upon receipt of one million dollars ($1,000,000) for this purpose from the Glaxo Smith Kline Foundation and applies only to the 2003-2004 fiscal year.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

MANAGEMENT INFORMATION SYSTEM FUNDS

SECTION 8.9.(a) Funds appropriated for the Community Colleges System Office Management Information System shall not revert at the end of the 2002-2003 and 2003-2004 fiscal years but shall remain available until expended.

SECTION 8.9.(b) This section becomes effective June 30, 2003.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

USE OF LITERACY FUNDS FOR LITERACY LABS

SECTION 8.10. Notwithstanding any other provision of law, a local community college may use up to five percent (5%) of the Literacy Funds allocated to it by the State Board of Community Colleges to procure computers for literacy labs.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

FACULTY AND PROFESSIONAL STAFF SALARIES

SECTION 8.11. Three million two hundred fifty thousand dollars ($3,250,000) in the Reserve for Compensation Increases in Section 2.1 of this act shall be used to increase faculty and professional staff salaries by an average of one-half percent (0.5%). These increases are in addition to the one and six-tenths percent (1.6%) provided by Section 30.11 of this act. Colleges may provide additional increases from funds available.

The State Board of Community Colleges shall adopt rules to ensure that these funds are used only to move faculty and professional staff to the respective national averages. The funds shall not be transferred by the State Board or used for any other budget purpose by the community colleges.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

EVALUATION OF THE COMPREHENSIVE ARTICULATION AGREEMENT

SECTION 8.12.(a) The General Assembly finds that (i) there is a general sentiment expressed by students that the Comprehensive Articulation Agreement adopted by the Board of Governors of The University of North Carolina and the State Board of Community Colleges should be improved and (ii) over the past five years, there have been many suggestions for improving the Comprehensive Articulation Agreement as well as recommendations for new directions in which the Comprehensive Articulation Agreement should be developed.

SECTION 8.12.(b) The Joint Legislative Education Oversight Committee shall contract with a credible independent source, individual, or organization, to study the Comprehensive Articulation Agreement. The contractor shall not be (i) a current employee of The University of North Carolina, Office of the President, the North Carolina Community College System, or any of the North Carolina independent schools/colleges participating in the Comprehensive Articulation Agreement or (ii) a current or past member of the Transfer Advisory Committee.

SECTION 8.12.(c) The study by the contractor shall:

(1) Be consistent with the standards of Southern Association of Colleges and Schools, Commission on Colleges, on educational quality and institutional effectiveness;

(2) Be designed to provide an accurate and credible assessment of the effectiveness of the Comprehensive Articulation Agreement during its initial five years of existence relative to the intent of its authorizing legislation;

(3) Be based on qualitative as well as quantitative information and data;

(4) Take no more than four months from initiation to completion.

(5) Include input from college transfer students, counselors, faculty, and administration from both systems.

SECTION 8.12.(d) The contractor's report shall:

(1) Adequately reflect the study's methodology, sources of information, purpose and scope, analyses, evaluative assessments, recommendations, and conclusions;

(2) State any known deficiencies or limitations of the study;

(3) Be presented in both a printed form and an electronic version; and

(4) Provide recommendations for improving the Comprehensive Articulation Agreement.

SECTION 8.12.(e) The contractor shall submit a written progress report every four weeks to the vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochairs of the Transfer Advisory Committee. The contractor shall complete the report within four months. At the completion of the study, the contractor shall submit a draft of the report document to the vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochairs of the Transfer Advisory Committee for review.

SECTION 8.12.(f) The vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochairs of the Transfer Advisory Committee shall respond to the draft report within 30 days of receiving the draft.

SECTION 8.12.(g) Within 60 days of completing the study, the contractor shall submit a final report to the vice-president of academic affairs of The University of North Carolina, Office of the President, the vice-president of academic affairs of the North Carolina Community College System Office, and the cochairs of the Transfer Advisory Committee. The vice-president of academic affairs of The University of North Carolina, Office of the President, and the vice-president of academic affairs of the North Carolina Community College System Office may, in their discretion, schedule a formal presentation of the report when it is submitted.

SECTION 8.12.(h) Designees of the vice-president of academic affairs of The University of North Carolina, Office of the President, and the vice-president of academic affairs of the North Carolina Community College System Office shall be the liaisons for matters related to the execution of the study.

SECTION 8.12.(i) The University of North Carolina, Office of the President, and the North Carolina Community College System shall provide the contractor with access and use of information databases to the extent that such access and use is necessary for the study and does not violate legal and ethical codes or create disruptions of normal operations.

SECTION 8.12.(j) The University of North Carolina, Office of the President, and the North Carolina Community College System shall each transfer thirty-five thousand dollars ($35,000) to the Joint Legislative Education Oversight Committee to carry out this study.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

AUTOMOTIVE TRAINING INCENTIVE

SECTION 8.13. Of the funds appropriated in this act for the State Board of Community Colleges for the 2003-2004 fiscal year, the sum of one hundred twenty-five thousand dollars ($125,000) shall be used for a nonrecurring grant to the North Carolina Community College Foundation provided that a like amount is provided by the North Carolina Automotive Dealers Association to match these funds on a dollar-for-dollar basis. The North Carolina Community College Foundation shall use these funds to provide incentive programming at the colleges that offer Automotive Systems Technology. The funds shall be used to:

(1) Increase awareness of careers available in the franchised automobile and truck industry in North Carolina;

(2) Increase awareness within North Carolina's middle school and high school guidance counselors and workforce development coordinators;

(3) Increase public awareness of teaching opportunities in North Carolina's high schools and community colleges in the area of automotive technology;

(4) Increase opportunities in continuing education for automotive technology high school and community college instructors;

(5) Provide a program coordinator to work with the franchised car and truck dealers and with community college and high school automotive professionals to ensure that the automotive curriculum is uniform and appropriate; and

(6) Increase resources to assist high schools and community colleges in gaining and maintaining certification for their respective automotive technology programs.

PART IX. UNIVERSITIES

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

UNC FLEXIBILITY GUIDELINES

SECTION 9.1. The Chancellor of each constituent institution shall report to the Board of Governors of The University of North Carolina on the reductions made to the General Fund budget codes in order to meet the reduction reserve amounts for that institution. The President of The University of North Carolina shall report to the Board of Governors of The University of North Carolina on the reductions made to the General Fund budget codes controlled by the Board in order to meet the reduction reserve amounts for those entities. The Board of Governors shall make a summary report to the Office of State Budget and Management and the Fiscal Research Division by December 31, 2003, on all reductions made by these entities and constituent institutions in order to reduce the budgets by the targeted amounts.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

ESCHEAT FUNDS

SECTION 9.2.(a) There is appropriated from the Escheat Fund income to the Board of Governors of The University of North Carolina the sum of eighteen million six hundred seven thousand two hundred ninety-three dollars ($18,607,293) for each year of the 2003-2005 fiscal biennium and to the State Board of Community Colleges the sum of seven million sixty-two thousand eight hundred six dollars ($7,062,806) for each year of the 2003-2005 fiscal biennium. These funds shall be allocated by the State Educational Assistance Authority for need-based student financial aid in accordance with G.S. 116B-7.

SECTION 9.2.(b) The Director of the Budget shall include General Fund appropriations in the amounts provided in subsection (a) of this section in the proposed 2005-2007 fiscal biennium continuation budget for the purposes provided in G.S. 116B-7.

SECTION 9.2.(c) The State Education Assistance Authority (SEAA) shall perform all of the administrative functions necessary to implement the program of financial aid. The SEAA shall conduct periodic evaluations of expenditures of the scholarship programs to determine if allocations are utilized to ensure access to institutions of higher learning and to meet the goals of the respective programs. The SEAA may make recommendations for redistribution of funds to The University of North Carolina and the President of the Community College System regarding their respective scholarship programs, who then may authorize redistribution of unutilized funds for a particular fiscal year.

SECTION 9.2.(d) All obligations to students for uses of the funds set out in subsection (a) of this section that were made prior to the effective date of this section shall be fulfilled as to students who remain eligible under the provisions of the respective programs.

Requested by: Representatives L. Johnson, Preston, Tolson, Yongue

UNC BOND PROJECT MODIFICATIONS

SECTION 9.3.(a) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Elizabeth City State University by substituting a project entitled "Campus Infrastructure Improvements" for "Doles Residence Hall – Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, as a residence hall that has been provided for from housing receipts and campus infrastructure improvements will allow energy conservation and savings. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Elizabeth City State University by deleting "Doles Residence Hall – Comprehensive Renovation...$1,722,500" and by substituting "Campus Infrastructure Improvements...$1,722,500".

SECTION 9.3.(b) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at North Carolina Central University, due to increasing enrollment growth, by substituting a project entitled "Pearson Cafeteria – Expansion" for "Pearson Cafeteria – Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, by deleting a project entitled "Old Senior Dorm – Conversion to Academic Use" as contained in Section 2(a) of S.L. 2000-3 and by transferring the funds of two million one hundred thirty thousand seven hundred dollars ($2,130,700) from the project entitled "Old Senior Dorm – Conversion to Academic Use", as contained in Section 2(a) of S.L. 2000-3, and by transferring a portion of the funds from a project entitled "Farrison-Newton Building – Comprehensive Renovation of Classroom Building", as contained in Section 2(a) of S.L. 2000-3, to this substitute project. Section 2(a) of S.L. 2000-3 is therefore amended as follows:

(1) In the portion entitled "Pearson Cafeteria – Comprehensive Renovation" under North Carolina Central University, by deleting "Comprehensive Renovation" and by substituting "Expansion" and by

adding $7,730,700 for the project so that it reads "Pearson Cafeteria – Expansion...$8,994,300".

(2) In the portion under North Carolina Central University, by deleting "Old Senior Dorm – Conversion to Academic Use...$2,130,700".

(3) In the portion entitled "Farrison-Newton Building – Comprehensive Renovation of Classroom Building" under North Carolina Central University, by decreasing by $5,600,000 the $7,048,700 for the project so that it reads "Farrison-Newton Building – Comprehensive Renovation of Classroom Building...$1,448,700".

SECTION 9.3.(c) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at the University of North Carolina at Asheville by substituting a project entitled "Carmichael Hall Classroom Building – Demolition and New Construction" for "Carmichael Hall Classroom Building – Comprehensive Renovation" as contained in Section 2(a) of S.L. 2000-3, as it has been determined that it is more cost-effective to replace this facility than to renovate it. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of North Carolina at Asheville by deleting "Carmichael Hall Classroom Building – Comprehensive Renovation" and by adding "Carmichael Hall Classroom Building – Demolition and New Construction".

SECTION 9.3.(d) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at the University of North Carolina at Pembroke, due to enrollment growth higher than projected, by adding a project entitled "General Purpose Classroom Building" to Section 2(a) of S.L. 2000-3 and by transferring a portion of the funds from the project entitled "Residence/Dining Hall – Replacement of Jacobs & Wellons Halls", as contained in Section 2(a) of S.L. 2000-3, to this substitute project. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under the University of North Carolina at Pembroke by substituting "Residence/Dining Hall – Replacement of Jacobs & Wellons Halls...$325,300" and by adding "General Purpose Classroom Building...$7,375,000".

SECTION 9.3.(e) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Winston-Salem State University by substituting a project entitled "Anderson Center – Comprehensive Renovation" for "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs", as contained in Section 2(a) of S.L. 2000-3, by adding a project entitled "Coltrane Hall – Renovation to House Gerontology", by transferring a portion of the funds from the project entitled "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs", as contained in Section 2(a) of S.L. 2000-3, to the new project entitled "Coltrane Hall – Renovation to House Gerontology", by adding a project entitled "New Facility for the Early Childhood Program", and by transferring a portion of the funds from the project entitled "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs", as contained in Section 2(a) of S.L. 2000-3, to the new project entitled "New Facility for the Early Childhood Program". Section 2(a) of S.L. 2000-3 is therefore amended as follows:

(1) In the portion entitled "Anderson Center – Comprehensive Renovation & Change of Use for Early Childhood/Gerontology Programs" under Winston-Salem State University, by deleting "& Change of Use for Early Childhood/Gerontology Programs" and by decreasing by $1.9 million the $6,917,900 for the project so that it reads "Anderson Center – Comprehensive Renovation...$5,017,900".

(2) In the portion under Winston-Salem State University, by adding a new project "Coltrane Hall – Renovation to House Gerontology...$400,000".

(3) In the portion under Winston-Salem State University, by adding a new project "New Facility for the Early Childhood Program...$1,500,000".

SECTION 9.3.(f) Pursuant to Section 2(b) of S.L. 2000-3, the General Assembly finds that it is in the best interest of the State to respond to current educational and research program requirements at Winston-Salem State University by substituting a project entitled "New Student Health Center" for "Health Center Bldg. & Old Nursing Bldg. – Comprehensive Renovation for Student Health", as contained in Section 2(a) of S.L. 2000-3, and by using the existing project budget for a new health facility, as it has been determined that the two existing buildings are in poor condition and have been recommended for future demolition. Section 2(a) of S.L. 2000-3 is therefore amended in the portion under Winston-Salem State University by deleting "Health Center Bldg. and Old Nursing Bldg. – Comprehensive Renovation for Student Health" and by substituting "New Student Health Center".

SECTION 9.3.(g) Nothing in this section is intended to supersede any other requirement of law or policy for approval of the substituted capital improvement projects.

PART X. DEPARTMENT OF HEALTH AND HUMAN SERVICES

SUBPART 1. ADMINISTRATION

Requested by: Representatives Barnhart, Nye

PETROLEUM OVERCHARGE FUNDS ALLOCATION

SECTION 10.1.(a) There is appropriated from funds and interest thereon received from the case of United States v. Exxon that remain in the Special Reserve for Oil Overcharge Funds to the Department of Health and Human Services the sum of one million dollars ($1,000,000) for the 2003-2004 fiscal year to be allocated for the Weatherization Assistance Program.

SECTION 10.1.(b) Any funds remaining in the Special Reserve for Oil Overcharge Funds after the allocation made pursuant to subsection (a) of this section may be expended only as authorized by the General Assembly. All interest or income accruing from all deposits or investments of cash balances shall be credited to the Special Reserve for Oil Overcharge Funds.

Requested by: Representatives Barnhart, Nye

OFFICE OF POLICY AND PLANNING

SECTION 10.2.(a) To promote coordinated policy development and strategic planning for the State's health and human services systems, the Secretary of Health and Human Services shall establish an Office of Policy and Planning from existing resources across the Department. The Director of the Office of Policy and Planning shall report directly to the Secretary and shall have the following responsibilities:

(1) Coordinate the development of departmental policies, plans, and rules, in consultation with the Divisions of the Department.

(2) Development of a departmental process for the development and implementation of new policies, plans, and rules.

(3) Development of a departmental process for the review of existing policies, plans, and rules to ensure that departmental policies, plans, and rules are relevant.

(4) Coordination and review of all departmental policies before dissemination to ensure that all policies are well-coordinated within and across all programs.

(5) Implementation of ongoing strategic planning that integrates budget, personnel, and resources with the mission and operational goals of the Department.

(6) Review, disseminate, monitor, and evaluate best practice models.

SECTION 10.2.(b) Under the direction of the Secretary of Health and Human Services, the Director of the Office of Policy and Planning shall have the authority to direct Divisions, offices, and programs within the Department to conduct periodic reviews of policies, plans, and rules and shall advise the Secretary when it is determined to be appropriate or necessary to modify, amend, and repeal departmental policies, plans, and rules. All policy and management positions within the Office of Policy and Planning are exempt positions as that term is defined in G.S. 126-5.

Requested by: Representatives Barnhart, Nye

WEATHERIZATION ASSISTANCE PROGRAM

SECTION 10.3. Article 2 of Chapter 108A of the General Statutes is amended by adding the following new Part to read:

"Part 9. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.

"**§ 108A-70.30. Weatherization Assistance Program and Heating/Air Repair and Replacement Program.**

The Department may administer the Weatherization Assistance Program for Low-Income Families and the Heating/Air Repair and Replacement Program functions. Nothing in this Part shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to services under the Program."

Requested by: Representatives Barnhart, Nye

NONMEDICAID REIMBURSEMENT CHANGES

SECTION 10.4. Providers of medical services under the various State programs, other than Medicaid, offering medical care to citizens of the State shall be reimbursed at rates no more than those under the North Carolina Medical Assistance Program.

The Department of Health and Human Services may reimburse hospitals at the full prospective per diem rates without regard to the Medical Assistance Program's annual limits on hospital days. When the Medical Assistance Program's per diem rates for inpatient services and its interim rates for outpatient services are used to reimburse providers in nonmedicaid medical service programs, retroactive adjustments to claims already paid shall not be required.

Notwithstanding the provisions of paragraph one, the Department of Health and Human Services may negotiate with providers of medical services under the various Department of Health and Human Services programs, other than Medicaid, for rates as close as possible to Medicaid rates for the following purposes: contracts or agreements for medical services and purchases of medical equipment and other medical supplies. These negotiated rates are allowable only to meet the medical needs of its nonmedicaid eligible patients, residents, and clients who require such services which cannot be provided when limited to the Medicaid rate.

Maximum net family annual income eligibility standards for services in these programs shall be as follows:

Family Size	Medical Eye Care Adults	Rehabilitation Except DSB Over 55 Grant	Other
1	$4,860	$8,364	$4,200
2	5,940	10,944	5,300
3	6,204	13,500	6,400
4	7,284	16,092	7,500
5	7,821	18,648	7,900

6	8,220	21,228	8,300
7	8,772	21,708	8,800
8	9,312	22,220	9,300

The eligibility level for children in the Medical Eye Care Program in the Division of Services for the Blind shall be one hundred percent (100%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults 55 years of age or older who qualify for services through the Division of Services for the Blind, Independent Living Rehabilitation Program, shall be two hundred percent (200%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. The eligibility level for adults in the Atypical Antipsychotic Medication Program in the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall be one hundred fifty percent (150%) of the federal poverty guidelines, as revised annually by the United States Department of Health and Human Services and in effect on July 1 of each fiscal year. Additionally, those adults enrolled in the Atypical Antipsychotic Medication Program who become gainfully employed may continue to be eligible to receive State support, in decreasing amounts for the purchase of atypical antipsychotic medication and related services up to three hundred percent (300%) of the poverty level.

State financial participation in the Atypical Antipsychotic Medication Program for those enrollees who become gainfully employed is as follows:

Income (% of poverty)	State Participation	Client Participation
0-150%	100%	0%
151-200%	75%	25%
201-250%	50%	50%
251-300%	25%	75%
300% and over	0%	100%

The Department of Health and Human Services shall contract at, or as close as possible to, Medicaid rates for medical services provided to residents of State facilities of the Department.

Requested by: Representatives Barnhart, Nye

SENIOR CARES PROGRAM ADMINISTRATION

SECTION 10.5. The Department of Health and Human Services may administer the "Senior Cares" prescription drug access program approved by the Health and Wellness Trust Fund Commission and funded from the Health and Wellness Trust Fund.

Requested by: Representatives Barnhart, Nye

PHYSICIAN SERVICES

SECTION 10.6. With the approval of the Office of State Budget and Management, the Department of Health and Human Services may use funds appropriated in this act for across-the-board salary increases and performance pay to offset similar increases in the costs of contracting with private and independent universities for the provision of physician services to clients in facilities operated by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services. This offsetting shall be done in the same manner as is currently done with the constituent institutions of The University of North Carolina.

Requested by: Representatives Barnhart, Nye

LIABILITY INSURANCE

SECTION 10.7.(a) The Secretary of the Department of Health and Human Services, the Secretary of the Department of Environment and Natural Resources, and

the Secretary of the Department of Correction may provide medical liability coverage not to exceed one million dollars ($1,000,000) per incident on behalf of employees of the Departments licensed to practice medicine or dentistry, all licensed physicians who are faculty members of The University of North Carolina who work on contract for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services for incidents that occur in Division programs, and on behalf of physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services. This coverage may include commercial insurance or self-insurance and shall cover these individuals for their acts or omissions only while they are engaged in providing medical and dental services pursuant to their State employment or training.

SECTION 10.7.(b) The coverage provided under this section shall not cover any individual for any act or omission that the individual knows or reasonably should know constitutes a violation of the applicable criminal laws of any state or the United States, or that arises out of any sexual, fraudulent, criminal, or malicious act, or out of any act amounting to willful or wanton negligence.

SECTION 10.7.(c) The coverage provided pursuant to this section shall not require any additional appropriations and shall not apply to any individual providing contractual service to the Department of Health and Human Services, the Department of Environment and Natural Resources, or the Department of Correction, with the exception that coverage may include physicians in all residency training programs from The University of North Carolina who are in training at institutions operated by the Department of Health and Human Services and licensed physicians who are faculty members of The University of North Carolina who work for the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services.

Requested by: Representatives Barnhart, Nye

BUTNER COMMUNITY LAND RESERVATION

SECTION 10.8. The Department of Health and Human Services shall reserve and dedicate the following described land for the construction of a community building and related facilities to serve the Butner Reservation:

"Approximately 2 acres, on the east side it borders Central Avenue with a line running along the Wallace Bradshur property on the north back to the tree line next to the ADATC. From there it follows the tree line south and west to and including the softball field. From the softball field it turns east to the State Employees Credit Union and follows the Credit Union property on the south side back to Central Avenue."

This land shall be reserved and dedicated for the project which shall be funded with contributions from Granville County, contributions from the residents of the Butner Reservation, the use of cablevision franchise rebate funds received by the Department of Health and Human Services on behalf of the Butner Reservation, and other public and private sources.

SUBPART 2. DIVISION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

Requested by: Representatives Barnhart, Nye

MENTAL HEALTH, DEVELOPMENTAL DISABILITY, AND SUBSTANCE ABUSE SERVICES TRUST FUND FOR SYSTEM REFORM BRIDGE AND CAPITAL FUNDING NEEDS AND OLMSTEAD

SECTION 10.9. Moneys in the Trust Fund established pursuant to G.S. 143-15.3D shall be used to establish or expand community-based services only if sufficient recurring funds can be identified within the Department of Health and Human Services from funds currently budgeted for mental health, developmental disabilities, and substance abuse services, area mental health programs or county programs, or local government.

Requested by: Representatives Barnhart, Nye

EXTEND MENTAL HEALTH CONSUMER ADVOCACY PROGRAM CONTINGENT UPON FUNDS APPROPRIATED BY THE 2005 GENERAL ASSEMBLY

SECTION 10.10. Section 4 of S.L. 2001-437, as amended by Section 10.30 of S.L. 2002-126, reads as rewritten:

"**SECTION 4.** Sections 1.1 through 1.21(b) of this act become effective July 1, 2002. Section 2 of this act becomes effective only if funds are appropriated by the ~~2003~~ 2005 General Assembly for that purpose. Section 2 of this act becomes effective July 1 of the fiscal year for which funds are appropriated by the ~~2003~~ 2005 General Assembly for that purpose. The remainder of this act is effective when it becomes law."

Requested by: Representatives Barnhart, Nye

SUBSTANCE ABUSE PREVENTION SERVICES REPORTING

SECTION 10.11. The Department of Health and Human Services shall report on its activities under Section 10.24 of S.L. 2002-126 to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division not later than December 1, 2003.

Requested by: Representatives Barnhart, Nye

DOROTHEA DIX HOSPITAL

SECTION 10.12.(a) In keeping with the United States Supreme Court decision in Olmstead vs. L.C. & E.W. and State policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall develop and implement a plan for the construction of a replacement facility for Dorothea Dix Hospital and for the transition of patients to the community or to other long-term care facilities, as appropriate. The goal is to develop mechanisms and identify resources needed to enable patients and their families to receive the necessary services and supports based on the following guiding principles:

(1) Individuals shall be provided acute psychiatric care in non-State facilities when appropriate.

(2) Individuals shall be provided acute psychiatric care in State facilities only when non-State facilities are unavailable.

(3) Individuals shall receive evidenced-based psychiatric services and care that are cost-efficient.

(4) The State shall minimize cost shifting to other State and local facilities or institutions.

SECTION 10.12.(b) The Department of Health and Human Services shall conduct an analysis of the individual patient service needs and shall develop and implement an individual transition plan, as appropriate, for patients in each hospital. The State shall ensure that each individual transition plan, as appropriate, shall take into consideration the availability of appropriate alternative placements based on the needs of the patient and within resources available for the mental health, developmental disabilities, and substance abuse services system. In developing each plan, the Department shall consult with the patient and the patient's family or other legal representative.

SECTION 10.12.(c) In accordance with the plan established in subsections (a) and (b) of this section, any nonrecurring savings in State appropriations that result from reductions in beds or services shall be placed in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs. These funds shall be used to facilitate the transition of clients into appropriate community-based services and supports in accordance with G.S. 143-15.3D. Recurring savings realized through implementation of this section shall be retained by the

Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (i) for implementation of subsections (a) and (b) of this section, and (ii) to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead vs. L.C. & E.W.

SECTION 10.12.(e) The Department of Health and Human Services shall submit reports on the status of implementation of this section to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. These reports shall be submitted on December 1, 2003, and May 1, 2004.

Requested by: Representatives Barnhart, Nye

COMPREHENSIVE TREATMENT SERVICES PROGRAM

SECTION 10.13. The Department of Health and Human Services shall report on its continuing implementation of the Comprehensive Treatment Services Program established pursuant to Section 21.60 of S.L. 2001-424. The Department shall submit an interim report on December 1, 2003, and a final report not later than April 1, 2004, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representatives Barnhart, Nye

MENTAL RETARDATION CENTER DOWNSIZING

SECTION 10.14.(a) In accordance with the Department of Health and Human Services' plan for downsizing the State's regional mental retardation facilities by four percent (4%) each year, the Department shall implement cost-containment and reduction strategies to ensure the corresponding financial and staff downsizing of each facility. The Department shall manage the client population of the mental retardation centers in order to ensure that placements for ICF/MR level of care shall be made in non-State facilities. Admissions to State ICF/MR facilities are permitted only as a last resort and only upon approval of the Department. The corresponding budgets for each of the State mental retardation centers shall be reduced, and positions shall be eliminated as the census of each facility decreases. At no time shall mental retardation center positions be transferred to other units within a facility or assigned nondirect care activities such as outreach.

SECTION 10.14.(b) Any savings in State appropriations in each year of the 2003-2005 fiscal biennium that result from reductions in beds or services shall be applied as follows:

(1) Nonrecurring savings shall be placed in the Trust Fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Needs and shall be used to facilitate the transition of clients into appropriate community-based services and support in accordance with G.S. 143-15.3D, and

(2) Recurring savings realized through implementation of this section shall be retained by the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to support the recurring costs of additional community-based placements from Division facilities in accordance with Olmstead vs. L.C. & E.W. In determining the savings in this section, savings shall include all savings realized from the downsizing of the State mental retardation centers including both the savings in direct State appropriations in the budgets of the State mental retardation centers as well as the savings in the State matching portion of reduced Medicaid payments associated with downsizing.

SECTION 10.14.(c) The Department of Health and Human Services shall report on its progress in complying with this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. The progress report shall be submitted not later than January 15, 2004, and a final report submitted not later than May 1, 2004.

SECTION 10.14.(d) Downsizing of mental retardation centers which occurs in the 2003-2004 fiscal year shall be maintained for the 2004-2005 fiscal year. Effective July 1, 2003, downsizing shall be accomplished in accordance with this section and the State Plan for Mental Health, Developmental Disabilities, and Substance Abuse Services. All savings resulting from downsizing occurring on and after July 1, 2003, shall be utilized as set forth in subsection (b) of this section.

Requested by: Representatives Barnhart, Nye

MENTAL RETARDATION CENTER OUTREACH PLAN

SECTION 10.15.(a) The Department of Health and Human Services shall develop and implement a plan for the reorganization of outreach services performed by the State mental retardation centers. The plan shall include the following:

(1) The elimination of all activities in the State mental retardation centers centered on the identification and referral of persons in the community in need of specialized services to the mental retardation centers.

(2) The transfer of responsibility to area and county mental health programs for all community referral functions for specialized services at the mental retardation centers.

(3) The method for allocating savings in State appropriations from the mental retardation centers across the area and county mental health programs.

(4) The retention in the mental retardation centers of community transition activities currently performed as part of outreach. These activities include coordinating for transition of residents from the mental retardation centers to the area and county mental health programs and technical assistance for community service providers and families who will care for the transitioned residents.

SECTION 10.15.(b) In accordance with the plan established in subsection (a) of this section, any recurring and nonrecurring savings in State appropriations in excess of five hundred thirty-seven thousand three hundred twenty-eight dollars ($537,328) in each year of the 2003-2005 fiscal biennium that result from reductions in outreach activities in the mental retardation centers shall be transferred from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services to area and county mental health programs for the purpose of performing community referral activities designated in subsection (a) of this section.

SECTION 10.15.(c) The Department of Health and Human Services shall report on the implementation of this section to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. This report shall be submitted on February 1, 2004.

Requested by: Representatives Barnhart, Nye

SERVICES TO MULTIPLY-DIAGNOSED ADULTS

SECTION 10.16.(a) In order to ensure that multiply-diagnosed adults are appropriately served by the mental health, developmental disabilities, and substance abuse services system, the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall do the following with respect to services provided to these adults:

(1) Implement the following guiding principles for the provision of services:
a. Service delivery system must be outcome oriented and evaluation based.
b. Services should be delivered as close as possible to the consumer's home.
c. Services selected should be those that are most efficient in terms of cost and effectiveness.
d. Services should not be provided solely for the convenience of the provider or the client.
e. Families and consumers should be involved in decision making throughout treatment planning and delivery; and
(2) Provide those treatment services that are medically necessary.
(3) Implement utilization review of services provided.

SECTION 10.16.(b) The Department of Health and Human Services shall implement all of the following cost-reduction strategies:
(1) Preauthorization for all services except emergency services.
(2) Criteria for determining medical necessity.
(3) Clinically appropriate services.
(4) Not later than May 1, 2004, conduct a State review of (i) individualized service plans for former Thomas S. class members and for adults whose service plan exceeds one hundred thousand dollars ($100,000) to ensure that service plans focus on delivery of appropriate services rather than optimal treatment and habilitation plans, and (ii) staffing patterns of residential services.

SECTION 10.16.(c) No State funds shall be used for the purchase of single-family or other residential dwellings to house multiply-diagnosed adults.

SECTION 10.16.(d) The Department shall submit a progress report on implementation of this section not later than February 1, 2004, and a final report not later than May 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representatives Barnhart, Nye

AREA MENTAL HEALTH ADMINISTRATIVE COSTS

SECTION 10.17.(a) Area mental health, developmental disabilities, and substance abuse authorities or counties administering mental health, developmental disabilities, and substance abuse services shall develop and implement plans to reduce local administrative costs. The plans shall be developed in accordance with guidelines adopted by the Secretary, in consultation with the Local Government Commission and the North Carolina Association of County Commissioners, and in accordance with the following:
(1) Administrative costs for area mental health, developmental disabilities, and substance abuse services programs shall not exceed thirteen percent (13%).
(2) Administrative costs for counties administering mental health, developmental disabilities, and substance abuse services through a county program shall not exceed thirteen percent (13%).

SECTION 10.17.(b) The Department of Health and Human Services shall report its progress in complying with this section not later than January 1, 2004, and April 15, 2004. The reports shall be submitted to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division and shall include:

(1) A description of the process used and the participants involved in complying with subsection (a) of this section.
(2) The guidelines developed under subsection (a) of this section.
(3) A description of local compliance initiatives and efforts including program or function consolidation.
(4) A list of area programs at or below the targeted thirteen percent (13%) for the 2003-2004 fiscal year.
(5) Projected savings in administrative costs as a result of implementation of the targeted limits required under this section.

SECTION 10.17.(c) The Department may implement alternative approaches to establish reasonable administrative cost limitations for Local Management Entities (LMEs), including both county programs and area authority models, and service providers in accordance with system reform and changes in system funding structures.

Requested by: Representatives Barnhart, Nye

PRIVATE AGENCY UNIFORM COST FINDING REQUIREMENT

SECTION 10.18.(a) To ensure uniformity in rates charged to area programs and funded with State-allocated resources, the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services of the Department of Health and Human Services may require a private agency that provides services under contract with an area program or county program, except for hospital services that have an established Medicaid rate, to complete an agency-wide uniform cost finding in accordance with G.S.122C-147.2. The resulting cost shall be the maximum included for the private agency in the contracting area program's unit cost finding.

SECTION 10.18.(b) If a private agency fails to timely and accurately complete the required agency-wide uniform cost finding in a manner acceptable to the Department's controller's office, the Department may suspend all Department funding and payment to the private agency until such time as an acceptable cost finding has been completed by the private agency and approved by the Department's controller's office.

SUBPART 3. DIVISION OF MEDICAL ASSISTANCE

Requested by: Representatives Barnhart, Nye

MEDICAID

SECTION 10.19.(a) Funds appropriated in this act for services provided in accordance with Title XIX of the Social Security Act (Medicaid) are for both the categorically needy and the medically needy. Funds appropriated for these services shall be expended in accordance with the following schedule of services and payment bases. All services and payments are subject to the language at the end of this subsection.

Services and payment bases:

(1) Hospital-Inpatient. – Payment for hospital inpatient services will be prescribed in the State Plan as established by the Department of Health and Human Services.
(2) Hospital-Outpatient. – Eighty percent (80%) of allowable costs or a prospective reimbursement plan as established by the Department of Health and Human Services.
(3) Nursing Facilities. – Payment for nursing facility services will be prescribed in the State Plan as established by the Department of Health and Human Services. Nursing facilities providing services to Medicaid recipients who also qualify for Medicare must be enrolled in the Medicare program as a condition of participation in the Medicaid program. State facilities are not subject to the requirement to enroll in the Medicare program. Residents of nursing facilities who are eligible for Medicare coverage of nursing facility services must be placed in a Medicare certified bed. Medicaid shall cover facility services only

after the appropriate services have been billed to Medicare. The Division of Medical Assistance shall allow nursing facility providers sufficient time from the effective date of this act to certify additional Medicare beds if necessary. In determining the date that the requirements of this subdivision become effective, the Division of Medical Assistance shall consider the regulations governing certification of Medicare beds and the length of time required for this process to be completed.

(4) Intermediate Care Facilities for the Mentally Retarded. – As prescribed in the State Plan as established by the Department of Health and Human Services.

(5) Drugs. – Drug costs as allowed by federal regulations plus a professional services fee per month excluding refills for the same drug or generic equivalent during the same month. Reimbursement shall be available for up to six prescriptions per recipient, per month, including refills. Payments for drugs are subject to the provisions of subsection (h) of this section and to the provisions at the end of subsection (a) of this section, or in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal reimbursement regulations. Payment of the professional services fee shall be made in accordance with the State Plan adopted by the Department of Health and Human Services, consistent with federal reimbursement regulations. The professional services fee shall be five dollars and sixty cents ($5.60) per prescription for generic drugs and four dollars ($4.00) per prescription for brand name drugs. Adjustments to the professional services fee shall be established by the General Assembly.

(6) Physicians, Chiropractors, Podiatrists, Optometrists, Dentists, Certified Nurse Midwife Services, Nurse Practitioners. – Fee schedules as developed by the Department of Health and Human Services. Payments for dental services are subject to the provisions of subsection (g) of this section.

(7) Community Alternative Program, EPSDT Screens. – Payment to be made in accordance with rate schedule developed by the Department of Health and Human Services.

(8) Home Health and Related Services, Private Duty Nursing, Clinic Services, Prepaid Health Plans, Durable Medical Equipment. – Payment to be made according to reimbursement plans developed by the Department of Health and Human Services.

(9) Medicare Buy-In. – Social Security Administration premium.

(10) Ambulance Services. – Uniform fee schedules as developed by the Department of Health and Human Services. Public ambulance providers will be reimbursed at cost.

(11) Hearing Aids. – Actual cost plus a dispensing fee.

(12) Rural Health Clinic Services. – Provider-based, reasonable cost; nonprovider-based, single-cost reimbursement rate per clinic visit.

(13) Family Planning. – Negotiated rate for local health departments. For other providers, see specific services, for instance, hospitals, physicians.

(14) Independent Laboratory and X-Ray Services. – Uniform fee schedules as developed by the Department of Health and Human Services.

(15) Optical Supplies. – One hundred percent (100%) of reasonable wholesale cost of materials.

(16) Ambulatory Surgical Centers. – Payment as prescribed in the reimbursement plan established by the Department of Health and Human Services.

(17) Medicare Crossover Claims. – An amount up to the actual coinsurance or deductible or both, in accordance with the State Plan, as approved by the Department of Health and Human Services.

(18) Physical Therapy and Speech Therapy. – Services limited to EPSDT eligible children. Payments are to be made only to qualified providers at rates negotiated by the Department of Health and Human Services. Physical therapy (including occupational therapy) and speech therapy services are subject to prior approval and utilization review.

(19) Personal Care Services. – Payment in accordance with the State Plan approved by the Department of Health and Human Services.

(20) Case Management Services. – Reimbursement in accordance with the availability of funds to be transferred within the Department of Health and Human Services.

(21) Hospice. – Services may be provided in accordance with the State Plan developed by the Department of Health and Human Services.

(22) Other Mental Health Services. – Unless otherwise covered by this section, coverage is limited to:

a. Services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) when provided in agencies meeting the requirements of the rules established by the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services, and reimbursement is made in accordance with a State Plan developed by the Department of Health and Human Services not to exceed the upper limits established in federal regulations, and

b. For children eligible for EPSDT services:

1. Licensed or certified psychologists, licensed clinical social workers, certified clinical nurse specialists in psychiatric mental health advanced practice, and nurse practitioners certified as clinical nurse specialists in psychiatric mental health advanced practice, when Medicaid-eligible children are referred by the Carolina ACCESS primary care physician or the area mental health program, and

2. Institutional providers of residential services as defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and approved by the Centers for Medicare and Medicaid Services (CMS) for children and Psychiatric Residential Treatment Facility services that meet federal and State requirements as defined by the Department.

Notwithstanding G.S. 150B-121.1(a), the Department of Health and Human Services may adopt temporary rules in accordance with Chapter 150B of the General Statutes further defining the qualifications of providers and referral procedures in order to implement this subdivision. Coverage policy for services defined by the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services under paragraphs a. and b.2 of this subdivision shall be established by the Division of Medical Assistance.

(23) Medically Necessary Prosthetics or Orthotics for EPSDT Eligible Children. – Reimbursement in accordance with the State Plan approved by the Department of Health and Human Services.

(24) Health Insurance Premiums. – Payments to be made in accordance with the State Plan adopted by the Department of Health and Human Services consistent with federal regulations.

(25) Medical Care/Other Remedial Care. – Services not covered elsewhere in this section include related services in schools; health professional services provided outside the clinic setting to meet maternal and infant health goals; and services to meet federal EPSDT mandates. Services addressed by this paragraph are limited to those prescribed in the State Plan as established by the Department of Health and Human Services.

(26) Pregnancy Related Services. – Covered services for pregnant women shall include nutritional counseling, psychosocial counseling, and predelivery and postpartum home visits by maternity care coordinators and public health nurses.

Services and payment bases may be changed with the approval of the Director of the Budget.

Payment is limited to Medicaid enrolled providers that purchase a performance bond in an amount not to exceed one hundred thousand dollars ($100,000) naming as beneficiary the Department of Health and Human Services, Division of Medical Assistance, or provide to the Department a validly executed letter of credit or other financial instrument issued by a financial institution or agency honoring a demand for payment in an equivalent amount. The Department may waive or limit the requirements of this paragraph for one or more classes of Medicaid enrolled providers based on the provider's dollar amount of monthly billings to Medicaid or the length of time the provider has been licensed in this State to provide services. In waiving or limiting requirements of this paragraph the Department shall take into consideration the potential fiscal impact of the waiver or limitation on the State Medicaid Program. The Department may adopt temporary rules in accordance with G.S. 150B-21.1 as necessary to implement this provision.

Reimbursement is available for up to 24 visits per recipient per year to any one or combination of the following: physicians, clinics, hospital outpatient, optometrists, chiropractors, and podiatrists. Prenatal services, all EPSDT children, emergency rooms, and mental health services subject to independent utilization review are exempt from the visit limitations contained in this paragraph. Exceptions may be authorized by the Department of Health and Human Services where the life of the patient would be threatened without such additional care. Any person who is determined by the Department to be exempt from the 24-visit limitation may also be exempt from the six-prescription limitation.

SECTION 10.19.(b) Allocation of Nonfederal Cost of Medicaid. – The State shall pay eighty-five percent (85%); the county shall pay fifteen percent (15%) of the nonfederal costs of all applicable services listed in this section.

SECTION 10.19.(c) Copayment for Medicaid Services. – The Department of Health and Human Services may establish copayment up to the maximum permitted by federal law and regulation.

SECTION 10.19.(d) Medicaid and Work First Family Assistance, Income Eligibility Standards. – The maximum net family annual income eligibility standards for Medicaid and Work First Family Assistance and the Standard of Need for Work First Family Assistance shall be as follows:

Categorically Needy		Medically Needy
	WFFA*	
Family Size	Standard of Need	Families and Children Income

		Level	AA, AB, AD*
1	$4,344	$2,172	$2,900
2	5,664	2,832	3,800
3	6,528	3,264	4,400
4	7,128	3,564	4,800
5	7,776	3,888	5,200
6	8,376	4,188	5,600
7	8,952	4,476	6,000
8	9,256	4,680	6,300

*Work First Family Assistance (WFFA); Aid to the Aged (AA); Aid to the Blind (AB); and Aid to the Disabled (AD).

The payment level for Work First Family Assistance shall be fifty percent (50%) of the standard of need.

These standards may be changed with the approval of the Director of the Budget with the advice of the Advisory Budget Commission.

SECTION 10.19.(e) The Department of Health and Human Services, Division of Medical Assistance, shall provide Medicaid coverage to all elderly, blind, and disabled people who have incomes equal to or less than one hundred percent (100%) of the federal poverty guidelines, as revised each April 1.

SECTION 10.19.(f) ICF and ICF/MR Work Incentive Allowances. – The Department of Health and Human Services may provide an incentive allowance to Medicaid-eligible recipients of ICF and ICF/MR facilities who are regularly engaged in work activities as part of their developmental plan and for whom retention of additional income contributes to their achievement of independence. The State funds required to match the federal funds that are required by these allowances shall be provided from savings within the Medicaid budget or from other unbudgeted funds available to the Department. The incentive allowances may be as follows:

Monthly Net Wages	Monthly Incentive Allowance
$1.00 to $100.99	Up to $50.00
$101.00 to $200.99	$80.00
$201.00 to $300.99	$130.00
$301.00 and greater	$212.00.

SECTION 10.19.(g) Dental Coverage Limits. – Dental services shall be provided on a restricted basis in accordance with rules adopted by the Department to implement this subsection.

SECTION 10.19.(h) Dispensing of Generic Drugs. – Notwithstanding G.S. 90-85.27 through G.S. 90-85.31, or any other law to the contrary, under the Medical Assistance Program (Title XIX of the Social Security Act), and except as otherwise provided in this subsection for atypical antipsychotic drugs and drugs listed in the narrow therapeutic index, a prescription order for a drug designated by a trade or brand name shall be considered to be an order for the drug by its established or generic name, except when the prescriber has determined, at the time the drug is prescribed, that the brand name drug is medically necessary and has written on the prescription order the phrase "medically necessary". An initial prescription order for an atypical antipsychotic drug or a drug listed in the narrow therapeutic drug index that does not contain the phrase "medically necessary" shall be considered an order for the drug by its established or generic name, except that a pharmacy shall not substitute a generic or established name prescription drug for subsequent brand or trade name prescription orders of the same prescription drug without explicit oral or written approval of the prescriber given at the time the order is filled. Generic drugs shall be dispensed at a lower cost to the Medical Assistance Program rather than trade or brand name drugs. As used in this subsection, "brand name" means the proprietary name the manufacturer places upon a drug product or on its container, label, or wrapping at the time of packaging; and

"established name" has the same meaning as in section 502(e)(3) of the Federal Food, Drug, and Cosmetic Act as amended, 21 U.S.C. § 352(e)(3).

SECTION 10.19.(i) The Department of Health and Human Services shall not impose prior authorization requirements or other restrictions under the State Medical Assistance Program on medications prescribed for Medicaid recipients for the treatment of : (i) mental illness, including, but not limited to, medications for schizophrenia, bipolar disorder, and major depressive disorder, or (ii) HIV/AIDS.

SECTION 10.19.(j) Exceptions to Service Limitations, Eligibility Requirements, and Payments. – Service limitations, eligibility requirements, and payments bases in this section may be waived by the Department of Health and Human Services, with the approval of the Director of the Budget, to allow the Department to carry out pilot programs for prepaid health plans, contracting for services, managed care plans, or community-based services programs in accordance with plans approved by the United States Department of Health and Human Services, or when the Department determines that such a waiver will result in a reduction in the total Medicaid costs for the recipient. The Department of Health and Human Services may proceed with planning and development work on the Program of All-Inclusive Care for the Elderly.

SECTION 10.19.(k) Volume Purchase Plans and Single Source Procurement. – The Department of Health and Human Services, Division of Medical Assistance, may, subject to the approval of a change in the State Medicaid Plan, contract for services, medical equipment, supplies, and appliances by implementation of volume purchase plans, single source procurement, or other contracting processes in order to improve cost containment.

SECTION 10.19.(l) Cost-Containment Programs. – The Department of Health and Human Services, Division of Medical Assistance, may undertake cost containment programs in accordance with Section 3 of S.L. 2001-395, including contracting for services, preadmissions to hospitals, and prior approval for certain outpatient surgeries before they may be performed in an inpatient setting.

SECTION 10.19.(m) For all Medicaid eligibility classifications for which the federal poverty level is used as an income limit for eligibility determination, the income limits will be updated each April 1 immediately following publication of federal poverty guidelines.

SECTION 10.19.(n) The Department of Health and Human Services shall provide coverage to pregnant women and to children according to the following schedule:

(1) Pregnant women with incomes equal to or less than one hundred fifty percent (150%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits. In determining income eligibility under this subdivision, the income of a minor's parents shall be counted if the minor is residing in the home.

(2) Infants under the age of one with family incomes equal to or less than one hundred fifty percent (150%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(3) Children aged one through five with family incomes equal to or less than one hundred thirty-three percent (133%) of the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(4) Children aged six through 18 with family incomes equal to or less than the federal poverty guidelines as revised each April 1 shall be covered for Medicaid benefits.

(5) The Department of Health and Human Services shall provide Medicaid coverage for adoptive children with special or rehabilitative needs regardless of the adoptive family's income.

Services to pregnant women eligible under this subsection continue throughout the pregnancy but include only those related to pregnancy and to those other

conditions determined by the Department as conditions that may complicate pregnancy. In order to reduce county administrative costs and to expedite the provision of medical services to pregnant women, to infants, and to children described in subdivisions (3) and (4) of this subsection, no resources test shall be applied.

SECTION 10.19.(o) Medicaid enrollment of categorically needy families with children shall be continuous for one year without regard to changes in income or assets.

SECTION 10.19.(p) The Division of Medical Assistance, Department of Health and Human Services, may provide incentives to counties that successfully recover fraudulently spent Medicaid funds by sharing State savings with counties responsible for the recovery of the fraudulently spent funds.

SECTION 10.19.(q) If first approved by the Office of State Budget and Management, the Division of Medical Assistance, Department of Health and Human Services, may use funds that are identified to support the cost of development and acquisition of equipment and software through contractual means to improve and enhance information systems that provide management information and claims processing. The Department of Health and Human Services shall identify adequate funds to support the implementation and first year's operational costs that exceed the currently allocated funds for the new contract for the fiscal agent for the Medicaid Management Information System.

SECTION 10.19.(r) The Department of Health and Human Services may adopt temporary rules according to the procedures established in G.S. 150B-21.1 when it finds that these rules are necessary to maximize receipt of federal funds within existing State appropriations, to reduce Medicaid expenditures, and to reduce fraud and abuse. Prior to the filing of these temporary rules with the Office of Administrative Hearings, the Department shall consult with the Office of State Budget and Management on the possible fiscal impact of the temporary rule and its effect on State appropriations and local governments.

SECTION 10.19.(s) The Department shall report to the Fiscal Research Division of the Legislative Services Office and to the House of Representatives Appropriations Subcommittee on Health and Human Services and the Senate Appropriations Committee on Health and Human Services or the Joint Legislative Health Care Oversight Committee on any change it anticipates making in the Medicaid program that impacts the type or level of service, reimbursement methods, or waivers, any of which require a change in the State Plan or other approval by the Centers for Medicare and Medicaid Services (CMS). The reports shall be provided at the same time they are submitted to CMS for approval.

SECTION 10.19.(t) Upon approval of a demonstration waiver by the Centers for Medicare and Medicaid Services (CMS), the Department of Health and Human Services may provide Medicaid coverage for family planning services to men and women of child-bearing age with family incomes equal to or less than one hundred eighty-five percent (185%) of the federal poverty level. Coverage shall be contingent upon federal approval of the waiver and shall begin no earlier than January 1, 2001.

SECTION 10.19.(u) The Department of Health and Human Services, Division of Medical Assistance, shall use the latest audited cost reporting data available when establishing Medicaid provider rates or when making changes to the reimbursement methodology. For hospital services, the division shall use the latest audited cost reporting data available, supplemented by additional financial information available to the Division if and to the extent that the Division concludes that the information is reliable and relevant, when establishing rates or when making changes to the reimbursement methodology.

SECTION 10.19.(v) The Department of Health and Human Services, Division of Medical Assistance, shall implement a new coding system for therapeutic mental health services as required by the Health Insurance Portability and Accountability Act of 1996. In implementing the new coding system, the Division shall

ensure that the new coding system does not discriminate between providers of therapeutic mental health services with similar qualifications and training. In meeting the requirements of this subsection, the Division shall consult with the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and the professional licensing boards responsible for licensing the affected professionals.

SECTION 10.19.(w) The Department of Health and Human Services may apply federal transfer of assets policies, as described in Title XIX, section 1917(c) of the Social Security Act, including the attachment of liens, to real property excluded as "income producing", tenancy-in-common, or as nonhomesite property made "income producing" under Title XIX, section 1902(r)(2) of the Social Security Act. The transfer of assets policy shall apply only to an institutionalized individual or the individual's spouse as defined in Title XIX, section 1917(c) of the Social Security Act. This subsection becomes effective no earlier than October 1, 2001. Federal transfer of asset policies and attachment of liens to properties excluded as tenancy-in-common or as nonhomesite property made "income producing" in accordance with this subsection shall become effective not earlier than November 1, 2002.

SECTION 10.19.(x) When implementing the Supplemental Security Income (SSI) method for considering equity value of income producing property, the Department shall, to the maximum extent possible, employ procedures to mitigate the hardship to Medicaid enrollees occurring from application of the Supplemental Security Income (SSI) method.

SECTION 10.19.(y) The Department shall not change medical policy affecting the amount, sufficiency, duration, and scope of health care services and who may provide services until the Division of Medical Assistance has prepared a five-year fiscal analysis documenting the increased cost of the proposed change in medical policy and submitted it for Departmental review. If the fiscal impact indicated by the fiscal analysis for any proposed medical policy change exceeds three million dollars ($3,000,000) in total requirements for a given fiscal year, then the Department shall submit the proposed policy change with the fiscal analysis to the Office of State Budget and Management and the Fiscal Research Division. The Department shall not implement any proposed medical policy change exceeding three million dollars ($3,000,000) in total requirements for a given fiscal year unless the source of State funding is identified and approved by the Office of State Budget and Management. The Department shall provide the Office of State Budget and Management and the Fiscal Research Division a quarterly report itemizing all medical policy changes with total requirements of less than three million dollars ($3,000,000).

Requested by: Representatives Barnhart, Nye

MEDICAID RESERVE FUND TRANSFER

SECTION 10.20. Of the funds transferred to the Department of Health and Human Services for Medicaid programs pursuant to G.S. 143-23.2, the sum of thirty million dollars ($30,000,000) for the 2003-2004 fiscal year and the sum of thirty million dollars ($30,000,000) for the 2004-2005 fiscal year shall be allocated as prescribed by G.S. 143-23.2(b) for Medicaid Programs. Notwithstanding the prescription in G.S. 143-23.2(b) that these funds not reduce State general revenue funding, these funds shall replace the reduction in general revenue funding effected in this act.

Requested by: Representatives Barnhart, Nye

DISPOSITION OF DISPROPORTIONATE SHARE RECEIPTS

SECTION 10.21.(a) Disproportionate share receipts reserved at the end of the 2003-2004 and 2004-2005 fiscal years shall be deposited with the Department of State Treasurer as nontax revenue for each of those fiscal years.

SECTION 10.21.(b) For each year of the 2003-2005 fiscal biennium, as it receives funds associated with Disproportionate Share Payments from State hospitals, the Department of Health and Human Services, Division of Medical Assistance, shall

deposit up to one hundred million dollars ($100,000,000) of these Disproportionate Share Payments to the Department of State Treasurer for deposit as nontax revenue. Any Disproportionate Share Payments collected in excess of one hundred million dollars ($100,000,000) shall be reserved by the State Treasurer for future appropriations.

Requested by: Representatives Barnhart, Nye

COUNTY MEDICAID COST SHARE

SECTION 10.22.(a) Effective July 1, 2000, the county share of the cost of Medicaid services currently and previously provided by area mental health authorities shall be increased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010.

SECTION 10.22.(b) Effective July 1, 2000, the county share of the cost of Medicaid Personal Care Services paid to adult care homes shall be decreased incrementally each fiscal year until the county share reaches fifteen percent (15%) of the nonfederal share by State fiscal year 2009-2010.

Requested by: Representatives Barnhart, Nye

MEDICAID COST CONTAINMENT ACTIVITIES

SECTION 10.23. The Department of Health and Human Services may use not more than three million dollars ($3,000,000) in each year of the 2003-2005 fiscal biennium in Medicaid funds budgeted for program services to support the cost of administrative activities when cost-effectiveness and savings are demonstrated. The funds shall be used to support activities that will contain the cost of the Medicaid Program, including contracting for services or hiring additional staff. Medicaid cost-containment activities may include prospective reimbursement methods, incentive-based reimbursement methods, service limits, prior authorization of services, periodic medical necessity reviews, revised medical necessity criteria, service provision in the least costly settings, and other cost-containment activities. Funds may be expended under this section only after the Office of State Budget and Management has approved a proposal for the expenditure submitted by the Department. Proposals for expenditure of funds under this section shall include the cost of implementing the cost-containment activity and documentation of the amount of savings expected to be realized from the cost-containment activity. The Department shall provide a copy of proposals for expenditures under this section to the Fiscal Research Division.

Requested by: Representatives Barnhart, Nye

INCREASES IN FEDERAL MEDICAID FUNDS

SECTION 10.24.(a) Notwithstanding any other provision of law to the contrary, the total amount of State funds that become available to the Department of Health and Human Services for the 2003-2004 fiscal year due to an increase in federal Medicaid funds resulting from increases in the Federal Financial Participation rate shall be used to increase funds appropriated to the Department for the 2003-2004 fiscal year for the Medicaid program without any reduction in what is otherwise allocated to the Department from appropriated funds.

SECTION 10.24.(b) The Department of Health and Human Services, Division of Medical Assistance, may reinstate eligibility policies changed by this act when all of the following conditions are met:

(1) Congress approves enhanced Federal Financial Participation for State Medicaid programs.

(2) Receipt of the enhanced Federal Financial Participation is dependent on a State's maintenance of effort in Medicaid eligibility.

(3) The Department has concluded that the enacted policy changes render the State ineligible for the enhanced Federal Financial Participation.

(4) Enhanced Federal Financial Participation receipts exceed the anticipated savings in State funds from the enacted policy changes.

Requested by: Representatives Barnhart, Nye

PUBLIC ASSISTANCE AND SOCIAL SERVICES APPEALS AND ACCESS TO RECORDS

SECTION 10.25. G.S. 108A-79 reads as rewritten:

"§ 108A-79. Appeals.

(a) A public assistance applicant or recipient shall have a right to appeal the decision of the county board of social services, county department of social services, or the board of county commissioners granting, denying, terminating, or modifying assistance, or the failure of the county board of social services or county department of social services to act within a reasonable time under the rules and regulations of the Social Services Commission or the Department. Each applicant or recipient shall be notified in writing of his right to appeal upon denial of his application for assistance and at the time of any subsequent action on his case.

(b) In cases involving termination or modification of assistance, no action shall become effective until 10 workdays after notice of this action and of the right to appeal is mailed or delivered by hand to the recipient; provided, however, termination or modification of assistance may be effective immediately upon the mailing or delivery of notice in the following circumstances:

(1) When the modification is beneficial to the recipient; or

(2) When federal regulations permit immediate termination or modification upon mailing or delivery of notice and the Social Services Commission or the Department of Health and Human Services promulgates regulations adopting said federal law or regulations. When federal and State regulations permit immediate termination or modification, the recipient shall have no right to continued assistance at the present level pending a hearing, as would otherwise be provided by subsection (d) of this section.

(c) The notice of action and the right to appeal shall comply with all applicable federal and State law and regulations; provided, such notice shall, at a minimum contain a clear statement of:

(1) The action which was or is to be taken;

(2) The reasons for which this action was or is to be taken;

(3) The regulations supporting this action;

(4) The applicant's or recipient's right to both a local and State level hearing, or to a State level hearing in the case of the food stamp ~~program,~~ program and cases involving disability, on the decision to take this action and the method for obtaining these hearings;

(5) The right to be represented at the hearings by a personal representative, including an attorney obtained at the applicant's or recipient's expense;

(6) In cases involving termination or modification of assistance, the recipient's right upon timely request to continue receiving assistance at the present level pending an appeal hearing and decision on that hearing.

An applicant or recipient may give notice of appeal by written or oral statement to the county department of social services, which shall record such notice by completing a form developed by the Department.

Such notice of appeal must be given within 60 days from the date of the action, or 90 days from the date of notification in the case of the food stamp program. Failure to give timely notice of appeal constitutes a waiver of the right to a hearing except that, for good cause shown, the county department of social services may permit an appeal notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits.

(d) If there is such timely appeal in cases not involving disability, in the first instance the hearing shall consist of a local appeal hearing before the county director or a designated representative of the county director, provided whoever hears the local appeal shall not have been involved directly in the initial decision giving rise to the appeal. If there is such timely appeal in cases involving disability, the county director or a designated representative of the county director shall within five days of the request for an appeal forward the request to the Department of Health and Human Services, and the Department shall designate a hearing officer who shall promptly hold a hearing in the county according to the provisions of subsections (i) and (j) of this section. The issue of disability determination is governed by federal law as codified in 42 § C.F.R. 435.541. In cases involving termination or modification of assistance (other than cases of immediate termination or modification of assistance pursuant to subsection (b)(2) of this section), the recipient shall continue to receive assistance at the present level pending the decision at the initial hearing, whether that be the local appeal hearing decision or, in cases involving questions of disability, the Department of Health and Human Services hearing decision, provided that in order to continue receiving assistance pending the initial hearing decision the recipient must request a hearing on or before the effective date of the termination or modification of assistance.

(e) The local appeal hearing shall be held not more than five days after the request for it is received. The recipient may, for good cause shown as defined by rule or regulation of the Social Services Commission or the Department, petition the county department of social services, in writing, for a delay, but in no event shall the local appeal hearing be held more than 15 days after the receipt of the request for hearing. At the local appeal hearing:

(1) The appellant and the county department may be represented by personal representatives, including attorneys, obtained at their expense.

(2) The appellant or his personal representative and the county department shall present such sworn evidence and law or regulations as bear upon the case. The hearing need not be recorded or transcribed, but the director or his representative shall summarize in writing the substance of the hearing.

(3) The appellant or his personal representative and the county department may cross-examine witnesses and present closing arguments summarizing their views of the case and the law.

(4) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine the contents of his case file for the matter pending together with those portions of other public assistance or social services case files which pertain to the appeal, and all documents and records which the county department of social services intends to use at the hearing. Those portions of the public assistance or social services case file which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to the public assistance or social services case file the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules and regulations promulgated pursuant to G.S. 108A-80.

(f) The director or his designated representative shall make the decision based upon the evidence presented at the hearing and all applicable regulations, and shall

prepare a written statement of his decision citing the regulations and evidence to support it. This written statement of the decision will be served by certified mail on the appellant within five days of the local appeal hearing. If the decision terminating or modifying the appellant's benefits is affirmed, the assistance shall be terminated or modified, not earlier than the date the decision is mailed, and any assistance received during the time of the appeal is subject to recovery.

(g) If the appellant is dissatisfied with the decision of the local appeal hearing, he may within 15 days of the mailing notification of the decision take a further appeal to the Department. However, assistance may not be received pending this further appeal. Failure to give timely notice of further appeal constitutes a waiver of the right to a hearing before an official of the Department except that, for good cause shown, the Department may issue an order permitting a review of the local appeal hearing notwithstanding the waiver. The waiver shall not affect the right to reapply for benefits.

(h) Subsections (d)-(g) of this section shall not apply to the food stamp program. The first appeal for a food stamp recipient or his representative shall be to the Department. Pending hearing, the recipient's assistance shall be continued at the present level upon timely request.

(i) If there is an appeal from the local appeal hearing decision, or from a food stamp recipient or his representative where there is no local hearing, or if there is an appeal of a case involving questions of disability the county director shall notify the Department according to its rules and regulations. The Department shall designate a hearing officer who shall promptly hold a de novo administrative hearing in the county after giving reasonable notice of the time and place of such hearing to the appellant and the county department of social services. Such hearing shall be conducted according to ~~applicable federal law and regulations and Article 3, Chapter 150B, of the General Statutes of North Carolina; provided the~~ federal law as codified in 42 C.F.R. § 431, Subpart E and Article 3 of Chapter 150B of the General Statutes. Appeals from local evidentiary hearings shall be de novo. The Department shall adopt rules and regulations to ensure the following:

(1) Prior to and during the hearing, the appellant or his personal representative shall have adequate opportunity to examine his case file and all documents and records which the county department of social services intends to use at the hearing together with those portions of other public assistance or social services case files which pertain to the appeal. Those portions of the public assistance or social services case files which do not pertain to the appeal or which are required by federal statutes or regulations or by State statutes or regulations to be held confidential shall not be released to the appellant or his personal representative. In cases where the appellant has been denied access to portions of the public assistance or social services case file, the hearing officer shall certify as part of the official record that the hearing officer has examined the case files and that no portion of those files pertain to the appeal. Such certification may be subject to judicial review as provided in subsection (k) of this section. Nothing in this section is intended to restrict an applicant or recipient access to information if that access is allowed by rules or regulations promulgated pursuant to G.S. 108A-80.

(2) At the appeal hearing, the appellant and personnel of the county department of social services may present such sworn evidence, law and regulations as bear upon the case.

(3) The appellant and county department shall have the right to be represented by the person of his choice, including an attorney obtained at his own expense.

(4) The appellant and county department shall have the right to cross-examine the other party as well as make a closing argument summarizing his view of the case and the law.

(5) The appeal hearing shall be recorded; however, no transcript will be prepared unless a petition for judicial review is filed pursuant to subsection (k) herein, in which case, the transcript will be made a part of the official record. In the absence of the filing of a petition for a judicial review, the recording of the appeal hearing may be erased or otherwise destroyed 180 days after the final decision is mailed.

(6) Notwithstanding G.S. 150B-28 or any other provision of State law, discovery shall be no more extensive or formal than that required by federal law and regulations applicable to such hearings.

(j) After the administrative hearing, the hearing officer shall prepare a proposal for decision, citing pertinent law, regulations, and evidence, which shall be served upon the appellant and the county department of social services or their personal representatives. The appellant and the county department of social services shall have the opportunity to present oral and written arguments in opposition to or in support of the proposal for decision to the designated official of the Department who is to make the final decision. The final decision shall be based on, conform to, and set forth in detail the relevant evidence, pertinent State and federal law and regulations, and matters officially noticed. The decision shall be rendered not more than 90 days, or 45 days in the case of the food stamp program, from the date of request for the hearing, unless the hearing was delayed at the request of the appellant. If the hearing was delayed at the appellant's request, the decision may only be delayed for the length of time the appellant requested a delay. The final decision shall be served upon the appellant and upon the county department of social services by certified mail, with a copy furnished to either party's attorney of record. In the absence of a petition for judicial review filed pursuant to subsection (k) herein, the final decision shall be binding upon the appellant, the county department of social services, the county board of social services, and the board of county commissioners.

(k) Any applicant or recipient who is dissatisfied with the final decision of the Department may file, within 30 days of the receipt of notice of such decision, a petition for judicial review in superior court of the county from which the case arose. Failure to file a petition within the time stated shall operate as a waiver of the right of such party to review, except that, for good cause shown, a judge of the superior court resident in the district or holding court in the county from which the case arose may issue an order permitting a review of the agency decision under this Chapter notwithstanding such waiver. The hearing shall be conducted according to the provisions of Article 4, Chapter 150B, of the North Carolina General Statutes. The court shall, on request, examine the evidence excluded at the hearing under G.S. 108A-79(e)(4) or G.S. 108A-79(i)(1) and if the evidence was improperly excluded, the court shall consider it. Notwithstanding the foregoing provisions, the court may take testimony and examine into the facts of the case, including excluded evidence, to determine whether the final decision is in error under federal and State law, and under the rules and regulations of the Social Services Commission or the Department of Health and Human Services. Furthermore, the court shall set the matter for hearing within 15 days from the filing of the record under G.S. 150B-47 and after reasonable written notice to the Department of Health and Human Services and the applicant or recipient. Nothing in this subsection shall be construed to abrogate any rights that the county may have under Article 4 of Chapter 150B.

(l) In the event of conflict between federal law or regulations and State law or regulations, the federal law or regulations shall control."

Requested by: Representatives Barnhart, Nye

TRANSFER OF PROPERTY TO QUALIFY FOR MEDICAID

SECTION 10.26. G.S. 108A-58 reads as rewritten:

"§ 108A-58. Transfer of property for purposes of qualifying for medical assistance; periods of ineligibility.

(a) Any person, otherwise eligible, who, either while receiving medical assistance benefits or ~~within one year prior to the date of applying for medical assistance benefits, unless some other~~ within the time period ~~is~~ mandated by controlling federal law, sells, gives, assigns or transfers countable real or personal property or an interest in real or personal property for the purpose of retaining or establishing eligibility for medical assistance benefits, shall be ineligible to receive medical assistance benefits as set forth in ~~subsection (c) of this section.~~section 1917(c) of the Social Security Act. Countable real and personal property includes real property, excluding a homesite, unless other applicable federal or State law requires the homesite to be counted for transfer of property purposes, intangible personal property, nonessential motor and recreational vehicles, nonincome producing business equipment, boats and motors. The provisions of this act shall not apply to the sale, gift, assignment or transfer of real or personal property if and to the extent that the person applying for medical assistance would have been eligible for such assistance notwithstanding ownership of such property or an interest therein.

(b) Any sale, gift, assignment or transfer of real or personal property or an interest in real or personal property, as provided in subsection (a) of this section, shall be presumed to have been made for the purpose of retaining or establishing eligibility for medical assistance benefits unless the person, or the person's legal representative, who sells, gives, assigns or transfers the property or interest, receives valuable consideration at least equal to the fair market value, less encumbrances, of the property or interest.

(c) Any person who sells, gives, assigns or transfers real or personal property or an interest in real or personal property for the purpose of retaining or establishing eligibility for medical assistance benefits, as provided in subsection (a) of this section, shall, after the time of transfer, be ineligible to receive these benefits until an amount equal to the uncompensated value of the property or interest has been expended by or on behalf of the person for the person's maintenance and support, including medical expenses, paid or incurred, or shall be ineligible based on the period of time required under section 1917(c) of the Social Security Act. ~~in accordance with the following schedule, whichever is sooner;~~

~~(1) For uncompensated value of at least one thousand dollars ($1,000) but not more than six thousand dollars ($6,000), a one year period of ineligibility from date of sale, gift, assignment or transfer;~~

~~(2) For uncompensated value of more than six thousand dollars ($6,000) but not more than twelve thousand dollars ($12,000), a two year period of ineligibility from date of sale, gift, assignment or transfer;~~

~~(3) For uncompensated value of more than twelve thousand dollars ($12,000), a two year period of ineligibility from date of sale, gift, assignment or transfer, plus one additional month of ineligibility for each five hundred dollar ($500.00) increment or portion thereof by which the uncompensated value exceeds twelve thousand dollars ($12,000), but in no event to exceed three years.~~

(d) The sale, gift, assignment or transfer for a consideration less than fair market value, less encumbrances, of any tangible personal property which was acquired with the proceeds of sale, assignment or transfer of real or intangible personal property described in subsection (a) of this section or in exchange for such real or intangible personal property shall be presumed to have been for the purpose of evading the provisions of this section if the acquisition and sale, gift, assignment or transfer of the tangible personal property is by or on behalf of a person receiving medical assistance or within the time period mandated by controlling federal law ~~one year of making application for such assistance~~ and the consequences of the sale, gift, assignment of

transfer of such tangible personal property shall be determined under the provisions of subsections ~~(e), (f) and (g)~~ (c) and (f) of this section.

(e) The presumptions created by subsections (b) and (d) may be overcome if the person receiving or applying for medical assistance, or the person's legal representative, establishes by the greater weight of the evidence that the sale, gift, assignment or transfer was exclusively for some purpose other than retaining or establishing eligibility for medical assistance benefits.

(f) For the purpose of establishing uncompensated value under subsection (c), the value of property or an interest therein shall be the fair market value of the property or interest at the time of the sale, gift, assignment or transfer, less the amount of compensation, if any, received for the property or interest. There shall be a rebuttable presumption that the fair market value of real property is the most recent property tax value of the property, as ascertained according to Subchapter II of Chapter 105 of the General Statutes. Fair market value for purpose of this subsection shall be such value, determined as above set out, less any legally enforceable encumbrances to which the property is subject.

~~(g) In the event that there is more than one sale, gift, assignment or transfer of property or an interest therein by a person receiving medical assistance or within one year of the date of an application for medical assistance, unless some other time period is mandated by controlling federal law, the uncompensated value, for the purposes of subsection (c), shall be the aggregate uncompensated value of all sales, gifts, assignments and transfers. The date which is the midpoint between the date of the first and last sale, gift, assignment or transfer shall be the date from which the period of ineligibility shall be determined under subsection (c).~~

(h) This section shall not apply to applicants for or recipients of Work First Family Assistance or to persons entitled to medical assistance by virtue of their eligibility for Work First Family Assistance.

(i) This section shall apply only to transfers made before July 1, 1988."

Requested by: Representatives Barnhart, Nye

MEDICARE ENROLLMENT REQUIRED

SECTION 10.27. Part 6 of Article 2 of Chapter 108A of the General Statutes is amended by adding the following new section to read:

"**§ 108A-55.1. Medicare enrollment required.**

The Department shall require State Medical Assistance Program recipients who qualify for Medicare to enroll in Medicare, in accordance with Title XIX of the Social Security Act, in order to pay medical expenditures that qualify for payment under Medicare Part B. Failure to enroll in Medicare shall result in nonpayment of these expenditures under the State Medical Assistance Program. A provider may seek payment for services from Medicaid enrollees who are eligible for but not enrolled in Medicare Part B."

Requested by: Representatives Barnhart, Nye

MEDICAID ASSESSMENT PROGRAM FOR SKILLED NURSING FACILITIES

SECTION 10.28.(a) The Secretary of Health and Human Services shall implement a Medicaid assessment program for skilled nursing facilities licensed under Chapter 131E of the General Statutes. The assessment shall be imposed in a manner consistent with federal regulations under 42 C.F.R. Part 433, Subpart B. The Department shall impose the assessment effective October 1, 2003. Funds realized from assessments imposed shall be used only to draw down federal Medicaid matching funds for implementing the new reimbursement plan for nursing homes and for increasing nursing facility rates in accordance with the plan.

SECTION 10.28.(b) Funds realized from the Medicaid assessment program established pursuant to subsection (a) of this section shall not be used to supplant State funds appropriated for nursing facility services.

SECTION 10.28.(c) Funds realized from the assessment shall be used to pay one hundred percent (100%) of the nonfederal share for the new reimbursement plan for nursing homes.

Requested by: Representatives Barnhart, Nye

HEALTH CHOICE

SECTION 10.29.(a) G.S. 108A-70.20 reads as rewritten:

"**§ 108A-70.20. Program established.**

The Health Insurance Program for Children is established. The Program shall be administered by the Department of Health and Human Services in accordance with this Part and as required under Title XXI and related federal rules and regulations. Except as otherwise provided in this section, ~~Administration~~ administration of Program benefits and claims processing shall be as provided under Part 5 of Article 3 of Chapter 135 of the General Statutes. Notwithstanding any other provision of law to the contrary, when applying Medicaid reimbursement rates to services provided under the Program, the Department may administer Program benefits and claims processing when the Secretary determines that Department administration of benefits and claims processing would be more efficient and cost-effective."

SECTION 10.29.(b) G.S. 108A-70.21(d) reads as rewritten:

"(d) Cost-Sharing. – There shall be no deductibles, copayments, or other cost-sharing charges for families covered under the Program whose family income is at or below one hundred fifty percent (150%) of the federal poverty ~~level.~~ level, except that the fees for outpatient prescription drugs described in subdivision (3) of this subsection shall apply to covered families whose family income is at or below one hundred fifty percent (150%) of the federal poverty level. Families covered under the Program whose family income is above one hundred fifty percent (150%) of the federal poverty level shall be responsible for copayments to providers as follows:

(1) Five dollars ($5.00) per child for each visit to a provider, except that there shall be no copayment required for well-baby, well-child, or age-appropriate immunization services;

(2) Five dollars ($5.00) per child for each outpatient hospital visit;

(3) A ~~six dollar ($6.00) fee for each outpatient prescription drug purchased;~~ one dollar ($1.00) fee for each outpatient generic prescription drug and for each outpatient brand name prescription drug for which there is no generic substitution available. The fee for each outpatient brand name prescription drug for which there is a generic substitution available is ten dollars ($10.00).

(4) Twenty dollars ($20.00) for each emergency room visit unless:

a. The child is admitted to the hospital, or

b. No other reasonable care was available as determined by the Claims Processing Contractor of the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan.

Copayments required under this subsection for prescription drugs apply only to prescription drugs prescribed on an outpatient basis."

SECTION 10.29.(c) G.S. 108A-70.24 reads as rewritten:

"**§ 108A-70.24. Claims processing; payments.**

(a) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan shall be responsible for the administration and processing of claims for benefits under the Program, as provided under Part 5 of Article 3 of Chapter 135 of the General ~~Statutes.~~ Statutes, except when the Secretary determines that administration and claims processing should be done by the Department as authorized in G.S. 108A-70.20.

(b) The Department shall, from State and federal appropriations, and from any other funds made available for this purpose, make premium payments to the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan as determined by the Plan for its administration, claims processing, and other services authorized to provide coverage for acute medical care to children eligible for benefits under this Part.

(c) The North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan shall also be responsible for the administration and processing of claims for benefits provided under G.S. 108A-70.23 and not covered by Part 5 of Article 3 of Chapter 135 of the General Statutes. Such claims payments shall be made against accounts maintained by the Department."

SECTION 10.29.(d) The total amount of State funds expended for the Health Insurance Program for Children (NC Health Choice) in the 2003-2004 fiscal year and the 2004-2005 fiscal year shall not exceed the amount of State funds appropriated to match federal funds for the Program for the 2003-2004 fiscal year and the 2004-2005 fiscal year. The Department shall manage Program enrollment in a way that maximizes the number of children served within existing funds.

SUBPART 4. DIVISION OF PUBLIC HEALTH

Requested by: Representatives Barnhart, Nye.

IMMUNIZATION PROGRAM FUNDING

SECTION 10.30.(a) Of the funds appropriated in this act to the Department of Health and Human Services for childhood immunization programs for positions, operating support, equipment, and pharmaceuticals, the sum of one million dollars ($1,000,000) for the 2003-2004 fiscal year and the sum of one million dollars ($1,000,000) for the 2004-2005 fiscal year may be used for projects and activities that are also designed to increase childhood immunization rates in North Carolina. These projects and activities shall include the following:

(1) Outreach efforts at the State and local levels to improve service delivery of vaccines. Outreach efforts may include educational seminars, media advertising, support services to parents to enable children to be transported to clinics, longer operating hours for clinics, and mobile vaccine units.

(2) Continued development of an automated immunization registry.

SECTION 10.30.(b) Funds authorized to be used for immunization efforts under subsection (a) of this section shall not be used to fund additional State positions in the Department of Health and Human Services or contracts, except for contracts to develop an automated immunization registry or with local health departments for outreach.

Requested by: Representatives Barnhart, Nye

AIDS DRUG ASSISTANCE PROGRAM (ADAP)

SECTION 10.31.(a) For the 2003-2004 fiscal year and for the 2004-2005 fiscal year, HIV-positive individuals with incomes at or below one hundred twenty-five percent (125%) of the federal poverty level are eligible for participation in ADAP. Eligibility for participation in ADAP during the 2003-2005 fiscal biennium shall not be extended to individuals with incomes above one hundred twenty-five percent (125%) of the federal poverty level.

SECTION 10.31.(b) The Department of Health and Human Services shall make an interim report on ADAP program utilization by January 1, 2004, and a final report on ADAP program utilization by May 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on ADAP. The reports shall include the following:

(1) ADAP program utilization:
a. Monthly data on total cumulative AIDS/HIV cases reported in North Carolina.
b. Monthly data on the number of individuals who have applied to participate in ADAP that have been determined to be ineligible.
c. Monthly data on the income level of participants in ADAP and of individuals who have applied to participate in ADAP who have been determined to be ineligible.
d. Monthly data on fiscal year-to-date expenditures of ADAP. The interim report shall contain monthly data on the calendar year-to-date expenditures of ADAP.
e. An update on the status of the information management system.
f. Monthly data on ADAP usage patterns and demographics of participants in ADAP.
g. Fiscal year-to-date budget information.

Requested by: Representatives Barnhart, Nye

NEWBORN HEARING SCREENING PROGRAM REPORT

SECTION 10.32. The Department of Health and Human Services shall report the following information on the newborn hearing screening program:
(1) Unduplicated number of infants screened.
(2) Number of infants who failed the second hearing screening.
(3) Number of infants receiving the diagnostic evaluation.
(4) Number and types of services provided.
(5) Number and types of follow-up services provided to children.

The Department shall submit the report not later than May 1, 2004, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representatives Barnhart, Nye

EMPLOYEES EXAMINED FOR ASBESTOSIS OR SILICOSIS UNDER WORKERS COMPENSATION STATUTE.

SECTION 10.33.(a) G.S. 97-61.1 reads as rewritten:

§ 97-61.1. First examination of and report on employee having asbestosis or silicosis.

When an employee and the Industrial Commission are advised ~~by the Department of Health and Human Services~~ that an employee has asbestosis or silicosis, the employer shall be notified by the Industrial Commission, and the employee, when ordered by the Industrial Commission, shall go to a place designated by the Industrial Commission and submit to X rays and a physical examination by the advisory medical committee, at least one of whom shall conduct the examination, and the member or members of the advisory medical committee conducting the examination shall forward the X rays and findings to the member or members of the committee not present for the physical examination. The employer shall pay the expenses connected with the examination in such amounts as shall be directed by the Industrial Commission. Within 30 days after the completion of the examination, the advisory medical committee shall make a written report signed by all of its members setting forth:
(1) The X rays and clinical procedures used by the committee in arriving at its findings.
(2) Whether or not the claimant has contracted asbestosis or silicosis.
(3) The committee's opinion expressed in percentages of the impairment of the employee's ability to perform normal labor in the same or any other employment.
(4) Any other matter deemed pertinent by the committee.

When a competent physician certifies to the Industrial Commission that the employee's physical condition is such that his movement to the place of examination ordered by the Industrial Commission as herein provided in G.S. 97-61.1, 97-61.3 and 97-61.4 would be harmful or injurious to the health of the employee, the Industrial Commission shall cause the examination of the employee to be made by the advisory medical committee as herein provided at some place in the vicinity of the residence of the employee suitable for the purposes of making such examination."

SECTION 10.33.(b) G.S. 97-72(b) reads as rewritten:

"(b) The members of the advisory medical committee shall be paid one hundred dollars ($100.00) per month plus not more than forty dollars ($40.00) per film examined. The fee per film shall be established by the ~~Secretary of Health and Human Services,~~ Commissioner of Labor, as guided by the current Medicaid/Medicare reimbursement schedules for North Carolina."

SECTION 10.33.(c) G.S. 97-73(b) reads as rewritten:

"(b) The ~~Secretary of Health and Human Services~~ Commissioner of Labor shall establish a schedule of fees for examinations conducted by the Department of Health and Human Services pursuant to G.S. 97-60. The fees shall be collected in accordance with rules adopted by the ~~Secretary of Health and Human Services.~~Commissioner of Labor."

Requested by: Representative Clary

ELIMINATE HOME HEALTH PURCHASE OF CARE PROGRAM

SECTION 10.33A. The Department of Health and Human Services, Division of Public Health, shall eliminate the Home Health Purchase of Care Program and transfer three million one thousand two hundred fifty-three dollars ($3,001,253) from the Division of Public Health's budget to the Division of Medical Assistance. These funds and any additional administrative funds identified by closing this program shall be used only to maximize federal Medicaid matching funds for Home Care Personal Care Services. Funds realized from this transfer shall not be used to supplant State funds appropriated for Home Care Personal Care Services.

SUBPART 5. DIVISION OF CHILD DEVELOPMENT

Requested by: Representatives Barnhart, Nye

CHILD CARE FUNDS MATCHING REQUIREMENT

SECTION 10.34. No local matching funds may be required by the Department of Health and Human Services as a condition of any locality's receiving any State child care funds appropriated by this act unless federal law requires a match. This shall not prohibit any locality from spending local funds for child care services.

Requested by: Representatives Barnhart, Nye

CHILD CARE SUBSIDY RATES

SECTION 10.35.(a) The maximum gross annual income for initial eligibility, adjusted biennially, for subsidized child care services shall be two hundred percent (200%) at the federal poverty level, adjusted for family size.

SECTION 10.35.(b) Fees for families who are required to share in the cost of care shall be established based on a percent of gross family income and adjusted for family size. Effective October 1, 2003, fees shall be determined as follows:

FAMILY SIZE	PERCENT OF GROSS FAMILY INCOME
1-3	10%
4-5	9%
6 or more	8%.

SECTION 10.35.(c) Payments for the purchase of child care services for low-income children shall be in accordance with the following requirements:

(1) Religious-sponsored child care facilities operating pursuant to G.S. 110-106 and licensed child care centers and homes that meet the minimum licensing standards that are participating in the subsidized child care program shall be paid the one-star county market rate or the rate they charge privately paying parents, whichever is lower.

(2) Licensed child care centers and homes with two or more stars shall receive the market rate for that rated license level for that age group or the rate they charge privately paying parents, whichever is lower.

(3) Nonlicensed homes shall receive fifty percent (50%) of the county market rate or the rate they charge privately paying parents, whichever is lower.

(4) Maximum payment rates shall also be calculated periodically by the Division of Child Development for transportation to and from child care provided by the child care provider, individual transporter, or transportation agency, and for fees charged by providers to parents. These payment rates shall be based upon information collected by market rate surveys.

SECTION 10.35.(d) Provision of payment rates for child care providers in counties that do not have at least 50 children in each age group for center-based and home-based care are as follows:

(1) Payment rates shall be set at the statewide or regional market rate for licensed child care centers and homes.

(2) If it can be demonstrated that the application of the statewide or regional market rate to a county with fewer than 50 children in each age group is lower than the county market rate and would inhibit the ability of the county to purchase child care for low-income children, then the county market rate may be applied.

SECTION 10.35.(e) A market rate shall be calculated for child care centers and homes at each rated license level for each county and for each age group or age category of enrollees and shall be representative of fees charged to unsubsidized privately paying parents for each age group of enrollees within the county. The Division of Child Development shall also calculate a statewide rate and regional market rates for each rated license level for each age category.

SECTION 10.35.(f) Facilities licensed pursuant to Article 7 of Chapter 110 of the General Statutes and facilities operated pursuant to G.S. 110-106 may participate in the program that provides for the purchase of care in child care facilities for minor children of needy families. No separate licensing requirements shall be used to select facilities to participate. In addition, child care facilities shall be required to meet any additional applicable requirements of federal law or regulations. Child care arrangements exempt from State regulation pursuant to Article 7 of Chapter 110 of the General Statutes shall meet the requirements established by other State law and by the Social Services Commission.

County departments of social services or other local contracting agencies shall not use a provider's failure to comply with requirements in addition to those specified in this subsection as a condition for reducing the provider's subsidized child care rate.

SECTION 10.35.(g) Payment for subsidized child care services provided with Work First Block Grant funds shall comply with all regulations and policies issued by the Division of Child Development for the subsidized child care program.

SECTION 10.35.(h) Noncitizen families who reside in this State legally shall be eligible for child care subsidies if all other conditions of eligibility are met. If all other conditions of eligibility are met, noncitizen families who reside in this State illegally shall be eligible for child care subsidies only if at least one of the following conditions is met:

(1) The child for whom a child care subsidy is sought is receiving child protective services or foster care services.
(2) The child for whom a child care subsidy is sought is developmentally delayed or at risk of being developmentally delayed.
(3) The child for whom a child care subsidy is sought is a citizen of the United States.

Requested by: Representatives Barnhart, Nye

CHILD CARE ALLOCATION FORMULA

SECTION 10.36.(a) The Department of Health and Human Services shall allocate child care subsidy voucher funds to pay the costs of necessary child care for minor children of needy families. The mandatory thirty percent (30%) Smart Start subsidy allocation under G.S. 143B-168.15(g) shall constitute the base amount for each county's child care subsidy allocation. The Department of Health and Human Services shall use the following method when allocating federal and State child care funds, not including the aggregate mandatory thirty percent (30%) Smart Start subsidy allocation:

(1) Funds shall be allocated based upon the projected cost of serving children in a county under age 11 in families with all parents working who earn less than two hundred percent (200%) of the federal poverty level.
(2) No county's allocation shall be less than ninety percent (90%) of its State Fiscal Year 2001-2002 initial child care subsidy allocation.

SECTION 10.36.(b) The Department of Health and Human Services may reallocate unused child care subsidy voucher funds in order to meet the child care needs of low-income families. Any reallocation of funds shall be based upon the expenditures of all child care subsidy voucher funding, including Smart Start funds, within a county.

Requested by: Representatives Barnhart, Nye

CHILD CARE REVOLVING LOAN

SECTION 10.37. Notwithstanding any law to the contrary, funds budgeted for the Child Care Revolving Loan Fund may be transferred to and invested by the financial institution contracted to operate the Fund. The principal and any income to the Fund may be used to make loans, reduce loan interest to borrowers, serve as collateral for borrowers, pay the contractor's cost of operating the Fund, or pay the Department's cost of administering the program.

Requested by: Representatives Barnhart, Nye

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES ENHANCEMENTS

SECTION 10.38.(a) Administrative costs shall be equivalent to, on an average statewide basis for all local partnerships, not more than seven percent (7%) of the total statewide allocation to all local partnerships. For purposes of this subsection, administrative costs shall include costs associated with partnership oversight, business and financial management, general accounting, human resources, budgeting, purchasing, contracting, and information systems management.

SECTION 10.38.(b) The North Carolina Partnership for Children, Inc., and all local partnerships shall use competitive bidding practices in contracting for goods and services on contract amounts as follows:

(1) For amounts of five thousand dollars ($5,000) or less, the procedures specified by a written policy to be developed by the Board of Directors of the North Carolina Partnership for Children, Inc.
(2) For amounts greater than five thousand dollars ($5,000), but less than fifteen thousand dollars ($15,000), three written quotes.
(3) For amounts of fifteen thousand dollars ($15,000) or more, but less than forty thousand dollars ($40,000), a request for proposal process.

(4) For amounts of forty thousand dollars ($40,000) or more, request for proposal process and advertising in a major newspaper.

SECTION 10.38.(c) The North Carolina Partnership for Children, Inc., and all local partnerships shall, in the aggregate, be required to match no less than fifty percent (50%) of the total amount budgeted for the program in each fiscal year of the biennium as follows: contributions of cash equal to at least fifteen percent (15%) and in-kind donated resources equal to no more than five percent (5%) for a total match requirement of twenty percent (20%) for each fiscal year. The North Carolina Partnership for Children, Inc., may carry forward any amount in excess of the required match for a fiscal year in order to meet the match requirement of the succeeding fiscal year. Only in-kind contributions that are quantifiable shall be applied to the in-kind match requirement. Volunteer services may be treated as an in-kind contribution for the purpose of the match requirement of this subsection. Volunteer services that qualify as professional services shall be valued at the fair market value of those services. All other volunteer service hours shall be valued at the statewide average wage rate as calculated from data compiled by the Employment Security Commission in the Employment and Wages in North Carolina Annual Report for the most recent period for which data are available. Expenses, including both those paid by cash and in-kind contributions, incurred by other participating non-State entities contracting with the North Carolina Partnership for Children, Inc., or the local partnerships, also may be considered resources available to meet the required private match. In order to qualify to meet the required private match, the expenses shall:

(1) Be verifiable from the contractor's records.
(2) If in-kind, other than volunteer services, be quantifiable in accordance with generally accepted accounting principles for nonprofit organizations.
(3) Not include expenses funded by State funds.
(4) Be supplemental to and not supplant preexisting resources for related program activities.
(5) Be incurred as a direct result of the Early Childhood Initiatives Program and be necessary and reasonable for the proper and efficient accomplishment of the Program's objectives.
(6) Be otherwise allowable under federal or State law.
(7) Be required and described in the contractual agreements approved by the North Carolina Partnership for Children, Inc., or the local partnership.
(8) Be reported to the North Carolina Partnership for Children, Inc., or the local partnership by the contractor in the same manner as reimbursable expenses.

Failure to obtain a twenty percent (20%) match by June 30 of each fiscal year shall result in a dollar-for-dollar reduction in the appropriation for the Program for a subsequent fiscal year. The North Carolina Partnership for Children, Inc., shall be responsible for compiling information on the private cash and in-kind contributions into a report that is submitted to the Joint Legislative Commission on Governmental Operations in a format that allows verification by the Department of Revenue. The same match requirements shall apply to any expansion funds appropriated by the General Assembly.

SECTION 10.38.(d) The Department of Health and Human Services shall continue to implement the performance-based evaluation system.

SECTION 10.38.(e) The Department of Health and Human Services and the North Carolina Partnership for Children, Inc., shall ensure that the allocation of funds for Early Childhood Education and Development Initiatives for State fiscal years 2003-2004 and 2004-2005 shall be administered and distributed in the following manner:

(1) The North Carolina Partnership for Children, Inc., shall develop a policy to allocate the reduction of funds for Early Childhood Education and Development Initiatives for the 2003-2004 and 2004-2005 fiscal years.
(2) Capital expenditures and playground equipment expenditures are prohibited for fiscal years 2003-2004 and 2004-2005. For the purposes of this section, "capital expenditures" means expenditures for capital improvements as defined in G.S. 143-34.40.
(3) Expenditures of State funds for advertising and promotional activities are prohibited for fiscal years 2003-2004 and 2004-2005.

SECTION 10.38.(f) For the 2003-2004 and 2004-2005 fiscal years, the North Carolina Partnership for Children, Inc., shall not approve local partnership plans that allocate State funds to child care providers for one-time quality improvement initiatives in the following circumstances:
(1) Child care facilities with licensure of four or five stars, unless the expenditure of funds is to expand capacity for low-income children.
(2) Child care facilities that do not accept child care subsidy funds.

SECTION 10.38.(g) The North Carolina Partnership for Children, Inc., shall not reduce the level of expenditures for subsidies below the State fiscal year 2002-2003 level.

SECTION 10.38.(h) The eligibility for child care subsidies shall be in accordance with child care eligibility established in this act, effective January 1, 2004.

SECTION 10.38.(i) The North Carolina Partnership for Children, Inc., shall develop a plan to focus on quality day care initiatives and child care subsidies, and shall study any duplication of health services, family support, and program support activities, and report same to the House and Senate Appropriations Chairs.

SECTION 10.38.(j) The North Carolina Partnership for Children, Inc., shall impose a ten percent (10%) penalty against a local partnership's allocation when the local partnership's audit is classified as a "needs improvement performance assessment".

SECTION 10.38.(k) The North Carolina Partnership for Children, Inc., shall report on activities and directives of this act by March 1, 2004, to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representative Barnhart, Nye

EARLY CHILDHOOD EDUCATION AND DEVELOPMENT INITIATIVES EVALUATION

SECTION 10.39. The Department of Health and Human Services, Division of Child Development, may evaluate the Early Childhood Education and Development Initiatives. The evaluation may include:
(1) Evaluation of the Early Childhood Education and Development Initiatives, including the ongoing review of quality child care efforts and child care providers' progress in preparing children to be ready to enter school and succeed.
(2) Continuation of technical assistance to local partnerships in data collection and evaluation.

Requested by: Representatives Barnhart, Nye

MORE AT FOUR PROGRAM

SECTION 10.40.(a) Of the funds appropriated to the Department of Health and Human Services the sum of forty-three million fifty-six thousand five hundred dollars ($43,056,500) in the 2003-2004 fiscal year and the sum of forty-one million eight hundred fifty-six thousand five hundred dollars ($41,856,500) in the 2004-2005

fiscal year shall be used to implement "More At Four", a voluntary prekindergarten program for at-risk four-year-olds.

SECTION 10.40.(b) The Department of Health and Human Services and the Department of Public Instruction, with guidance from the Task Force, shall continue the implementation of the "More At Four" prekindergarten program for at-risk four-year-olds who are at risk of failure in kindergarten. The program is available statewide to all counties that choose to participate, including underserved areas. The goal of the program is to provide quality prekindergarten services to a greater number of at-risk children in order to enhance kindergarten readiness for these children. The program shall be consistent with standards and assessments established jointly by the Department of Health and Human Services, the Department of Public Instruction, and the Task Force and may consider the "More At Four" Pre-K Task Force recommendations. The program shall include:

(1) A process and system for identifying children at risk of academic failure.

(2) A process and system for identifying children who are not being served first priority in formal early education programs, such as child care, public or private preschools, Head Start, Early Head Start, early intervention programs, or other such programs, who demonstrate educational needs, and who are eligible to enter kindergarten the next school year, as well as children who are underserved.

(3) A curriculum or several curricula that are recommended by the Task Force. The Task Force will identify and approve appropriate research-based curricula. These curricula shall: (i) focus primarily on oral language and emergent literacy; (ii) engage children through key experiences and provide background knowledge requisite for formal learning and successful reading in the early elementary years; (iii) involve active learning; (iv) promote measurable kindergarten language-readiness skills that focus on emergent literacy and mathematical skills; and (v) develop skills that will prepare children emotionally and socially for kindergarten.

(4) An emphasis on ongoing family involvement with the prekindergarten program.

(5) Evaluation of child progress through pre- and post-assessment of children in the statewide evaluation, as well as ongoing assessment of the children by teachers.

(6) Guidelines for a system to reimburse local school boards and systems, private child care providers, and other entities willing to establish and provide prekindergarten programs to serve at-risk children.

(7) A system built upon existing local school boards and systems, private child care providers, and other entities that demonstrate the ability to establish or expand prekindergarten capacity.

(8) A quality-control system. Participating providers shall comply with standards and guidelines as established by the Department of Health and Human Services, the Department of Public Instruction, and the Task Force. The Department may use the child care rating system to assist in determining program participation.

(9) Standards for minimum teacher qualifications. A portion of the classroom sites initially funded shall have at least one teacher who is certified or provisionally certified in birth to kindergarten education.

(10) A local contribution. Programs must demonstrate that they are accessing resources other than "More At Four".

(11) A system of accountability.

(12) Collaboration with State agencies and other organizations. The Department of Health and Human Services, the Department of Public

Instruction, and the Task Force shall collaborate with State agencies and other organizations such as the North Carolina Partnership for Children, Inc., in the design and implementation of the program.

(13) Consideration of the reallocation of existing funds. In order to maximize current funding and resources, the Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall consider the reallocation of existing funds from State and local programs that provide prekindergarten related care and services.

(14) Recommendations for long-term organizational placement and administration of the program.

SECTION 10.40.(c) During the 2003-2004 fiscal year, the Department of Health and Human Services shall plan for expansion of the "More At Four" program within existing resources to include four and five star rated centers, homes, and schools serving four-year-olds and develop guidelines for these programs. The Department shall analyze guidelines for use of the "More At Four" funds, State subsidy funds, and Smart Start subsidy funds and devise a complementary plan for administration of funds for all four-year-old classrooms. The four and five star centers that choose to become a "More at Four" program shall, at a minimum, receive curricula and access to training and workshops for "More at Four" programs and be considered along with other "More at Four" programs for T.E.A.C.H. funding. The Department shall ensure that no duplication exists among the T.E.A.C.H., W.A.G.E.$., and T.E.A.C.H. Health Insurance programs for individual recipients.

The Department may use nonobligated "More At Four" funds to reduce the waiting list for subsidy, with priority given to four-year-olds attending three star or better centers. If there are funds remaining after the waiting list for four-year-olds has been satisfied, then the waiting list for other children may be addressed with the remaining funds.

SECTION 10.40.(d) The Department of Health and Human Services, the Department of Public Instruction, and the Task Force shall submit a progress report by January 1, 2004, and May 1, 2004, to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Education Oversight Committee, the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division. This final report shall include the following:

(1) The number of children participating in the program.

(2) The number of children participating in the program who have never been served in other early education programs, such as child care, public or private preschool, Head Start, Early Head Start, or early intervention programs.

(3) The expected expenditures for the programs and the source of the local match for each grantee.

(4) The location of program sites and the corresponding number of children participating in the program at each site.

(5) Activities involving Child Find in counties.

(6) A comprehensive cost analysis of the program, including the cost per child served by the program.

(7) The plan for expansion of "More At Four" through existing resources as outlined in this section.

SUBPART 6. OFFICE OF EDUCATIONAL SERVICES

Requested by: Representatives Barnhart, Nye

RESIDENTIAL SCHOOLS REPORTING

SECTION 10.41. The Office of Education Services shall report not later than December 1, 2003, to the Senate Appropriations Committee on Health and Human

Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division on the activities of the Eastern North Carolina School for the Deaf at Wilson, the North Carolina School for the Deaf at Morganton, and the Governor Morehead School for the Blind. The report shall include enrollment numbers at the schools, the budgets, and the academic status of the schools as defined under the ABCs program.

SUBPART 7. DIVISION OF AGING

Requested by: Representatives Barnhart, Nye

SENIOR CENTER OUTREACH

SECTION 10.42.(a) Funds appropriated to the Department of Health and Human Services, Division of Aging, for the 2003-2005 fiscal biennium, shall be used by the Division of Aging to enhance senior center programs as follows:

(1) To expand the outreach capacity of senior centers to reach unserved or underserved areas; or

(2) To provide start-up funds for new senior centers.

All of these funds shall be allocated by October 1 of each fiscal year.

SECTION 10.42.(b) Prior to funds being allocated pursuant to this section for start-up funds for a new senior center, the county commissioners of the county in which the new center will be located shall:

(1) Formally endorse the need for such a center;

(2) Formally agree on the sponsoring agency for the center; and

(3) Make a formal commitment to use local funds to support the ongoing operation of the center.

SECTION 10.42.(c) State funding shall not exceed sixty-five percent (65%) of reimbursable costs.

SUBPART 8. DIVISION OF SOCIAL SERVICES

Requested by: Representatives Barnhart, Nye

ADULT CARE HOME MODEL FOR COMMUNITY-BASED SERVICES

SECTION 10.43.(a) In keeping with the United States Supreme Court Decision in Olmstead vs. L.C. & E.W. and with State policy to provide appropriate services to clients in the least restrictive and most appropriate environment, the Department of Health and Human Services shall develop a model project for delivering community-based mental health, developmental disabilities, and substance abuse housing and services through adult care homes that have excess capacity. The model shall be designed for implementation on a pilot basis and shall address the following:

(1) Services that will be provided by the facility or under contract with the facility, including assistance with daily medication.

(2) Access of clients to mental health, developmental disabilities, and substance abuse services provided in the community, including transportation to services outside of the client's residence in the adult care home facility.

(3) Physical plant additions or changes necessary to provide for independent living of residents.

(4) Methods for assuring quality of services, resident safety, and cost-effectiveness.

(5) Consistency with the Department's Olmstead plan, other policies on community-integration, and disability plans adopted by the State.

SECTION 10.43.(b) The Department shall submit a final report on the development of the model to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health

and Human Services, and the Fiscal Research Division on or before March 1, 2004. The report shall address the following:

(1) Proposed time and location for implementation of the pilot.
(2) Proposed number of residents to be placed and services to be provided directly by the facility or under contract with the facility.
(3) Method for evaluating the pilot, including services provided, on a regular basis.
(4) A description of the living environment for each resident and a comparison of how the living environment compares to that of other residents in the adult care home.
(5) Changes to State law necessary to implement the pilot.
(6) Projected cost to the State for pilot and statewide implementation.

Requested by: Representatives Barnhart, Nye

CHILD SUPPORT PROGRAM/ENHANCED STANDARDS

SECTION 10.44.(a) It is the intent of the General Assembly to increase the productivity and enhance the performance of child support enforcement offices statewide.

SECTION 10.44.(b) The Department of Health and Human Services shall develop and implement performance standards for each of the State and county child support enforcement offices across the State. To develop these performance standards, the Department of Health and Human Services shall evaluate other private and public child support models and national standards as well as other successful collections models. These performance standards shall include the following:

(1) Cost per collections.
(2) Consumer satisfaction.
(3) Paternity establishments.
(4) Administrative costs.
(5) Orders established.
(6) Collections on arrearages.
(7) Location of absent parents.
(8) Other related performance measures.

The Department of Health and Human Services shall monitor the performance of each office and shall implement a system of reporting that allows each local office to review its performance as well as the performance of other local offices. The Department of Health and Human Services shall publish an annual performance report that shall include the statewide and local office performance of each child support office.

SECTION 10.44.(c) The Department of Health and Human Services shall report on its progress, in compliance with this section, to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division by May 1, 2005.

Requested by: Representatives Barnhart, Nye

SPECIAL NEEDS ADOPTIONS INCENTIVE FUND

SECTION 10.45. Part 4 of Article 2 of Chapter 108A of the General Statutes is amended by adding a new section to read:

"**§ 108A-50A. Special Needs Adoptions Incentive Fund.**

(a) There is created a Special Needs Adoptions Incentive Fund to provide financial assistance to facilitate the adoption of certain children residing in licensed foster care homes. These funds shall be used to remove financial barriers to the adoption of these children and shall be available to foster care families who adopt children with special needs, as defined by the Social Services Commission. These funds shall be matched by county funds.

(b) This program shall not constitute an entitlement and is subject to the availability of funds.

(c) The Social Services Commission shall adopt rules to implement the provisions of this section."

Requested by: Representatives Barnhart, Nye

FOSTER CARE AND ADOPTION ASSISTANCE PAYMENTS

SECTION 10.46.(a) The maximum rates for State participation in the foster care assistance program are established on a graduated scale as follows:

(1) $415.00 per child per month for children aged birth through 5;
(2) $465.00 per child per month for children aged 6 through 12; and
(3) $515.00 per child per month for children aged 13 through 18.

Of these amounts, fifteen dollars ($15.00) is a special needs allowance for the child.

SECTION 10.46.(b) The maximum rates for State participation in the adoption assistance program are established on a graduated scale as follows:

(1) $415.00 per child per month for children aged birth through 5;
(2) $465.00 per child per month for children aged 6 through 12; and
(3) $515.00 per child per month for children aged 13 through 18.

SECTION 10.46.(c) In addition to providing board payments to foster and adoptive families of HIV-infected children, as prescribed in Section 23.28 of Chapter 324 of the 1995 Session Laws, any additional funds remaining that were appropriated for this purpose shall be used to provide medical training in avoiding HIV transmission in the home.

SECTION 10.46.(d) The maximum rates for the State participation in HIV foster care and adoption assistance are established on a graduated scale as follows:

(1) $800.00 per month per child with indeterminate HIV status;
(2) $1,000 per month per child confirmed HIV-infected, asymptomatic;
(3) $1,200 per month per child confirmed HIV-infected, symptomatic; and
(4) $1,600 per month per child terminally ill with complex care needs.

Requested by: Representatives Barnhart, Nye

SPECIAL CHILDREN ADOPTION FUND

SECTION 10.47.(a) Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one million one hundred thousand dollars ($1,100,000) shall be used to support the Special Children Adoption Fund for each year of the 2003-2005 fiscal biennium. The Division of Social Services, in consultation with the North Carolina Association of County Directors of Social Services and representatives of licensed private adoption agencies, shall develop guidelines for the awarding of funds to licensed public and private adoption agencies upon the adoption of children described in G.S. 108A-50 and in foster care. Payments received from the Special Children Adoption Fund by participating agencies shall be used exclusively to enhance the adoption services. No local match shall be required as a condition for receipt of these funds. In accordance with State rules for allowable costs, the Special Children Adoption Fund may be used for post-adoption services for families whose income exceed two hundred percent (200%) of the federal poverty level.

SECTION 10.47.(b) Of the total funds appropriated for the Special Children Adoption Fund each year, twenty percent (20%) of the total funds available shall be reserved for payment to participating private adoption agencies. If the funds reserved in this subsection for payments to private agencies have not been spent on or before March 31, 2004, the Division of Social Services may reallocate those funds, in accordance with this section, to other participating adoption agencies.

Requested by: Representatives Barnhart, Nye

INTENSIVE FAMILY PRESERVATION SERVICES FUNDING AND PERFORMANCE ENHANCEMENTS

SECTION 10.48.(a) The Department of Health and Human Services shall review the Intensive Family Preservation Services Program (IFPS) to enhance and implement initiatives that focus on increasing the sustainability and effectiveness of the Program.

SECTION 10.48.(b) Notwithstanding the provisions of G.S. 143B-150.6, the Program shall provide intensive services to children and families in cases of abuse, neglect, and dependency where a child is at imminent risk of removal from the home and to children and families in cases of abuse where a child is not at imminent risk of removal. The Program shall be developed and implemented statewide on a regional basis. The revised IFPS shall ensure the application of standardized assessment criteria for determining imminent risk and clear criteria for determining out-of-home placement.

SECTION 10.48.(c) The Department of Health and Human Services shall require that any program or entity that receives State, federal, or other funding for the purpose of Intensive Family Preservation Services shall provide information and data that allows for:

(1) An established follow-up system with a minimum of six months of follow-up services.
(2) Detailed information on the specific interventions applied including utilization indicators and performance measurement.
(3) Cost-benefit data.
(4) Data on long-term benefits associated with Intensive Family Preservation Services. This data shall be obtained by tracking families through the intervention process.
(5) The number of families remaining intact and the associated interventions while in IFPS and 12 months thereafter.
(6) The number and percentage by race of children who received Intensive Family Preservation Services compared to the ratio of their distribution in the general population involved with Child Protective Services.

SECTION 10.48.(d) The Department shall establish performance-based funding protocol and shall only provide funding to those programs and entities providing the required information specified in subsection (c) of this section. The amount of funding shall be based on the individual performance of each program.

SECTION 10.48.(e) The Department of Health and Human Services shall report to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2004. The report shall include information and data collected pursuant to subsection (c) of this section.

Requested by: Representatives Barnhart, Nye

TANF STATE PLAN

SECTION 10.49.(a) The General Assembly approves the plan titled "North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005", prepared by the Department of Health and Human Services and presented to the General Assembly on May 15, 2003, as revised in accordance with subsection (b) of this section. The North Carolina Temporary Assistance for Needy Families State Plan covers the period October 1, 2003, through September 30, 2005. The Department shall submit the State Plan, as revised in accordance with subsection (b) of this section, to the United States Department of Health and Human Services as amended by this act or any other act of the 2003 General Assembly.

SECTION 10.49.(b) The Department of Health and Human Services shall revise the North Carolina Temporary Assistance for Needy Families State Plan FY 2003-2005, submitted to the General Assembly for approval on May 15, 2003. The revisions shall be made to the following Plan components:

(1) Enhanced Employee Assistance Program to reflect changes in funding.
(2) Services for Families to remove reference to start-up activities.
(3) Work Responsibility to remove reference to start-up activities.
(4) Cabarrus County Waiver to reflect changes in the law made by the 2003 General Assembly.
(5) Goal number eight to provide that caseload reduction goals are subject to economic conditions in the county.

SECTION 10.49.(c) The counties approved as Electing Counties in North Carolina's Temporary Assistance for Needy Families State Plan FY 2003-2005 as approved by this section are: Beaufort, Caldwell, Catawba, Iredell, Lenoir, Lincoln, Macon, McDowell, Sampson, Surry, and Wilkes.

SECTION 10.49.(d) Counties designated as Electing Counties pursuant to G.S. 108A-27(d) and who submitted the letter of intent to be redesignated as a standard county and the accompanying county plan for fiscal years 2003 through 2005, pursuant to G.S. 108A-27(e), shall operate under the standard county budget requirements effective July 1, 2003. Counties that submitted the letter of intent to remain as an electing county or to be redesignated as an electing county and the accompanying county plan for fiscal years 2003 through 2005, pursuant to G.S. 108A-27(e), shall operate under the electing county budget requirements effective July 1, 2003. For programmatic purposes, all counties referred to in this subsection shall remain under their current county designation through September 30, 2003.

Requested by: Representatives Barnhart, Nye

ELECTING COUNTY TANF FUNDS REVERT

SECTION 10.50. G.S. 108A-27.11(c) reads as rewritten:

"(c) Each Electing County's allocation for Work First Family Assistance shall be computed based on the percentage of each Electing County's total expenditures for cash assistance to statewide actual expenditures for cash assistance in 1995-96. The resulting percentage shall be applied to the federal TANF block grant funds appropriated for cash assistance by the General Assembly each fiscal year. The Department shall transmit the federal funds contained in the county block grants to Electing Counties as soon as practicable after they become available to the State and in accordance with federal cash management laws and regulations. ~~The Department shall transmit one-fourth of the State funds contained in county block grants to Electing Counties at the beginning of each quarter.~~"

Requested by: Representatives Barnhart, Nye

SPECIAL ASSISTANCE DEMONSTRATION PROJECT

SECTION 10.51.(a) The Department of Health and Human Services may use funds from the existing State/County Special Assistance for Adults budget to provide Special Assistance payments to eligible individuals in in-home living arrangements. These payments may be made for up to 800 individuals during the 2003-2004 fiscal year and the 2004-2005 fiscal year. These payments may be made for as long as the individuals who are receiving payments on June 30, 2005, remain eligible. The standard monthly payment to individuals enrolled in the Special Assistance demonstration project shall be fifty percent (50%) of the monthly payment the individual would receive if the individual resided in an adult care home and qualified for Special Assistance, except if a lesser payment amount is appropriate for the individual as determined by the local case manager. For State fiscal year 2003-2004, qualified individuals shall not receive payments at rates less than they would have been eligible to receive in State fiscal year 2002-2003. The Department shall implement Special Assistance in-home eligibility policies and procedures to assure that demonstration project participants are those individuals who need and, but for the demonstration project, would seek placement in an adult care home facility. The Department shall make an interim report to the cochairs of the House of Representatives

Appropriations Committee, the cochairs of the House of Representatives Appropriations Subcommittee on Health and Human Services, the cochairs of the Senate Appropriations Committee, and the cochairs of the Senate Appropriations Committee on Health and Human Services by May 1, 2004.

SECTION 10.51.(b) The Department shall report to the cochairs of the House of Representatives Appropriations Committee, the House of Representatives Appropriations Subcommittee on Health and Human Services, the cochairs of the Senate Appropriations Committee, and the cochairs of the Senate Appropriations Committee on Health and Human Services by April 1, 2004. This report shall include the following information:

(1) A description of cost savings that could occur by allowing individuals eligible for State/County Special Assistance the option of remaining in the home.

(2) Which activities of daily living or other need criteria are reliable indicators for identifying individuals with the greatest need for income supplements for in-home living arrangements.

(3) How much case management is needed and which types of individuals are most in need of case management.

(4) The geographic location of individuals receiving payments under this section.

(5) A description of the services purchased with these payments.

(6) A description of the income levels of individuals who receive payments under this section and the impact on the Medicaid program.

(7) Findings and recommendations as to the feasibility of continuing or expanding the demonstration program.

(8) The level and quantity of services (including personal care services) provided to the demonstration project participants compared to the level and quantity of services for residents in adult care homes.

(9) A fiscal analysis and programmatic results of increasing the demonstration project participant's monthly assistance payment to fifty percent (50%) of the Special Assistance monthly payment.

SECTION 10.51.(c) The Department shall incorporate data collection tools designed to compare quality of life among institutionalized vs. noninstitutionalized populations (i.e., an individual's perception of his or her own health and well-being, years of healthy life, and activity limitations). To the extent national standards are available, the Department shall utilize those standards.

Requested by: Representatives Barnhart, Nye

STATE/COUNTY SPECIAL ASSISTANCE

SECTION 10.52.(a) The eligibility of Special Assistance recipients residing in adult care homes on August 1, 1995, shall not be affected by an income reduction in the Special Assistance eligibility criteria resulting from adoption of the Rate Setting Methodology Report and Related Services, providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand two hundred thirty-one dollars ($1,231) per month per resident.

SECTION 10.52.(b) The maximum monthly rate for residents in adult care home facilities shall be one thousand ninety-one dollars ($1,091) per month per resident through September 30, 2003.

SECTION 10.52.(c) Effective October 1, 2003, the maximum monthly rate for residents in adult care home facilities shall be one thousand sixty-six dollars ($1,066) per month per resident unless adjusted by the Department in accordance with subsection (f) of this section.

SECTION 10.52.(d) The eligibility of Special Assistance recipients who reside in adult care homes on September 30, 2003, and remain continuously eligible shall not be affected by an income reduction in the Special Assistance eligibility criteria,

providing these recipients are otherwise eligible. The maximum monthly rate for these residents in adult care home facilities shall be one thousand ninety-one dollars ($1,091) per month per resident. The standard of need level for coverage eligibility under State/County Special Assistance, for individuals not enrolled or recipients of the program on September 30, 2003, shall be not less than one thousand ninety-one dollars ($1,091) per month per individual, but the monthly reimbursement rate for such individuals shall be the amount established under subsections (c) and (f) of this section.

SECTION 10.52.(e) The sum of three million one hundred eighty-nine thousand six hundred seventy-five dollars ($3,189,675) for the 2003-2004 fiscal year and the sum of four million four hundred thirty-one thousand eight hundred forty-six dollars ($4,431,846) for the 2004-2005 fiscal year appropriated to the Department of Health and Human Services shall be transferred from the Division of Social Services to the Division of Medical Assistance and used as State match to draw down federal matching funds to help pay for Medicaid's personal care services for adult care homes (ACH-PCS) rather than the State/County Special Assistance Program.

SECTION 10.52.(f) Notwithstanding any other provision of this section, the Department of Health and Human Services shall review activities and costs related to the provision of care in adult care homes and shall determine what costs may be considered to properly maximize allowable reimbursement available through Medicaid personal care services for adult care homes (ACH-PCS) under federal law. As determined, and with any necessary approval from the Centers for Medicare and Medicaid Services (CMS), and the approval of the Office of State Budget and Management, the Department may transfer necessary funds from the State/County Special Assistance program within the Division of Social Services to the Division of Medical Assistance and may use those funds as State match to draw down federal matching funds to pay for such activities and costs under Medicaid's personal care services for adult care homes (ACH-PCS), thus maximizing available federal funds. The established rate for State/County Special Assistance set forth in subsection (c) of this section shall be adjusted by the Department to reflect any transfer of funds from the Division of Social Services to the Division of Medical Assistance, and related transfer costs and responsibilities from State/County Special Assistance to the Medicaid personal care services for adult care homes (ACH-PCS). Such rate adjustments to the Special Assistance rate shall be effective with the effective date of increased reimbursement under ACH-PCS. In no event shall the reimbursement for services through the ACH-PCS exceed the average cost of such services as determined by the Department from review of cost reports as required and submitted by adult care homes. The Department shall report any transfers of funds and modifications of rates to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representatives Barnhart, Nye

STATE/COUNTY SPECIAL ASSISTANCE TRANSFER OF ASSETS

SECTION 10.53.(a) Notwithstanding any other provision of law to the contrary, Supplemental Security Income (SSI) policy applicable to transfer of assets and estate recovery, as prescribed by federal law, shall apply to applicants for State/County Special Assistance.

SECTION 10.53.(b) The Department of Health and Human Services shall continue to review whether policy for State/County Special Assistance should be changed to permit an assisted living facility to accept from a family member of a resident who qualifies for State/County Special Assistance payment for the difference in the monthly rate for room, board, and services available. In reviewing current policy, the Department shall consider the following conditions on family contributions to the resident's cost of care:

(1) Ensuring that the resident meets all income and resource eligibility requirements for State/County Special Assistance.
(2) Not counting payments made by family members to the facility as income to the resident or as an in-kind contribution when calculating the monthly rate applicable to the resident.
(3) Ensuring that supplemental payments are made on a voluntary basis as specified in the resident agreement.

Not later than March 1, 2004, the Department shall report on its activities under this subsection to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division.

Requested by: Representatives Nye, Barnhart

LIMITATION ON STATE ABORTION FUNDING

SECTION 10.54.(a) No State funds shall be used for the performance of abortions. However, the Department of Health and Human Services may expend funds to the extent necessary to comply with federal law and regulations governing Medicaid.

Requested by: Representatives Barnhart, Nye

FUNDS FOR FOOD BANKS

SECTION 10.55.(a) Of the funds appropriated to the Department of Health and Human Services in this act, the sum of one million dollars ($1,000,000) for the 2003-2004 fiscal year shall be allocated equally among the six Second Harvest North Carolina food banks.

SECTION 10.55.(b) Each organization shall report to the Department of Health and Human Services and the Fiscal Research Division on the activities performed and the impact on local communities directly associated with the funds allocated in subsection (a) of this section by April 1, 2004. Each organization shall provide to the Department of Health and Human Services and the Fiscal Research Division a copy of its annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representative Clary

CHILD WELFARE SYSTEM PILOTS SYSTEM

SECTION 10.56.(a) The Department of Health and Human Services, Division of Social Services, shall continue working with local departments of social services to implement an alternative response system of child protection in no fewer than 10 and no more than 33 demonstration areas in this State. The Division of Social Services may exceed the maximum number of demonstration areas if a county specifically requests inclusion and the Division determines that resources are available. The demonstration projects in place in the 2003-2004 fiscal year shall continue. The alternative response system shall provide for a family-centered approach to child protective services which local departments of social services utilize family assessment tools and family support principles when responding to selected reports of suspected child neglect and dependency.

SECTION 10.56.(b) The Department of Health and Human Services shall evaluate the original pilot demonstration areas to determine the impact the alternative response system to child protective services has had in the following areas:
(1) Child safety.
(2) Timeliness of response.
(3) Timeliness of service.
(4) Coordination of local human services.

SECTION 10.56.(c) The Department of Health and Human Services shall proceed to expand this demonstration project if non-State funds are identified for this purpose.

SECTION 10.56.(d) The Department of Health and Human Services shall report on the outcome of the evaluation of the original pilot demonstration areas pursuant to subsection (b) of this section and the expansion of the demonstration areas. The Department shall make recommendations for statewide implementation of an alternative response system to child protective services. The report shall include any statutory changes required for full implementation. Any recommendations for statutory changes contained in the report shall be eligible for consideration by the 2003 General Assembly in the 2004 Regular Session. The report shall be submitted to the Senate Appropriations Committee on Health and Human Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, and the Fiscal Research Division not later than April 1, 2004.

PART XI. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Requested by: Representatives Fox, West

GRASS ROOTS SCIENCE PROGRAM

SECTION 11.1. Of the funds appropriated in this act to the Department of Environment and Natural Resources for the Grassroots Science Program, the sum of two million six hundred five thousand six hundred thirty-seven dollars ($2,605,637) for fiscal year 2003-2004 and the sum of two million six hundred five thousand six hundred thirty-seven dollars ($2,605,637) for fiscal year 2004-2005 are allocated as grants-in-aid for each fiscal year as follows:

	2003-2004	2004-2005
Aurora Fossil Museum	$56,704	$56,704
Cape Fear Museum	$185,762	$185,762
Catawba Science Center	$135,096	$135,096
Colburn Gem and Mineral Museum, Inc.	$66,894	$66,894
Discovery Place	$625,643	$625,643
Granville County Museum Commission, Inc. - Harris Gallery	$55,897	$55,897
The Health Adventure Museum of Pack Place Education, Arts and Science Center, Inc.	$121,268	$121,268
Imagination Station	$85,384	$85,384
Iredell County Children's Museum	$56,631	$56,631
Museum of Coastal Carolina	$69,352	$69,352
Natural Science Center of Greensboro	$183,703	$183,703
North Carolina Museum of Life and Science	$389,011	$389,011
Rocky Mount Children's Museum	$72,859	$72,859
Schiele Museum of Natural History	$234,921	$234,921
Sci Works Science Center and Environmental Park of Forsyth County	$147,788	$147,788
Western North Carolina Nature Center	$118,726	$118,726
Total	$2,605,637	$2,605,637

Requested by: Representatives Fox, West

STATEWIDE BEAVER DAMAGE CONTROL PROGRAM FUND

SECTION 11.2. Of the funds appropriated to the Wildlife Resources Fund in this act, the sum of four hundred forty-nine thousand dollars ($449,000) for the 2003-2004 fiscal year and the sum of four hundred forty-nine thousand dollars ($449,000) for the 2004-2005 fiscal year shall be used to provide the State share

necessary to support the beaver damage control program established in G.S. 113-291.10, provided the sum of at least twenty-five thousand dollars ($25,000) in federal funds is available each fiscal year of the biennium to provide the federal share.

Requested by: Representatives Fox, West

FUNDS FOR CLEANUP OF WARREN COUNTY PCB LANDFILL

SECTION 11.3.(a) Notwithstanding the provisions of G.S. 143-215.3A, the Department of Environment and Natural Resources may use up to five hundred thousand dollars ($500,000) for the 2003-2004 fiscal year from the fees collected for water quality permits under G.S. 143-215.3D and credited to the Water Permits Fund if both of the following conditions are satisfied:

(1) The detoxification and remediation of the landfill located in Warren County cannot be completed without these additional funds.

(2) All other funds, including all contingency funds, available to the Department for the detoxification and remediation of the landfill located in Warren County that contains polychlorinated biphenyl (PCBs) and dioxin/furan contaminated materials have been spent or encumbered.

SECTION 11.3.(b) It is the intent of the General Assembly that the funds authorized under subsection (a) of this section will be sufficient to complete the detoxification and remediation of this landfill, based on representations made to the General Assembly.

Requested by: Representatives Fox, West

COMMERCIAL AND NONCOMMERCIAL UNDERGROUND STORAGE TANK FUNDS

SECTION 11.4.(a) Section 19 of S.L. 1989-652, Section 67 of S.L. 1991-1044, Section 15(a) and Section 15(b) of S.L. 1995-377, and Section 1 of S.L. 2001-454 are repealed, which has the effect of repealing two million six hundred twenty-five thousand dollars ($2,625,000) in appropriations from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources and one million two hundred ninety-five thousand dollars ($1,295,000) in appropriations from the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources.

SECTION 11.4.(b) There is appropriated from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources the sum of two million six hundred twenty-five thousand dollars ($2,625,000) for the 2003-2004 fiscal year and the sum of two million six hundred twenty-five thousand dollars ($2,625,000) for the 2004-2005 fiscal year to administer the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes.

SECTION 11.4.(c) It is the intent of the General Assembly that the funds under subsection (b) of this section are recurring funds.

SECTION 11.4.(d) There is appropriated from the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund to the Department of Environment and Natural Resources the sum of one million two hundred ninety-five thousand dollars ($1,295,000) for the 2003-2004 fiscal year and the sum of one million two hundred ninety-five thousand dollars ($1,295,000) for the 2004-2005 fiscal year to administer the underground storage tank program under Parts 2A and 2B of Article 21A of Chapter 143 of the General Statutes.

SECTION 11.4.(e) It is the intent of the General Assembly that the funds under subsection (c) of this section are recurring funds.

SECTION 11.4.(f) The Office of State Budget and Management shall certify the appropriations under subsections (b) and subsection (d) of this section in the budget

codes for the Commercial and Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds and in the General Fund budget code for the Department of Environment and Natural Resources.

Requested by: Representatives Fox, West, LaRoque

COST SHARE FUNDS FOR LIMITED RESOURCE/NEW FARMERS

SECTION 11.6. G.S. 143-215.74(b) reads as rewritten:

"(b) The program shall be subject to the following requirements and limitations:

(1) The purpose of the program shall be to reduce the input of agricultural nonpoint source pollution into the water courses of the State.

(2) The program shall initially include the present 16 nutrient sensitive watershed counties and 17 additional counties.

(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. The Soil and Water Conservation Commission shall retain the authority to allocate the cost share funds.

(4) Areas shall be included in the program as the funds are appropriated and the technical assistance becomes available from the local Soil and Water Conservation District.

(5) Funding may be provided to assist practices including conservation tillage, diversions, filter strips, field borders, critical area plantings, sedimentation control structures, sod-based rotations, grassed waterways, strip-cropping, terraces, cropland conversion to permanent vegetation, grade control structures, water control structures, closure of lagoons, emergency spillways, riparian buffers or equivalent controls, odor control best management practices, insect control best management practices, and animal waste management systems and application. Funding for animal waste management shall be allocated for practices in river basins such that the funds will have the greatest impact in improving water quality.

(6) Except as provided in subdivision (8) and subdivision (9) of this subsection, State funding shall be limited to seventy-five percent (75%) of the average cost for each practice with the assisted farmer providing twenty-five percent (25%) of the cost, which may include in-kind support of the practice, with a maximum of seventy-five thousand dollars ($75,000) per year to each applicant.

(7) Priority designation for inclusion in the program for State funding shall be given to projects that improve water quality. To be eligible for cost share funds under this subdivision, a project shall be evaluated before funding is awarded and after the project is completed to determine the impact on water quality.

(8) For practices that are eligible for funding from the federal Conservation Reserve Enhancement Program, State funding from the program shall be limited to seventy-five percent (75%) of the average cost of each practice, with the remainder paid from funding from the Conservation Reserve Enhancement Program, other available federal funds, other State funds, or the assisted farmer, whose contribution may include in-kind support of the practice. This subdivision is subject to subdivision (9) of this subsection.

(9) When the applicant is either a limited-resource farmer or a beginning farmer, State funding shall be limited to ninety percent (90%) of the average cost for each practice with the assisted farmer providing ten percent (10%) of the cost, which may include in-kind support of the practice, with a maximum of one hundred thousand dollars ($100,000)

per year to each applicant. The following definitions apply in this subdivision:

a. Beginning farmer. – A farmer who has not operated a farm or who has operated a farm for not more than 10 years and who will materially and substantially participate in the operation of the farm.

b. Limited-resource farmer. – A farmer with direct and indirect gross farm sales that do not exceed one hundred thousand dollars ($100,000).

c. Materially and substantially participate. –

1. In the case of an individual, for the individual, including members of the immediate family of the individual, to provide substantial day-to-day labor and management of the farm, consistent with the practices in the county in which the farm is located.

2. In the case of an entity, for all members of the entity, to participate in the operation of the farm, with some members providing management and some members providing labor and management necessary for day-to-day activities such that if the members did not provide the management and labor, the operation of the farm would be seriously impaired."

Requested by: Representatives Fox, West

CLEAN WATER MANAGEMENT TRUST FUND/NO ACQUISITION OF REAL ESTATE INTERESTS IN CERTAIN COUNTIES.

SECTION 11.7. G.S. 113-145.3 reads as rewritten:

"**§ 113-145.3. Clean Water Management Trust Fund: established.**

(a) Fund Established. – There is established a Clean Water Management Trust Fund in the State Treasurer's Office that shall be used to finance projects to clean up or prevent surface water pollution in accordance with this Article.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair of the Board of Trustees.

(c) Fund Purposes. – ~~Moneys~~ Except as provided in subsection (c1) of this section, moneys from the Fund may be used for any of the following purposes:

(1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses.

(2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and urban drinking water supplies.

(3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality.

(4) To restore previously degraded lands to reestablish their ability to protect water quality.

(5) To repair failing waste treatment systems if: (i) an application has first been submitted to receive a loan or grant from the Clean Water Revolving Loan and Grant Fund and the application was denied during the latest review cycle; (ii) the repair is a reasonable remedy for

resolving an existing waste treatment problem; and (iii) the repair is not for the purpose of expanding the system to accommodate future anticipated growth of a community. Priority shall be given to economically distressed units of local government.

(6) To repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand waste treatment systems if the system is being expanded as a remedy to eliminate failing septic tank systems or illegal drainage connections. Priority shall be given to economically distressed units of local government.

(7) To improve stormwater controls and management practices.

(8) To facilitate planning that targets reductions in surface water pollution.

(9) To fund operating expenses of the Board of Trustees and its staff.

(c1) Moneys from the Fund shall not be used to acquire any interest in real property for any purpose in any county in which the sum total of land owned by either the federal or State government exceeds forty percent (40%). This subsection does not apply to a county if the board of commissioners of the county adopts a resolution consenting to the acquisition.

(d) Limit on Operating and Administrative Expenses. – No more than two percent (2%) of the annual balance of the Fund on July 1 or a total sum of one million two hundred fifty thousand dollars ($1,250,000), whichever is greater, may be used each fiscal year for administrative and operating expenses of the Board of Trustees and its staff."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Wright

CLEAN WATER MANAGEMENT TRUST FUND APPROPRIATION

SECTION 11.8. Notwithstanding G.S. 143-15.3B(a) for the 2003-2005 fiscal biennium only, the appropriation to the Clean Water Management Trust Fund for the 2003-2004 fiscal year is only twenty-five million dollars ($25,000,000) as provided by this act and is only twenty five-million dollars ($25,000,000) for the 2004-2005 fiscal year as provided by this act. The funds appropriated by this act to the Clean Water Management Trust Fund shall be used as provided by G.S. 143-15.3B(b).

Requested by: Representative Gillespie

STUDY REALLOCATION OF BAILEY FORK WATERSHED PROPERTY TO STATE PARK/ACCESS TO STATE PARK

SECTION 11.9.(a) The Department of Environment and Natural Resources and the Department of Health and Human Services shall study the desirability of reallocating the 454 acres that comprise the Bailey Fork watershed property located in Burke County that is currently owned by the Department of Health and Human Services and shall study whether to provide access to new facilities at the South Mountains State Park to students at the North Carolina School for the Deaf at Morganton. After considering these matters under this section, the Departments may submit a request to the Council of State to reallocate the 454 acres that comprise the Bailey Fork watershed property located in Burke County to the South Mountains State Park as an addition to the South Mountains State Park. No later than January 1, 2004, the Department of Environment and Natural Resources and the Department of Health and Human Services shall report the results of the study, including any findings and recommendations, to the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources.

SECTION 11.9.(b) Prior to July 1, 2005, the 454 acres that comprise the Bailey Fork watershed property located in Burke County that is currently owned by the Department of Health and Human Services shall not be transferred or sold without review and approval by the General Assembly.

PART XII. DEPARTMENT OF COMMERCE

Requested by: Representatives Fox, West

WANCHESE SEAFOOD INDUSTRIAL PARK/OREGON INLET FUNDS

SECTION 12.1.(a) Of the funds appropriated in this act to the Department of Commerce for the Wanchese Seafood Industrial Park, the sum of one hundred twenty-seven thousand eight hundred seventy dollars ($127,870) for the 2003-2004 fiscal year and the sum of one hundred twenty-seven thousand eight hundred seventy dollars ($127,870) for the 2004-2005 fiscal year may be expended by the North Carolina Seafood Industrial Park Authority for operations, maintenance, repair, and capital improvements in accordance with Article 23C of Chapter 113 of the General Statutes, in addition to funds available to the Authority for these purposes.

SECTION 12.1.(b) Funds appropriated to the Department of Commerce for the 2002-2003 fiscal year for the Oregon Inlet Project that are unexpended and unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30, 2003, but shall remain available to the Department for legal costs associated with the Project. This subsection becomes effective June 30, 2003.

Requested by: Representatives Fox, West

COUNCIL OF GOVERNMENT FUNDS

SECTION 12.2.(a) Of the funds appropriated in this act to the Department of Commerce, eight hundred thirty-two thousand one hundred fifty dollars ($832,150) for the 2003-2004 fiscal year and eight hundred thirty-two thousand one hundred fifty dollars ($832,150) for the 2004-2005 fiscal year shall only be used as provided by this section. Each regional council of government or lead regional organization is allocated up to forty-eight thousand nine hundred fifty dollars ($48,950) for the 2003-2004 and the 2004-2005 fiscal years.

SECTION 12.2.(b) A regional council of government may use funds appropriated by this section only to assist local governments in grant applications, economic development, community development, support of local industrial development activities, and other activities as deemed appropriate by the member governments.

SECTION 12.2.(c) Funds appropriated by this section shall be paid by electronic transfer in two equal installments, the first no later than September 1, 2003, and the second subsequent to acceptable submission of the annual report due to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division by January 15, 2005, as specified in subdivision (e)(2) of this section.

SECTION 12.2.(d) Funds appropriated by this section shall not be used for payment of dues or assessments by the member governments and shall not supplant funds appropriated by the member governments.

SECTION 12.2.(e) Each council of government or lead regional organization shall do the following:

(1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
   b. State fiscal year 2002-2003 itemized expenditures and fund sources;
   c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments, including actual results through December 31, 2003; and
   d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2003;

(2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
b. State fiscal year 2003-2004 itemized expenditures and fund sources;
c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments, including actual results through December 31, 2004; and
d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2004; and
(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Requested by: Representatives Fox, West

TOURISM PROMOTION FUNDS

SECTION 12.3. Funds appropriated in this act to the Department of Commerce for tourism promotion grants shall be allocated to counties in an effort to direct funds to counties most in need. Determinations of which counties are most in need shall focus on those with the lowest per capita income, highest unemployment, and slowest population growth, in the following manner:
(1) Counties 1 through 20 are each eligible to receive a maximum grant of seven thousand five hundred dollars ($7,500) for each fiscal year, provided these funds are matched on the basis of one non-State dollar for every four State dollars.
(2) Counties 21 through 50 are each eligible to receive a maximum grant of three thousand five hundred dollars ($3,500) for two of the next three fiscal years, provided these funds are matched on the basis of one non-State dollar for every three State dollars.
(3) Counties 51 through 100 are each eligible to receive a maximum grant of three thousand five hundred dollars ($3,500) for alternating fiscal years, beginning with the 1991-1992 fiscal year, provided these funds are matched on the basis of four non-State dollars for every State dollar.

Requested by: Representatives Fox, West

ONE NORTH CAROLINA – INDUSTRIAL RECRUITMENT COMPETITIVE FUND

SECTION 12.4.(a) Funds appropriated to the Department of Commerce for the One North Carolina - Industrial Recruitment Competitive Fund shall be used to continue the Fund. The purpose of the Fund is to provide financial assistance to those businesses or industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina.

SECTION 12.4.(b) Moneys allocated from the Competitive Fund shall be used for the following purposes:
(1) Installation or purchase of equipment;
(2) Structural repairs, improvements, or renovations of existing buildings to be used for expansion; and
(3) Construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment for existing buildings.

Moneys may also be used for construction of or improvements to new or existing water, sewer, gas or electric utility distribution lines, or equipment to serve new or proposed industrial buildings used for manufacturing and industrial operations. The Governor shall adopt guidelines and procedures for the commitment of moneys from the Fund.

SECTION 12.4.(c) The Department of Commerce shall report on or before September 30, 2003, and quarterly thereafter, to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on the commitment, allocation, and use of funds allocated from the One North Carolina - Industrial Recruitment Competitive Fund.

SECTION 12.4.(d) Funds appropriated to the Department of Commerce for the 2002-2003 fiscal year for the One North Carolina - Industrial Recruitment Competitive Fund that are unexpended and unencumbered as of June 30, 2003, shall not revert to the General Fund on June 30, 2003, but shall remain available to the Department for providing financial assistance to those businesses and industries deemed by the Governor to be vital to a healthy and growing State economy and that are making significant efforts to establish or expand in North Carolina.

SECTION 12.4.(e) This section becomes effective June 30, 2003.

Requested by: Representatives Fox, West

INDUSTRIAL DEVELOPMENT FUND

SECTION 12.5.(a) The Department of Commerce shall reduce the cash balance of the Industrial Development Fund by one million one hundred sixty-nine thousand four hundred thirty-eight dollars ($1,169,438).

SECTION 12.5.(b) This section becomes effective June 30, 2002.

Requested by: Representatives Fox, West

WORKER TRAINING TRUST FUND

SECTION 12.6.(a) There is appropriated from the Worker Training Trust Fund to the Employment Security Commission of North Carolina the sum of five million dollars ($5,000,000) for the 2003-2004 fiscal year for the operation of local offices.

SECTION 12.6.(b) Notwithstanding the provisions of G.S. 96-5(f), there is appropriated from the Worker Training Trust Fund to the following agencies the following sums for the 2003-2004 fiscal year for the following purposes:

(1) One hundred ninety-three thousand eight hundred seventy-nine dollars ($193,879) for the 2003-2004 fiscal year to the Employment Security Commission for the State Occupational Information Coordinating Committee to develop and operate an interagency system to track former participants in State education and training programs;

(2) Fifty-three thousand eight hundred fifty-six dollars ($53,856) for the 2003-2004 fiscal year to the Employment Security Commission to maintain compliance with Chapter 96 of the General Statutes, which directs the Commission to employ the Common Follow-Up Management Information System to evaluate the effectiveness of the State's job training, education, and placement programs;

(3) Eight hundred sixty-one thousand six hundred eighty-four dollars ($861,684) for the 2003-2004 fiscal year to the Department of Labor to continue the Apprenticeship Program; and

(4) Two hundred forty thousand dollars ($240,000) for the 2003-2004 fiscal year to the Community Colleges System Office for the operation of the Hosiery Technology Center.

SECTION 12.6.(c) The agencies listed in subsections (a) and (b) of this section shall, by January 15, 2004, and more frequently as requested, for the programs for which funds are appropriated in this section, report to the Joint Legislative

Commission on Governmental Operations and the Fiscal Research Division the following information:

(1) State fiscal year 2003-2004 program activities, objectives, and accomplishments;

(2) State fiscal year 2003-2004 itemized expenditures and fund sources;

(3) State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and

(4) State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003.

SECTION 12.6.(d) Notwithstanding the provisions of G.S. 96-5(f), funds appropriated for 2002-2003 from the Worker Training Trust Fund to the Community Colleges System Office for both the Focused Industrial Training Program and the Training Initiatives shall not revert, but shall remain available to the System Office for the support of each program in fiscal year 2003-2004.

Requested by: Representatives Fox, West

REGIONAL ECONOMIC DEVELOPMENT COMMISSION ALLOCATIONS

SECTION 12.7.(a) Funds appropriated in this act to the Department of Commerce for regional economic development commissions shall be allocated to the following commissions in accordance with subsection (b) of this section: Western North Carolina Regional Economic Development Commission, Research Triangle Regional Commission, Southeastern North Carolina Regional Economic Development Commission, Piedmont Triad Partnership, Northeastern North Carolina Regional Economic Development Commission, Global TransPark Development Commission, and Carolinas Partnership, Inc.

SECTION 12.7.(b) Funds appropriated pursuant to subsection (a) of this section shall be allocated to each regional economic development commission as follows:

(1) First, the Department shall establish each commission's allocation by determining the sum of allocations to each county that is a member of that commission. Each county's allocation shall be determined by dividing the county's enterprise factor by the sum of the enterprise factors for eligible counties and multiplying the resulting percentage by the amount of the appropriation. As used in this subdivision, the term "enterprise factor" means a county's enterprise factor as calculated under G.S. 105-129.3; seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(2) Next, the Department shall subtract from funds allocated to the Global TransPark Development Zone the sum of one hundred seventy-one thousand nine hundred seventy-nine dollars ($171,979) in each fiscal year, which sum represents the interest earnings in each fiscal year on the estimated balance of seven million five hundred thousand dollars ($7,500,000) appropriated to the Global TransPark Development Zone in Section 6 of Chapter 561 of the 1993 Session Laws; and

(3) Next, the Department shall redistribute the sum of one hundred seventy-one thousand nine hundred seventy-nine dollars ($171,979) in each fiscal year to the seven regional economic development commissions named in subsection (a) of this section. Each commission's share of this redistribution shall be determined according to the enterprise factor formula set out in subdivision (1) of this subsection. This redistribution shall be in addition to each

commission's allocation determined under subdivision (1) of this subsection.

Requested by: Representatives Fox, West

REGIONAL ECONOMIC DEVELOPMENT COMMISSION REPORTS

SECTION 12.8.(a) By February 15 of each fiscal year, beginning in 2004, the seven regional economic development commissions shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

(1) The preceding fiscal year's program activities, objectives, and accomplishments.

(2) The preceding fiscal year's itemized expenditures and fund sources.

(3) Demonstration of how the commission's regional economic development and marketing strategy aligns with the State's overall economic development and marketing strategies.

(4) To the extent they are involved in promotion activities such as trade shows, visits to prospects and consultants, advertising and media placement, the commissions shall demonstrate how they have generated qualified leads.

SECTION 12.8.(b) Each of the commissions shall provide to the Fiscal Research Division a copy of their annual audited financial statement within 30 days of issuance of the statement.

SECTION 12.8.(c) The reporting requirements for regional economic development commissions, as provided in subsection (a) of this section, shall be reviewed annually by the North Carolina Partnership for Economic Development and recommendations for changes to the reporting requirements shall be made to the Fiscal Research Division, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

SECTION 12.8.(d) Regional economic development commissions shall receive quarterly allocations of the funds appropriated in this act to the Department of Commerce for regional economic development commissions.

SECTION 12.8.(e) Regional economic development commissions shall remain in the Department of Commerce's Budget Code 14601 with other State-aided nonprofit entities.

SECTION 12.8.(f) The Board Structure of the Global TransPark Development Commission shall be studied in accordance with the recommendations found in the UNC Kenan-Flagler study, to determine if the board structure should be reconstituted and made similar to the boards of the Northeastern or Southeastern North Carolina Regional Economic Development Commissions. In conducting the study, the following conditions shall be met:

(1) The Global TransPark Development Commission shall contribute to the cost of the study by retaining a consultant familiar with the partnership.

(2) The Study shall be conducted by a designee of the North Carolina Partnership for Economic Development determined by the Partnership Presidents, a designee of the UNC Kenan-Flager School of Business, and the consultant retained by the Global TransPark Development Commission.

(3) None of the eastern regional commissions shall be consolidated.

(4) The results of the study shall be submitted to the Fiscal Research Division and members of the North Carolina Partnership for Economic Development prior to the beginning of the 2004 Regular Session of the 2003 General Assembly.

Requested by: Representatives Fox, West

NONPROFIT REPORTING REQUIREMENTS

SECTION 12.9.(a) The N.C. Institute for Minority Economic Development, Inc., Land Loss Prevention Project, North Carolina Minority Support Center, North Carolina Community Development Initiative, Inc., North Carolina Association of Community Development Corporations, Inc., and Partnership for the Sounds, Inc., shall do the following:

(1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
   b. State fiscal year 2002-2003 itemized expenditures and fund sources;
   c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
   d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003;

(2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
   b. State fiscal year 2003-2004 itemized expenditures and fund sources;
   c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and
   d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 12.9.(b) No funds appropriated under this act shall be released to a nonprofit organization listed in subsection (a) of this section until the organization has satisfied the reporting requirement for January 15, 2003. Fourth quarter allotments shall not be released to any nonprofit organization that does not satisfy the reporting requirements by January 15, 2004, or January 15, 2005.

Requested by: Representatives Fox, West

BIOTECHNOLOGY CENTER

SECTION 12.10.(a) The North Carolina Biotechnology Center shall recapture funds spent in support of successful research and development efforts in the for-profit private sector.

SECTION 12.10.(b) The North Carolina Biotechnology Center shall provide funding for biotechnology, biomedical, and related bioscience applications under its Business and Science Technology Programs.

SECTION 12.10.(c) The North Carolina Biotechnology Center shall:

(1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;

b. State fiscal year 2002-2003 itemized expenditures and fund sources;
c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003;

(2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;
b. State fiscal year 2003-2004 itemized expenditures and fund sources;
c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and
d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004; and

(3) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

SECTION 12.10.(d) The North Carolina Biotechnology Center shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management and to the Fiscal Research Division in the same manner as State departments and agencies in preparation for biennium budget requests.

Requested by: Representatives Fox, West

RURAL ECONOMIC DEVELOPMENT CENTER

SECTION 12.11.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of one million seven hundred fourteen thousand six hundred seventy-seven dollars ($1,714,677) for the 2003-2004 fiscal year and the sum of one million seven hundred fourteen thousand six hundred seventy-seven dollars ($1,714,677) for the 2004-2005 fiscal year shall be allocated as follows:

	2003-2004 FY	2004-2005 FY
Research and Demonstration Grants	$370,000	$370,000
Technical Assistance and Center Administration of Research and Demonstration Grants	444,399	444,399
Center Administration, Oversight, and Other Programs	437,278	437,278
Administration of Clean Water/ Natural Gas Critical Needs Bond Act of 1998	199,722	199,722
Additional Administration of Supplemental Funding Program	138,278	138,278
Administration of Capacity Building Assistance Program (1998 Bond Act)	125,000	125,000.

SECTION 12.11.(b) The Rural Economic Development Center, Inc., shall provide a report containing detailed budget, personnel, and salary information to the Office of State Budget and Management in the same manner as State departments and agencies in preparation for biennium budget requests.

SECTION 12.11.(c) For purposes of this section, the term "community development corporation" means a nonprofit corporation:

(1) Chartered pursuant to Chapter 55A of the General Statutes;

(2) Tax-exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986;

(3) Whose primary mission is to develop and improve low-income communities and neighborhoods through economic and related development;

(4) Whose activities and decisions are initiated, managed, and controlled by the constituents of those local communities; and

(5) Whose primary function is to act as deal maker and packager of projects and activities that will increase their constituencies' opportunities to become owners, managers, and producers of small businesses, affordable housing, and jobs designed to produce positive cash flow and curb blight in the targeted community.

SECTION 12.11.(d) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of two million three hundred fifty-nine thousand five hundred dollars ($2,359,500) for the 2003-2004 fiscal year and the sum of two million three hundred fifty-nine thousand five hundred dollars ($2,359,500) for the 2004-2005 fiscal year shall be allocated as follows:

(1) $991,000 in each fiscal year for community development grants to support development projects and activities within the State's minority communities. Any community development corporation as defined in this section is eligible to apply for funds. The Rural Economic Development Center, Inc., shall establish performance-based criteria for determining which community development corporation will receive a grant and the grant amount. The Rural Economic Development Center, Inc., shall allocate these funds as follows:

a. $800,000 in each fiscal year for direct grants to the local community development corporations that have previously received State funds for this purpose to support operations and project activities;

b. $141,000 in each fiscal year for direct grants to local community development corporations that have not previously received State funds; and

c. $50,000 in each fiscal year to the Rural Economic Development Center, Inc., to be used to cover expenses in administering this section.

(2) $195,000 in each fiscal year to the Microenterprise Loan Program to support the loan fund and operations of the Program; and

(3) $983,000 in each fiscal year shall be used for a program to provide supplemental funding for matching requirements for projects and activities authorized under this subdivision. The Center shall allocate these funds as follows:

a. $775,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants for:

1. Necessary economic development projects and activities in economically distressed areas;

2. Necessary water and sewer projects and activities in economically distressed communities to address health or environmental quality problems except that funds shall not be expended for the repair or replacement of low-pressure pipe wastewater systems. If a grant is awarded under this sub-subdivision, then the grant shall

be matched on a dollar-for-dollar basis in the amount of the grant awarded; or

3. Projects that demonstrate alternative water and waste management processes for local governments. Special consideration should be given to cost-effectiveness, efficacy, management efficiency, and the ability of the demonstration project to be replicated.

b. $208,000 in each fiscal year to make grants to local governments and nonprofit corporations to provide funds necessary to match federal grants or other grants related to water, sewer, or business development projects.

(4) $190,500 in each fiscal year for the Agricultural Advancement Consortium. These funds shall be placed in a reserve and allocated as follows:

a. $75,000 in each fiscal year for operating expenses associated with the Consortium; and

b. $115,500 in each fiscal year for research initiatives funded by the Consortium.

The Consortium shall facilitate discussions among interested parties and shall develop recommendations to improve the State's economic development through farming and agricultural interests.

The grant recipients in this subsection shall be selected on the basis of need.

SECTION 12.11.(e) The Rural Economic Development Center, Inc., shall:

(1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;

b. State fiscal year 2002-2003 itemized expenditures and fund sources;

c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and

d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003.

(2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;

b. State fiscal year 2003-2004 itemized expenditures and fund sources;

c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments including actual results through December 31, 2004; and

d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2004.

(3) Provide to the Fiscal Research Division a copy of each grant recipient's annual audited financial statement within 30 days of issuance of the statement.

SECTION 12.11.(f) No funds appropriated under this act shall be released to a community development corporation, as defined in this act, unless the corporation can demonstrate that there are no outstanding or proposed assessments or other collection

actions against the corporation for any State or federal taxes, including related penalties, interest, and fees.

Requested by: Representatives Fox, West

OPPORTUNITIES INDUSTRIALIZATION CENTER FUNDS

SECTION 12.12.(a) Of the funds appropriated in this act to the Rural Economic Development Center, Inc., the sum of three hundred fifty-one thousand five hundred dollars ($351,500) for the 2003-2004 fiscal year and the sum of three hundred fifty-one thousand five hundred dollars ($351,500) for the 2004-2005 fiscal year shall be allocated as follows:

(1) $87,875 in each fiscal year to the Opportunities Industrialization Center of Wilson, Inc., for its ongoing job training programs;

(2) $87,875 in each fiscal year to the Opportunities Industrialization Center, Inc., in Rocky Mount, for its ongoing job training programs;

(3) $87,875 in each fiscal year to the Opportunities Industrialization Centers Kinston and Lenoir County, North Carolina, Inc.; and

(4) $87,875 in each fiscal year to the Opportunities Industrialization Center of Elizabeth City, Inc.

SECTION 12.12.(b) For each of the Opportunities Industrialization Centers receiving funds pursuant to subsection (a) of this section, the Rural Economic Development Center, Inc., shall:

(1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;

b. State fiscal year 2002-2003 itemized expenditures and fund sources;

c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments, including actual results through December 31, 2003; and

d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2003.

(2) By January 15, 2005, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

a. State fiscal year 2003-2004 program activities, objectives, and accomplishments;

b. State fiscal year 2003-2004 itemized expenditures and fund sources;

c. State fiscal year 2004-2005 planned activities, objectives, and accomplishments, including actual results through December 31, 2004; and

d. State fiscal year 2004-2005 estimated itemized expenditures and fund sources, including actual expenditures and fund sources through December 31, 2004.

(3) Notwithstanding G.S. 143-6.1(d), file annually with the State Auditor a financial statement in the form and on the schedule prescribed by the State Auditor. The financial statements must be audited in accordance with standards prescribed by the State Auditor to assure that State funds are used for the purposes provided by law.

(4) Provide to the Fiscal Research Division a copy of the annual audited financial statement required in subdivision (3) of this subsection within 30 days of issuance of the statement.

SECTION 12.12.(c) No funds appropriated under this act shall be released to an Opportunities Industrialization Center (hereinafter Center) listed in subsection (a) of this section unless the Center can demonstrate that there are no outstanding or proposed assessments or other collection actions against the Center for any State or federal taxes, including related penalties, interest, and fees.

SECTION 12.12.(d) Of the funds appropriated in the Economic Incentives Reserve, funds shall be used to adjust allocations to Opportunities Industrialization Centers to equal a reduction of no more than five percent (5%) of their 2002-2003 fiscal year appropriations.

Requested by: Representatives Wainwright, Lucas, Culpepper

NONPROFIT FUNDING

SECTION 12.13. Of the funds appropriated in the Economic Incentives Reserve for the Commerce State-Aid Non-profits, except Regional Economic Development Commissions, fiscal year 2003-2004 appropriations shall be adjusted to reflect fiscal year 2002-2003 appropriations.

PART XIII. JUDICIAL DEPARTMENT

Requested by: Representatives Kiser, Haire

OPERATIONAL SAVINGS/FUNDING RESERVES

SECTION 13.1.(a) The Judicial Department shall report by September 1, 2003, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House Representatives Appropriations Subcommittees on Justice and Public Safety on the positions identified in the Administrative Office of the Courts in order to implement operational savings.

SECTION 13.1.(b) The Judicial Department, the Department of Correction, the Department of Crime Control and Public Safety, the Department of Juvenile Justice and Delinquency Prevention, and the Department of Justice shall report quarterly to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the implementation of negative reserves authorized for each agency in this budget. The departments shall report to the Joint Legislative Commission on Governmental Operations before implementing negative reserves by eliminating positions or abolishing programs.

Requested by: Representatives Kiser, Haire

COLLECTION OF WORTHLESS CHECK FUNDS

SECTION 13.2. Notwithstanding the provisions of G.S. 7A-308(c), the Judicial Department may use any balance remaining in the Collection of Worthless Checks Fund on June 30, 2003, for the purchase or repair of office or information technology equipment during the 2003-2004 fiscal year. Prior to using any funds under this section, the Judicial Department shall report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the equipment to be purchased or repaired and the reasons for the purchases.

Requested by: Representatives Kiser, Haire

OFFICE OF INDIGENT DEFENSE SERVICES REPORT

SECTION 13.3. The Office of Indigent Defense Services shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1 of each year on:

(1) The volume and cost of cases handled in each district by assigned counsel or public defenders;

(2) Actions taken by the Office to improve the cost-effectiveness and quality of indigent defense, including the capital case program;
(3) Plans for changes in rules, standards, or regulations in the upcoming year; and
(4) Any recommended changes in law or funding procedures that would assist the Office in improving the management of funds expended for indigent defense services.

Requested by: Representatives Kiser, Haire

DRUG TREATMENT COURT PROGRAM

SECTION 13.4.(a) It is the intent of the General Assembly that State Drug Treatment Court funds not be used to fund case manager positions when the services provided by those positions can be reasonably provided by the Treatment Alternatives to Street Crime (TASC) program in the Department of Health and Human Services or by other existing resources. The Drug Treatment Court Program shall identify areas of potential cost savings in the local programs that would result from reducing the number of case manager positions. The Program shall also identify areas in which federal funding might absorb administrative costs.

The Drug Treatment Court Program shall report by February 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the savings identified.

SECTION 13.4.(b) Prior to the establishment of any new local drug treatment court programs, the local drug treatment court management committee shall consult with the TASC program as to the availability of case management services in that community.

Requested by: Representatives Kiser, Haire

FEDERAL GRANT FUNDS

SECTION 13.5. The Judicial Department shall use up to the sum of one million two hundred fifty thousand dollars ($1,250,000) from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds. The Judicial Department shall also use proceeds from the Court Information Technology Fund to fulfill prior obligations to criminal justice information projects receiving federal funds.

Requested by: Representatives Kiser, Haire

PUBLIC DEFENDER STUDY

SECTION 13.6. The Office of Indigent Defense Services shall study the establishment of additional public defender districts in the State, identifying the areas of the State in which savings could be realized by the establishment of such districts and the projected savings in each area. The Office of Indigent Defense Services shall report to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by March 1, 2004, on the results of its study.

Requested by: Representatives Kiser, Haire

TRANSFER OF EQUIPMENT AND SUPPLY FUNDS

SECTION 13.7. Funds appropriated to the Judicial Department in the 2003-2005 biennium for equipment and supplies shall be certified in a reserve account. The Administrative Office of the Courts may transfer these funds to the appropriate

programs and between programs as the equipment priorities and supply consumptions occur during the operating year. These funds shall not be expended for any other purpose.

Requested by: Representatives Kiser, Haire

ADJUST MAGISTRATE AUTHORIZATIONS

SECTION 13.8. G.S. 7A-133(c) reads as rewritten:

"(c) Each county shall have the numbers of magistrates and additional seats of district court, as set forth in the following table:

County	Magistrates Min. – Max.		Additional Seats of Court
Camden	1	3	
Chowan	2	3	
Currituck	1	4	
Dare	3	8	
Gates	2	3	
Pasquotank	3	5	
Perquimans	2	4	
Martin	~~5~~4	8	
Beaufort	4	8	
Tyrrell	1	3	
Hyde	2	4	
Washington	3	4	
Pitt	10	12	Farmville Ayden
Craven	7	10	Havelock
Pamlico	2	4	
Carteret	5	8	
Sampson	6	8	
Duplin	~~9~~8	11	
Jones	2	3	
Onslow	8	14	
New Hanover	6	11	
Pender	4	6	
Halifax	9	14	Roanoke Rapids, Scotland Neck
Northampton	5	7	
Bertie	4	6	
Hertford	5	7	
Nash	7	10	Rocky Mount
Edgecombe	4	7	Rocky Mount
Wilson	4	7	
Wayne	5	12	Mount Olive
Greene	2	4	
Lenoir	4	10	La Grange
Granville	3	7	
Vance	3	6	
Warren	3	5	
Franklin	3	7	
Person	3	4	
Caswell	2	5	
Wake	12	21	Apex, Wendell,

			Fuquay-Varina, Wake Forest
Harnett	7	11	Dunn
Johnston	10	12	Benson, Clayton, Selma
Lee	4	6	
Cumberland	10	19	
Bladen	4	6	
Brunswick	4	9	
Columbus	6	10	Tabor City
Durham	8	13	
Alamance	7	11	Burlington
Orange	4	11	Chapel Hill
Chatham	3	9	Siler City
Scotland	3	5	
Hoke	4	5	
Robeson	8	16	Fairmont, Maxton, Pembroke, Red Springs, Rowland, St. Pauls
Rockingham	4	9	Reidsville, Eden, Madison
Stokes	2	5	
Surry	5	9	Mt. Airy
Guilford	20	27	High Point
Cabarrus	5	9	Kannapolis
Montgomery	2	4	
Randolph	5	10	Liberty
Rowan	5	10	
Stanly	5	6	
Union	4	7	
Anson	4	6	
Richmond	5	6	Hamlet
Moore	5	8	Southern Pines
Forsyth	3	15	Kernersville
Alexander	2	4	
Davidson	7	10	Thomasville
Davie	2	3	
Iredell	4	9	Mooresville
Alleghany	1	2	
Ashe	3	4	
Wilkes	4	6	
Yadkin	3	5	
Avery	3	5	
Madison	4	5	
Mitchell	3	4	
Watauga	4	6	
Yancey	2	4	
Burke	4	7	

Caldwell	4	7	
Catawba	6	10	Hickory
Mecklenburg	15	28	
Gaston	11	22	
Cleveland	5	8	
Lincoln	4	7	
Buncombe	6	15	
Henderson	4	7	
McDowell	3	6	
Polk	3	4	
Rutherford	6	8	
Transylvania	2	4	
Cherokee	3	4	
Clay	1	2	
Graham	2	3	
Haywood	5	7	Canton
Jackson	3	5	
Macon	3	4	
Swain	2	~~34~~"	

Requested by: Representatives Kiser, Haire

SUSPENSION OF COURT-ORDERED ARBITRATION PROGRAM

SECTION 13.9. The Director of the Administrative Office of the Courts shall suspend the court-ordered arbitration program authorized under G.S. 7A-37.1 in any or all districts or counties to the extent that personnel to operate the program or funds to pay arbitrators are not available from any source. The Director may reinstate the program in one or more districts or counties to the extent that such personnel or funds become available.

Requested by: Representatives Wainwright, Lucas, Culpepper

NORTH CAROLINA STATE BAR FUNDS

SECTION 13.10. Of the funds appropriated by this act to the Economic Incentives Reserve and allocated by the Office of State Budget and Management pursuant to Section 6.17 of this act as a grant-in-aid to the North Carolina State Bar for the 2003-2004 fiscal year, the North Carolina State Bar may in its discretion use up to the sum of five hundred ninety thousand dollars ($590,000) for the 2003-2004 fiscal year to contract with the Center for Death Penalty Litigation to provide training, consultation, brief banking, and other assistance to attorneys representing indigent capital defendants.

PART XIV. DEPARTMENT OF JUSTICE

Requested by: Representatives Kiser, Haire

USE OF SEIZED AND FORFEITED PROPERTY TRANSFERRED TO STATE LAW ENFORCEMENT AGENCIES BY THE FEDERAL GOVERNMENT

SECTION 14.1.(a) Assets transferred to the Departments of Justice, Correction, and Crime Control and Public Safety during the 2003-2005 biennium pursuant to applicable federal law shall be credited to the budgets of the respective departments and shall result in an increase of law enforcement resources for those departments. The Departments of Justice, Correction, and Crime Control and Public Safety shall report to the Joint Legislative Commission on Governmental Operations upon receipt of the assets and, before using the assets, shall report on the intended use of the assets and the departmental priorities on which the assets may be expended.

SECTION 14.1.(b) The General Assembly finds that the use of assets transferred pursuant to federal law for new personnel positions, new projects,

acquisition of real property, repair of buildings where the repair includes structural change, and construction of or additions to buildings may result in additional expenses for the State in future fiscal periods. Therefore, the Department of Justice, the Department of Correction, and the Department of Crime Control and Public Safety are prohibited from using these assets for such purposes without the prior approval of the General Assembly.

SECTION 14.1.(c) Nothing in this section prohibits North Carolina law enforcement agencies from receiving funds from the United States Department of Justice, the United States Department of the Treasury, and the United States Department of Health and Human Services.

Requested by: Representatives Kiser, Haire

PRIVATE PROTECTIVE SERVICES AND ALARM SYSTEMS LICENSING BOARDS PAY FOR USE OF STATE FACILITIES AND SERVICES

SECTION 14.2. The Private Protective Services and Alarm Systems Licensing Boards shall pay the appropriate State agency for the use of physical facilities and services provided to those Boards by the State.

Requested by: Representatives Kiser, Haire

CERTAIN LITIGATION EXPENSES TO BE PAID BY CLIENTS

SECTION 14.3. Client departments, agencies, and boards shall reimburse the Department of Justice for reasonable court fees, attorney travel and subsistence costs, and other costs directly related to litigation in which the Department of Justice is representing the department, agency, or board.

Requested by: Representatives Kiser, Haire

REIMBURSEMENT FOR UNC BOARD OF GOVERNORS LEGAL REPRESENTATION

SECTION 14.4. The Department of Justice shall be reimbursed by the Board of Governors of The University of North Carolina for two Attorney III positions to provide legal representation to The University of North Carolina System.

Requested by: Representatives Kiser, Haire

REPORT ON CRIMINAL RECORDS CHECKS CONDUCTED FOR CONCEALED HANDGUN PERMITS/STUDY FEE ADJUSTMENT FOR CRIMINAL RECORDS CHECKS

SECTION 14.5.(a) The Department of Justice shall report by January 15 each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the receipts, costs for, and number of criminal records checks performed in connection with applications for concealed weapons permits. The report by the Department of Justice shall also include information on the number of applications received and approved for firearms safety courses.

SECTION 14.5.(b) The Office of State Budget and Management, in consultation with the Department of Justice, shall study the feasibility of adjusting the fees charged for criminal records checks conducted by the Division of Criminal Information of the Department of Justice as a result of the increase in receipts from criminal records checks. The study shall include an assessment of the Division's operational, personnel, and overhead costs related to providing criminal records checks and how those costs have changed since the prior fiscal year. The Office of State Budget and Management shall report its findings and recommendations to the Chairs of the Senate and House of Representatives Appropriations Committees, the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Fiscal Research Division on or before March 1, 2004.

Requested by: Representatives Kiser, Haire

NC LEGAL EDUCATION ASSISTANCE FOUNDATION REPORT ON FUNDS DISBURSED

SECTION 14.6. The North Carolina Legal Education Assistance Foundation shall report by March 1, 2004, to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Justice and Public Safety Subcommittees on its internal controls and procedures for ensuring that all funds designated for payoff of education loans are used for that purpose.

Requested by: Representative Kiser

RAPE KIT FUNDS A PRIORITY

SECTION 14.7. In expending funds appropriated in this act to the Department of Justice for the Molecular Genetics Section of the State Bureau of Investigation, the Department shall give priority to the analysis of forensic samples from rape kits for the investigation and prosecution of criminal offenses over the analysis of DNA samples taken from convicted offenders for entry into the DNA database.

PART XV. DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Requested by: Representatives Kiser, Haire

S.O.S. ADMINISTRATIVE COST LIMITS

SECTION 15.1. Of the funds appropriated to the Department of Juvenile Justice and Delinquency Prevention in this act, not more than four hundred fifty thousand dollars ($450,000) for the 2003-2004 fiscal year and not more than four hundred fifty thousand dollars ($450,000) for the 2004-2005 fiscal year may be used to administer the S.O.S. Program, to provide technical assistance to applicants and to local S.O.S. programs, and to evaluate the local S.O.S. programs. The Department may contract with appropriate public or nonprofit agencies to provide the technical assistance, including training and related services.

Requested by: Representatives Kiser, Haire

JUVENILE CRIME PREVENTION COUNCIL GRANT REPORTING AND CERTIFICATION

SECTION 15.2.(a) On or before May 1 each year, the Department of Juvenile Justice and Delinquency Prevention shall submit to the Joint Legislative Commission on Governmental Operations and the Appropriations Committees of the Senate and House of Representatives a list of the recipients of the grants awarded, or preapproved for award, from funds appropriated to the Department for local Juvenile Crime Prevention Council grants. The list shall include for each recipient the amount of the grant awarded, the membership of the local committee or council administering the award funds on the local level, and a short description of the local services, programs, or projects that will receive funds. The list shall also identify any programs that received grant funds at one time but for which funding has been eliminated by the Department of Juvenile Justice and Delinquency Prevention. A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly.

SECTION 15.2.(b) Each county in which local programs receive Juvenile Crime Prevention Council grant funds from the Department of Juvenile Justice and Delinquency Prevention shall certify annually through its local council to the Department that funds received are not used to duplicate or supplant other programs within the county.

Requested by: Representatives Kiser, Haire

REPORTS ON CERTAIN PROGRAMS

SECTION 15.3.(a) Project Challenge North Carolina, Inc., shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1 each year on the operation and the effectiveness of its program in providing alternative dispositions and services to juveniles who have been adjudicated delinquent or undisciplined. The report shall include information on the source of referrals for juveniles, the types of offenses committed by juveniles participating in the program, the amount of time those juveniles spend in the program, the number of juveniles who successfully complete the program, and the number of juveniles who commit additional offenses after completing the program.

SECTION 15.3.(b) The Department of Juvenile Justice and Delinquency Prevention shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the effectiveness of the Juvenile Assessment Center by April 1 each year. The report on the Juvenile Assessment Center shall include information on the number of juveniles served and an evaluation of the effectiveness of juvenile assessment plans and services provided as a result of these plans.

SECTION 15.3.(c) Communities in Schools shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, and the Joint Legislative Education Oversight Committee by April 1 each year on the operation and the effectiveness of its program. The report shall include information on the number of children served, the number of volunteers used, the impact on the children who have received services from Communities in Schools, and the operating budget of Communities in Schools.

Requested by: Representatives Kiser, Haire

STATE FUNDS MAY BE USED AS FEDERAL MATCHING FUNDS

SECTION 15.4. Funds appropriated in this act to the Department of Juvenile Justice and Delinquency Prevention for the 2003-2004 fiscal year may be used as matching funds for the Juvenile Accountability Incentive Block Grants. If North Carolina receives Juvenile Accountability Incentive Block Grants, or a notice of funds to be awarded, the Office of State Budget and Management and the Governor's Crime Commission shall consult with the Department of Juvenile Justice and Delinquency Prevention regarding the criteria for awarding federal funds. The Office of State Budget and Management, the Governor's Crime Commission, and the Department of Juvenile Justice and Delinquency Prevention shall report to the Appropriations Committees of the Senate and House of Representatives and the Joint Legislative Commission on Governmental Operations prior to allocation of the federal funds. The report shall identify the amount of funds to be received for the 2003-2004 fiscal year, the amount of funds anticipated for the 2004-2005 fiscal year, and the allocation of funds by program and purpose.

Requested by: Representatives Kiser, Haire

ANNUAL EVALUATION OF COMMUNITY PROGRAMS

SECTION 15.5. The Department of Juvenile Justice and Delinquency Prevention shall conduct an evaluation of the Eckerd and Camp Woodson wilderness camp programs, the teen court programs, the program that grants funds to the local organizations of the Boys and Girls Clubs established pursuant to Section 21.10 of S.L. 1999-237, the Save Our Students program, the Governor's One-on-One Programs, and multipurpose group homes. The teen court report shall include statistical information on the number of juveniles served, the number and type of offenses considered by teen

courts, referral sources for teen courts, and the number of juveniles that become court-involved after participation in teen courts. The report on the Boys and Girls Clubs program shall include information on:

(1) The expenditure of State appropriations on the program;
(2) The operations and the effectiveness of the program; and
(3) The number of juveniles served under the program.

In conducting the evaluation of each of these programs, the Department shall consider whether participation in each program results in a reduction of court involvement among juveniles. The Department shall also identify whether the programs are achieving the goals and objectives of the Juvenile Justice Act, S.L. 1998-202. The Department shall report the results of the evaluation to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the Subcommittees of Justice and Public Safety of the House of Representatives and Senate Appropriations Committees by March 1 of each year.

Requested by: Representatives Kiser, Haire

USE OF FUNDS FOR YOUTH DEVELOPMENT CENTER BEDS

SECTION 15.6.(a) The Department of Juvenile Justice and Delinquency Prevention may use funds available during the 2003-2004 fiscal year to establish or reestablish Youth Development Center beds and convert up to 50 beds in one Eckerd Wilderness Camp for use as a Youth Development Center, as defined in G.S. 7B-1501. Any conversion shall be effectuated with existing contract funds. If the Department of Juvenile Justice and Delinquency Prevention determines it needs additional youth development center beds during the 2003-2004 fiscal year, it shall consider reestablishing beds at Samarkand Manor Youth Development Center.

SECTION 15.6.(b) The Department shall report to the Chairs of the Justice and Public Safety Subcommittees of the House of Representatives and the Senate and the Joint Legislative Commission on Governmental Operations and the Corrections, Crime Control, and Juvenile Justice Oversight Committee prior to:

(1) Converting any Eckerd Wilderness Camp beds to secure confinement beds during the 2003-2004 fiscal year; or
(2) Establishing bed capacity greater than 740 total beds, including beds converted at Eckerd Wilderness Camps, during the 2003-2004 fiscal year.

The report shall include the sources of funding for any additional beds.

Requested by: Representatives Kiser, Haire

PLANNING FOR NEW YOUTH DEVELOPMENT CENTERS

SECTION 15.7. The Department of Juvenile Justice and Delinquency Prevention may use funds appropriated to the Department in this act to continue the planning and design of new youth development centers with up to 500 total beds. The Department shall design facilities that are conducive to effective security and programming while ensuring improved staffing efficiencies.

The Department of Juvenile Justice and Delinquency Prevention shall provide a quarterly status report to the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and to the Chairs of the House of Representatives Appropriations Subcommittee on Justice and Public Safety and the Senate Appropriations Committee on Justice and Public Safety on the number of youth development centers to be designed and the number of beds at each, as well as the rationale for the number of beds to be built at each facility. The report shall also include:

(1) The status of the plan and design of the new facilities.
(2) The proposed sites for the facilities.
(3) How the plan and design will meet the mandate of ensuring effective security and programming while improving staff efficiencies.

(4) The Department's long-range plan for closing other youth development centers or individual cottages at selected youth development centers or revising the mission or objective of individual youth development centers.

Requested by: Representatives Kiser, Haire

OPERATION OF BUNCOMBE YOUTH DETENTION CENTER

SECTION 15.8. The Department of Juvenile Justice and Delinquency Prevention shall continue to operate the Buncombe Youth Detention Center at its current site during the 2003-2004 fiscal year. To the extent practicable during the 2003-2004 fiscal year, the Department shall operate the Buncombe Youth Detention Center at the same average population and staffing levels and at the same budget as the 2002-2003 fiscal year.

PART XVI. DEPARTMENT OF CORRECTION

Requested by: Representatives Kiser, Haire

FEDERAL GRANT REPORTING

SECTION 16.1. The Department of Correction, the Department of Justice, the Department of Crime Control and Public Safety, the Judicial Department, and the Department of Juvenile Justice and Delinquency Prevention shall report by May 1 of each year to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on federal grant funds received or preapproved for receipt by those departments. The report shall include information on the amount of grant funds received or preapproved for receipt by each department, the use of the funds, the State match expended to receive the funds, and the period to be covered by each grant. If the department intends to continue the program beyond the end of the grant period, the department shall report on the proposed method for continuing the funding of the program at the end of the grant period. Each department shall also report on any information it may have indicating that the State will be requested to provide future funding for a program presently supported by a local grant.

Requested by: Representatives Kiser, Haire

REIMBURSE COUNTIES FOR HOUSING AND EXTRAORDINARY MEDICAL COSTS FOR INMATES, PAROLEES, AND POST-RELEASE SUPERVISEES AWAITING TRANSFER TO STATE PRISON SYSTEM

SECTION 16.2. The Department of Correction may use funds available to the Department for the 2003-2005 biennium to pay the sum of forty dollars ($40.00) per day as reimbursement to counties for the cost of housing convicted inmates, parolees, and post-release supervisees awaiting transfer to the State prison system, as provided in G.S. 148-29. The Department shall report quarterly to the Joint Legislative Commission on Governmental Operations, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the expenditure of funds to reimburse counties for prisoners awaiting transfer and on its progress in reducing the jail backlog.

Requested by: Representatives Kiser, Haire

SHIFT PAY FOR SECURITY STAFF

SECTION 16.3. The Department of Correction may use funds available for the 2003-2004 fiscal year for the payment to security staff of special supplemental weekend shift premium pay that exceeds standard weekend shift pay by up to ten

percent (10%). The Department shall also continue to take steps to hold down the cost of shift pay by converting prisons from three eight-hour shifts to two 12-hour shifts whenever practical.

The Department of Correction shall report to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by April 1, 2004, on its progress in converting prison work shifts from eight hours to 12 hours. The report shall include information on savings generated to date and potential future savings, as well as any changes in employee morale and leave usage, as a result of converting to 12-hour shifts.

Requested by: Representatives Kiser, Haire

DEPARTMENT OF CORRECTION SECURITY STAFFING FORMULAS

SECTION 16.4.(a) The Department of Correction shall conduct annual security staffing postaudits of each prison.

SECTION 16.4.(b) The Department of Correction shall annually update the security staffing relief formula. Each update shall include a review of all annual training requirements for security staff to determine which of these requirements should be mandatory and the appropriate frequency of the training.

SECTION 16.4.(c) The Department of Correction shall report on its progress in implementing the staffing recommendations of the National Institute of Corrections to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by February 1, 2004. The report shall include a status report on the implementation of a centralized postaudit control system and the automation of leave records.

Requested by: Representatives Kiser, Haire

USE OF CLOSED PRISON FACILITIES

SECTION 16.5. In conjunction with the closing of prison facilities, including small expensive prison units recommended for consolidation by the Government Performance Audit Committee, the Department of Correction shall consult with the county or municipality in which the unit is located, with the elected State and local officials, and with State agencies about the possibility of converting that unit to other use. The Department may also consult with any private for-profit or nonprofit firm about the possibility of converting the unit to other use. In developing a proposal for future use of each unit, the Department shall give priority to converting the unit to other criminal justice use. Consistent with existing law and the future needs of the Department of Correction, the State may provide for the transfer or the lease of any of these units to counties, municipalities, State agencies, or private firms wishing to convert them to other use. The Department of Correction may also consider converting some of the units recommended for closing from one security custody level to another, where that conversion would be cost-effective. A prison unit under lease to a county pursuant to the provisions of this section for use as a jail is exempt for the period of the lease from any of the minimum standards adopted by the Secretary of Health and Human Services pursuant to G.S. 153A-221 for the housing of adult prisoners that would subject the unit to greater standards than those required of a unit of the State prison system.

Prior to any transfer or lease of these units, the Department of Correction shall report on the terms of the proposed transfer or lease to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee. The Department of Correction shall also provide annual summary reports to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the conversion of these units to other use and on all leases or transfers entered into pursuant to this section.

Requested by: Representatives Kiser, Haire

INMATE COSTS/MEDICAL BUDGET FOR PRESCRIPTION DRUGS

SECTION 16.6.(a) If the cost of providing food and health care to inmates housed in the Division of Prisons is anticipated to exceed the continuation budget amounts provided for that purpose in this act, the Department of Correction shall report the reasons for the anticipated cost increase and the source of funds the Department intends to use to cover those additional needs to the Joint Legislative Commission on Governmental Operations, the Chairs of the Senate and House of Representatives Appropriations Committees, and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety.

SECTION 16.6.(b) Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2003-2005 biennium for the purchase of prescription drugs for inmates if expenditures are projected to exceed the Department's inmate medical continuation budget for prescription drugs. The Department shall consult with the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

Requested by: Representatives Kiser, Haire

MOBILE MEDICAL OPERATING ROOM

SECTION 16.7. The Department of Correction shall continue the contract for a mobile medical operating room at Central Prison for the 2003-2004 fiscal year at a reduced fixed rate that more clearly reflects the usage. However, the Department shall use the mobile unit for additional procedures, as authorized by the terms of the agreement, whenever the Department's Utilization Review Team determines that (i) a specific procedure can be performed at a cost below that charged by a public or private hospital; and (ii) there is no compelling medical reason for performing the procedure in a hospital instead of using the mobile medical unit.

The Department shall also study the use of this mobile operating room and report by April 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety. The report shall recommend whether the mobile unit should be continued, eliminated, or expanded in terms of capacity of the current unit and the potential for establishing an additional mobile unit. The report shall also include information on the number and type of procedures performed over and above the fixed-rate contract and the savings generated.

Requested by: Representatives Kiser, Haire

CONVERSION OF CONTRACTED MEDICAL POSITIONS

SECTION 16.8.(a) The Department of Correction may convert contract medical positions to permanent State medical positions at individual correctional facilities if the Department can document that the total savings generated will exceed the total cost of the new positions for each facility. Where practical, the Department shall convert contract positions to permanent positions by using existing vacancies in medical positions.

SECTION 16.8.(b) The Department of Correction shall report by April 1, 2004, to the Joint Legislative Commission on Governmental Operations and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on all conversions made pursuant to this section, by type of position and location, and on the savings generated at each correctional facility.

Requested by: Representatives Kiser, Haire

LIMIT USE OF OPERATIONAL FUNDS

SECTION 16.9. Funds appropriated in this act to the Department of Correction for operational costs for additional facilities shall be used for personnel and operating expenses set forth in the budget approved by the General Assembly in this act. These funds shall not be expended for any other purpose, except as provided for in this

act, and shall not be expended for additional prison personnel positions until the new facilities are within 120 days of projected completion, except for certain management, security, and support positions necessary to prepare the facility for opening, as authorized in the budget approved by the General Assembly.

Requested by: Representatives Kiser, Haire

FEDERAL GRANT MATCHING FUNDS

SECTION 16.10. Notwithstanding the provisions of G.S. 148-2, the Department of Correction may use up to the sum of nine hundred thousand dollars ($900,000) from funds available to the Department to provide the State match needed in order to receive federal grant funds. Prior to using funds for this purpose, the Department shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Commission on Governmental Operations on the grants to be matched using these funds.

Requested by: Representatives Kiser, Haire

COMPUTER/DATA PROCESSING SERVICES FUNDS

SECTION 16.11. Notwithstanding the provisions of G.S. 143-23(a2), the Department of Correction may use funds available during the 2003-2005 biennium for expenses for computer/data processing services if expenditures exceed the Department's continuation budget amount for those services. The Department shall report to the Joint Legislative Commission on Governmental Operations prior to exceeding the continuation budget amount.

Requested by: Representatives Kiser, Haire

MEDIUM CUSTODY ROAD CREW COMPENSATION/COMMUNITY WORK CREWS

SECTION 16.12.(a) Of funds appropriated to the Department of Transportation by this act, the sum of ten million dollars ($10,000,000) per year shall be transferred by the Department of Transportation to the Department of Correction during the 2003-2005 biennium for the actual costs of highway-related labor performed by medium-custody prisoners, as authorized by G.S. 148-26.5. This transfer shall be made quarterly in the amount of two million five hundred thousand dollars ($2,500,000). The Department of Transportation may use funds appropriated by this act to pay an additional amount exceeding the ten million dollars ($10,000,000), but those payments shall be subject to negotiations among the Department of Transportation, the Department of Correction, and the Office of State Budget and Management prior to payment by the Department of Transportation.

SECTION 16.12.(b) The Department of Correction may use up to 39 work crews for Department of Transportation litter control projects. The Department of Transportation shall transfer at least one million three hundred thousand dollars ($1,300,000) per year from the Highway Fund to the Department of Correction during the 2003-2005 biennium to cover the cost of those work crews. Should the two departments determine that the actual cost of operating 39 work crews exceeds that amount, the Department of Transportation shall transfer an additional amount as agreed upon by the two departments and the Office of State Budget and Management.

Requested by: Representatives Kiser, Haire

ENERGY FOR COMMITTED OFFENDERS/CONTRACT AND REPORT

SECTION 16.13. The Department of Correction may continue to contract with Energy for Committed Offenders, Inc., for the purchase of prison beds for minimum security female inmates during the 2003-2005 biennium. Energy for Committed Offenders, Inc., shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the annual cost per inmate and

the average daily inmate population compared to bed capacity using the same methodology as that used by the Department of Correction. Energy for Committed Offenders, Inc., shall also provide information on the rearrest rate and the return-to-prison rate for inmates participating in the program who are paroled or released from prison.

Requested by: Representatives Kiser, Haire

ELECTRONIC MONITORING COSTS

SECTION 16.14. The Department of Correction shall report by March 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on efforts to increase the use of electronic monitoring of sentenced offenders in the community as an alternative to the incarceration of probation violators. The report shall also document the geographical distribution of electronic monitoring use compared to other intermediate sanctions.

Requested by: Representatives Kiser, Haire

COLLECTION OF OFFENDER FEES

SECTION 16.15. The Department of Correction and the Judicial Department shall report by April 1, 2004, to the Chairs of the Senate and House of Representatives Appropriations Committees and the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on the success of their efforts to improve the collection rate of offender fees for probationers and for nonprobationers sentenced to community service and on any recommendations for statutory or procedural changes that will improve the collection of financial obligations from offenders.

The report shall include a comparison of the percentage of offender fees collected in the most recent year compared to prior years, including the percentage of offenders who were ordered to pay fees and the percentage of offenders who actually paid those fees. The report shall also include the total offender fees collected, in dollars and as a percentage of the fees ordered, and the fees that could have been ordered based on the sentence and conditions imposed by the judge. If any of this information cannot be collected, the report shall include a description of the data collection issues and a plan for addressing those issues.

Requested by: Representatives Kiser, Haire

CRIMINAL JUSTICE PARTNERSHIP PROGRAM

SECTION 16.16.(a) It is the intent of the General Assembly that State Criminal Justice Partnership Program funds not be used to fund case manager positions when those services can be reasonably provided by Division of Community Corrections personnel or by the Treatment Alternatives to Street Crime (TASC) Program in the Department of Health and Human Services.

SECTION 16.16.(b) Notwithstanding the provisions of G.S. 143B-273.15 specifying that grants to participating counties are for the full fiscal year and that unobligated funds are returned to the State-County Criminal Justice Partnership Account at the end of the grant period, the Department of Correction may reallocate unspent or unclaimed funds distributed to counties participating in the State-County Criminal Justice Partnership Program in an effort to maintain the level of services realized in previous fiscal years.

SECTION 16.16.(c) The Department of Correction may not deny funds to a county to support both a residential program and a day reporting center if the Department of Correction determines that the county has a demonstrated need and a fully developed plan for each type of sanction.

SECTION 16.16.(d) The Department of Correction shall report by February 1 of each year to the Chairs of the Senate and House of Representatives Appropriations

Committees, the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety, and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on the status of the State-County Criminal Justice Partnership Program. The report shall include the following information:

(1) The amount of funds carried over from the prior fiscal year;
(2) The dollar amount and purpose of grants awarded to counties as discretionary grants for the current fiscal year;
(3) Any counties the Department anticipates will submit requests for new implementation grants;
(4) An update on efforts to ensure that all counties make use of the electronic reporting system, including the number of counties submitting offender participation data via the system;
(5) An analysis of offender participation data received, including data on each program's utilization and capacity; and
(6) An analysis of comparable programs, prepared by the Research and Planning Division of the Department of Correction, and a summary of the reports prepared by county Criminal Justice Partnerships Advisory Boards.

Requested by: Representatives Kiser, Haire

REPORTS ON NONPROFIT PROGRAMS

SECTION 16.17.(a) Funds appropriated in this act to the Department of Correction to support the programs of Harriet's House may be used for program operating costs, the purchase of equipment, and the rental of real property. Harriet's House shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served and the number of clients who successfully complete the Harriet's House program.

SECTION 16.17.(b) Summit House shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State appropriations and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who successfully complete the program while housed at Summit House, Inc.

SECTION 16.17.(c) Women at Risk shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who have successfully completed the program.

SECTION 16.17.(d) The John Hyman Foundation shall report by February 1 of each year to the Joint Legislative Commission on Governmental Operations on the expenditure of State funds and on the effectiveness of the program, including information on the number of clients served, the number of clients who have had their probation revoked, and the number of clients who have successfully completed the program.

Requested by: Representatives Kiser, Haire

REPORT ON PROBATION AND PAROLE CASELOADS

SECTION 16.18. The Department of Correction shall report by March 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on caseload averages for probation and parole officers. The report shall include:

(1) Data on current caseload averages for Probation Parole Officer I, Probation Parole Officer II, and Probation Parole Officer III positions;

(2) An analysis of the optimal caseloads for these officer classifications; and

(3) An assessment of the role of surveillance officers.

Requested by: Representatives Kiser, Haire

COMMUNITY SERVICE WORK PROGRAM

SECTION 16.19. The Department of Correction shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2004, on the integration of the Community Service Work Program into the Division of Community Corrections, including the Department's ability to monitor the collection of offender payments from unsupervised offenders sentenced to community service. The Department shall also report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety by May 1, 2004, and by February 1 annually beginning in 2005, on the average caseloads of Community Service Work Program coordinators, by district, division, and statewide. The report shall also include the money collected, the type and value of the work performed, and the number of offenders in the Community Service Work Program, by type of referral (i.e. parole, supervised probation, unsupervised probation or community punishment, DWI, any other agency referrals).

Requested by: Representatives Kiser, Haire

REPORT ON INMATES ELIGIBLE FOR PAROLE

SECTION 16.20. The Post-Release Supervision and Parole Commission shall report by January 15 and July 15 of each year to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety and the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee on inmates eligible for parole. These reports shall include at least the following:

(1) The total number of Fair Sentencing and Pre-Fair Sentencing inmates that were parole-eligible during the current fiscal year and the total number of those inmates that were paroled. The report should group these inmates by offense type, custody classification, and type of parole;

(2) The average time served, by offense class, of Fair Sentencing and Pre-Fair Sentencing inmates compared to inmates sentenced under Structured Sentencing; and

(3) The projected number of parole-eligible inmates to be paroled or released by the end of the 2003-2004 fiscal year and by the end of the 2004-2005 fiscal year.

Requested by: Representatives Kiser, Haire

POST-RELEASE SUPERVISION AND PAROLE COMMISSION/REPORT ON STAFFING REORGANIZATION AND REDUCTION

SECTION 16.21. The Post-Release Supervision and Parole Commission shall report by March 1 of each year to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety on an updated transition plan for implementing staff reductions.

PART XVII. DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

Requested by: Representatives Kiser, Haire

TRANSFER CJIN TO THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY

SECTION 17.1.(a) G.S. 143-661(a) reads as rewritten:

"(a) The Criminal Justice Information Network Governing Board is established within the Department of ~~Justice, State Bureau of Investigation,~~ Crime Control and

Public Safety, to operate the State's Criminal Justice Information Network, the purpose of which shall be to provide the governmental and technical information systems infrastructure necessary for accomplishing State and local governmental public safety and justice functions in the most effective manner by appropriately and efficiently sharing criminal justice and juvenile justice information among law enforcement, judicial, and corrections agencies. The Board is established within the Department of ~~Justice, State Bureau of Investigation,~~ Crime Control and Public Safety, for organizational and budgetary purposes only and the Board shall exercise all of its statutory powers in this Article independent of control by the Department of ~~Justice.~~Crime Control and Public Safety."

SECTION 17.1.(b) G.S. 143-664(b) reads as rewritten:

"(b) Pending permanent staffing, the Department shall provide the Board with professional and clerical staff and any additional support the Board needs to fulfill its mandate. The Board may meet in an area provided by the Department of ~~Justice~~ Crime Control and Public Safety and the Board's staff shall use space provided by the Department."

SECTION 17.1.(c) The Criminal Justice Information Network as provided in Article 69 of Chapter 143 of the General Statutes is hereby transferred by a Type II transfer, as defined in G.S. 143A-6, to the Department of Crime Control and Public Safety.

Requested by: Representatives Kiser, Haire

THE JUVENILE JUSTICE INFORMATION SYSTEM

SECTION 17.2.(a) G.S. 143B-516(13) reads as rewritten:

"(13) ~~Assist the Criminal Justice Information Network Governing Board with administering~~ Develop and administer a comprehensive juvenile justice information system to collect data and information about delinquent juveniles for the purpose of developing treatment and intervention plans and allowing reliable assessment and evaluation of the effectiveness of rehabilitative and preventive services provided to delinquent juveniles."

SECTION 17.2.(b) G.S. 143-663(a)(1) reads as rewritten:

"(1) To establish and operate the Network as an integrated system of State and local government components for effectively and efficiently storing, communicating, and using criminal justice information at the State and local levels throughout North Carolina's law enforcement, judicial, juvenile justice, and corrections agencies, with the components of the Network to include electronic devices, programs, data, and governance and to set the Network's policies and procedures."

Requested by: Representatives Kiser, Haire

ANNUAL EVALUATION OF THE TARHEEL CHALLENGE PROGRAM

SECTION 17.3. The Department of Crime Control and Public Safety shall report to the Chairs of the House of Representatives and Senate Appropriations Committees and the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety by April 1 of each year on the operations and effectiveness of the National Guard Tarheel Challenge Program. The report should evaluate the program's effectiveness as an intervention method for preventing juveniles from becoming undisciplined or delinquent. The report shall also evaluate the Program's role in improving individual skills and employment potential for participants and shall include:

(1) The source of referrals for individuals participating in the Program;
(2) The summary of types of actions or offenses committed by the participants of the Program;

(3) An analysis outlining the cost of providing services for each participant, including a breakdown of all expenditures related to the administration and operation of the Program and the education and treatment of the Program participants;
(4) The number of individuals who successfully complete the Program; and
(5) The number of participants who commit offenses after completing the Program.

Requested by: Representatives Kiser, Haire

LEGISLATIVE REVIEW OF DRUG LAW ENFORCEMENT AND OTHER GRANTS

SECTION 17.4.(a) Section 1303(4) of the Omnibus Crime Control and Safe Streets Act of 1968 provides that the State application for Drug Law Enforcement Grants is subject to review by the State legislature or its designated body. Therefore, the Governor's Crime Commission of the Department of Crime Control and Public Safety shall report on the State application for grants under the State and Local Law Enforcement Assistance Act of 1986, Part M of the Omnibus Crime Control and Safe Streets Act of 1968 as enacted by Subtitle K of P.L. 99-570, the Anti-Drug Abuse Act of 1986, to the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety when the General Assembly is in session. When the General Assembly is not in session, the Governor's Crime Commission shall report on the State application to the Joint Legislative Commission on Governmental Operations.

SECTION 17.4.(b) Unless a State statute provides a different forum for review, when a federal law or regulation provides that an individual State application for a grant shall be reviewed by the State legislature or its designated body and at the time of the review the General Assembly is not in session, that application shall be reviewed by the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives Kiser, Haire

VICTIMS ASSISTANCE NETWORK REPORT

SECTION 17.5. The Department of Crime Control and Public Safety shall report on the expenditure of funds allocated pursuant to this section for the Victims Assistance Network. The Department shall also report on the Network's efforts to gather data on crime victims and their needs, act as a clearinghouse for crime victims' services, provide an automated crime victims' bulletin board for subscribers, coordinate and support activities of other crime victims' advocacy groups, identify the training needs of crime victims' services providers and criminal justice personnel, and coordinate training for these personnel. The Department shall submit its report to the Chairs of the Appropriations Subcommittees on Justice and Public Safety of the Senate and House of Representatives by December 1 of each year of the biennium.

PART XVIII. DEPARTMENT OF ADMINISTRATION

Requested by: Representatives Jeffus, Walend

AGENCIES TO USE MAIL SERVICE CENTER

SECTION 18.1. G.S. 143-341(8)g. reads as rewritten:

"**§ 143-341. Powers and duties of Department.**

The Department of Administration has the following powers and duties:

...

(8) General Services:

...

g. To establish and operate a ~~central mailing system~~ mail service center ~~for~~ that shall be used by all State ~~agencies,~~ agencies other than the Employment Security Commission, and in connection

therewith and in the discretion of the Secretary, ~~to make application for and procure a post office substation for that purpose, and~~ to do all things necessary in connection with the maintenance of the ~~central mailing system.~~ mail service center. The Secretary ~~may~~ shall allocate and charge against the respective departments and agencies their proportionate parts of the cost of the maintenance of the ~~central mailing system.~~ mail service center. The Secretary shall develop a plan for the efficient operation of the center that meets the needs of State agencies and ensures timely delivery of ~~mail, and shall present that plan to the Office of State Budget and Management and the General Assembly no later than the convening date of the 2003 General Assembly.~~mail.

Requested by: Representatives Jeffus, Walend

STUDY OF ADVOCACY PROGRAMS IN THE DEPARTMENT OF ADMINISTRATION

SECTION 18.2. The Secretary of the Department of Administration, in collaboration with appropriate entities which concentrate on public policy and business management, shall study the functions of the advocacy programs that are housed in the Department of Administration to determine the appropriate organizational placement of the programs within State government. The study shall also consider whether the functions of the programs could be more efficiently and effectively performed by an appropriate nonprofit organization. The Secretary shall report the findings and recommendations to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Senate and House of Representatives Appropriations Committees by May 1, 2004.

PART XIX. OFFICE OF THE STATE AUDITOR

Requested by: Representatives Jeffus, Walend

SMART START AUDITS

SECTION 19.1. G.S. 143B-168.14(b) reads as rewritten:

"(b) Each local partnership shall be subject to audit and review by the State Auditor under Article 5A of Chapter 147 of the General Statutes. The State Auditor shall conduct annual financial and compliance audits of ~~the~~ local ~~partnerships.~~partnerships that are rated "needs improvement" in performance assessments authorized in G.S. 143B-168.12(a)(7). Local partnerships that are rated "superior" or "satisfactory" in performance assessments authorized in G.S. 143B-168.12(a)(7) shall undergo biennial financial and compliance audits by the State Auditor."

PART XX. OFFICE OF THE GOVERNOR

Requested by: Representatives Jeffus, Walend

HOUSING FINANCE AGENCY HOME MATCHING FUNDS

SECTION 20.1.(a) Funds appropriated in this act to the Housing Finance Agency for the federal HOME Program shall be used to match federal funds appropriated for the HOME Program. In allocating State funds appropriated to match federal HOME Program funds, the Agency shall give priority to HOME Program projects, as follows:

(1) First priority to projects that are located in counties designated as Tier One, Tier Two, or Tier Three Enterprise Counties under G.S. 105-129.3; and

(2) Second priority to projects that benefit persons and families whose incomes are fifty percent (50%) or less of the median family income for the local area, with adjustments for family size, according to the latest figures available from the United States Department of Housing and Urban Development.

The Housing Finance Agency shall report to the Joint Legislative Commission on Governmental Operations by April 1 of each year concerning the status of the HOME Program and shall include in the report information on priorities met, types of activities funded, and types of activities not funded.

SECTION 20.1.(b) If the United States Congress changes the HOME Program such that matching funds are not required for a given program year, then the Agency shall not spend the matching funds appropriated under this act for that program year.

SECTION 20.1.(c) Funds appropriated in this act to match federal HOME Program funds shall not revert to the General Fund on June 30, 2004, or on June 30, 2005.

PART XXI. INFORMATION TECHNOLOGY

Requested by: Representatives Jeffus, Walend

ITS BUDGET STRUCTURE REVIEW/REPORT

SECTION 21.1.(a) The Office of Information Technology Services shall analyze the State's legacy information technology systems and develop a plan to ascertain the needs, costs, and time frame required for State agencies to progress to more modern information technology systems. In conducting this legacy system assessment and analysis, the Office shall:

(1) Examine the hierarchical structure and interrelated relationships within and between State agency legacy systems.

(2) Catalog and analyze the portfolio of legacy applications in use in State agencies and consider the extent to which new applications could be used concurrently with, or should replace, legacy systems.

(3) Consider issues related to migration from legacy environments to Internet-based and client/server environments and related to the availability of programmers and other information technology professionals with the skills to migrate legacy applications to other environments.

(4) Study any other issue relative to the assessment of legacy information technology systems in State agencies, except that the analysis shall not include matters within the purview of the studies authorized in S.L. 2001-491 or S.L. 2002-126.

State departments, agencies, and institutions shall give to ITS all information and all data within their possession, or ascertainable from their records, that ITS deems necessary to carry out the analysis.

By March 1, 2004, the Office shall complete the analysis and shall make a report of the assessment to the Information Resources Management Commission, the Joint Legislative Commission on Governmental Operations, and the Joint Select Committee on Information Technology.

SECTION 21.1.(b) The Office of State Budget and Management shall conduct a study of information technology (IT) expenditures across all of State government, with focused attention to identification and elimination of duplicative IT expenditures, operations, and inventory, to identify and recommend potential cost savings and efficiencies in State agency IT operations. In this study, OSBM should address the following questions:

(1) Is State government's IT budgeting and organizational structure the most efficient approach?

(2) What alternative IT budgeting and organizational structures could help North Carolina realize cost savings?

OSBM is also directed to work in conjunction with the Office of Information Technology Services (ITS) and the Information Resource Management Commission (IRMC) to study the ITS and IRMC budget structures, and, in addition to recommending efficiencies, OSBM, ITS, and the IRMC shall develop a plan to propose how the ITS and IRMC budgets should be transitioned to General Fund agency supported operations. By April 1, 2004, OSBM shall make reports on these matters to the Joint Legislative Commission on Governmental Operations, the Chairs of the Joint Appropriations Subcommittee on General Government, and the Fiscal Research Division.

PART XXII. DEPARTMENT OF INSURANCE

Requested by: Representatives Jeffus, Walend

INSURANCE FUND TRANSFER TO GENERAL FUND

SECTION 22.1. The Commissioner of Insurance shall transfer funds quarterly from the Department of Insurance Fund to the General Fund to repay the funds appropriated to the Department of Insurance from the General Fund for each fiscal year, plus accrued interest at a rate determined by the State Treasurer.

PART XXIII. DEPARTMENT OF REVENUE

Requested by: Representatives Jeffus, Walend

DOR TAXPAYER TELECOMMUNICATIONS SERVICE

SECTION 23.1. Section 22.6 of S.L. 2002-126 reads as rewritten:

"**SECTION 22.6.(a)** The Department of Revenue may draw up to seven million eight hundred forty thousand five hundred thirteen dollars ($7,840,513) through June 30, ~~2004,~~2005, from the collection assistance fee account created in G.S. 105-243.1 in order to pay for the costs of establishing and equipping a central taxpayer telecommunications service center for collections and assistance and for the costs associated with aligning local field offices with the new center.

~~"SECTION 22.6.(b) The Secretary of Revenue shall consult with the Joint Legislative Commission on Governmental Operations on a detailed plan with proposed costs before any funds may be expended for these purposes. This plan must be presented by October 31, 2002.~~

"**SECTION 22.6.(c)** Beginning January 1, 2003, and ending on the second quarter following completion of the projects described in subsection (a) of this section, the Department of Revenue must report quarterly to the Joint Legislative Commission on Governmental Operations on the use of the funds and the progress of establishing the new center."

Requested by: Representatives Jeffus, Walend

CERTAIN DOR POSITIONS FEE-SUPPORTED

SECTION 23.2. Of the funds in the collection assistance fee account created in G.S. 105-243.1, the Department of Revenue may use up to five hundred thirty-one thousand five hundred twelve dollars ($531,512) in each year of the 2003-2005 fiscal biennium for salary and related fringe benefits for the following positions formerly supported from the General Fund:

Position No. 4784-0000-0076-621 - Revenue Officer II
Position No. 4784-0000-0076-622 - Revenue Officer II
Position No. 4784-0000-0076-636 - Revenue Officer I
Position No. 4784-0000-0076-637 - Revenue Officer I
Position No. 4784-0000-0076-638 - Revenue Officer I
Position No. 4784-0000-0076-639 - Revenue Officer I

Position No. 4784-0000-0076-640 - Revenue Officer I
Position No. 4784-0000-0076-641 - Revenue Officer I
Position No. 4784-0000-0076-642 - Revenue Officer I
Position No. 4784-0000-0076-643 - Revenue Officer I
Position No. 4784-0000-0076-644 - Revenue Officer I
Position No. 4784-0000-0076-645 - Revenue Officer I
Position No. 4784-0000-0076-647 - Revenue Officer I

PART XXIV. SECRETARY OF STATE

Requested by: Representatives Jeffus, Walend

TRANSFER CONSULTATION REQUIREMENT UNDER BUSINESS LICENSE INFORMATION OFFICE TO SMALL BUSINESS CENTERS

SECTION 24.1.(a) The Department of the Secretary of State (Department) and the North Carolina Community College System (System) shall develop and implement a plan to transfer the consultation function of the Business License Information Office (BLIO) in the Department to the Small Business Centers that are located within each of the community colleges in the System. The plan shall provide for the following:

(1) Establishment of a Statewide Coordinator position who will develop and maintain a web-based master application system of all State licensing and regulatory requirements.
(2) Development and ongoing maintenance of a web-based master application system of all State licensing and regulatory requirements.
(3) Training for the Directors of the Small Business Centers.
(4) Phase-out of the BLIO consultant positions.

SECTION 24.1.(b) The Department shall use funds appropriated for the 2003-2004 fiscal year for the Business License Information Office (Fund 1240) in Budget Code 13200 to develop the web-based master application and for training.

SECTION 24.1.(c) The Department and the System shall present their plan to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and the House of Representatives by October 1, 2003. After presenting the plan, the Department and the System shall report on the implementation of the plan to the Joint Legislative Commission on Governmental Operations and to the Chairs of the Appropriations Committees of the Senate and the House of Representatives on a quarterly basis. The plan shall be fully implemented by June 30, 2004.

Requested by: Representatives Jeffus, Walend

PUBLICATION OF NORTH CAROLINA MANUAL

SECTION 24.2. The Department of the Secretary of State shall support the publication of the North Carolina Manual with receipts from sales of the manual when budgeting for the 2005-2007 biennium. The Department shall consider the feasibility of providing the manual by Internet.

PART XXV. STATE BOARD OF ELECTIONS

Requested by: Representatives Jeffus, Walend

HELP AMERICA VOTE ACT MATCHING FUNDS

SECTION 25.1.(a) Of the funds appropriated to the State Board of Elections for the 2003-2004 fiscal year by Section 2.1 of this act:

(1) The sum of $1,791,936 is transferred to a Reserve Fund to meet the Maintenance of Effort requirements of section 254(a)(7) of the Help America Vote Act, Public Law 107-252.

(2) The sum of $1,665,650 currently appropriated to Fund 1100 Administration for the SEIMS RCC is transferred to a Reserve Fund for the State Board of Elections.

(3) The sum of $2,524,400 is transferred to the Election Fund to meet the five percent (5%) matching requirement of Title II Help America Vote Act, Public Law 107-252. It is estimated that the amount needed for the 2003-2004 fiscal year will be $1,130,000. The funds shall be available only for matching federal funds under HAVA for the 2003-2004, 2004-2005, and 2005-2006 fiscal years. The money shall only be expended as federal funds are available to match, and if the amount available to the State is less than projected, the unexpended remainder of the $2,524,400 shall revert to the General Fund on the earlier of:

a. June 30, 2006; or

b. A determination by the Office of State Budget and Management that the unexpended remainder will not be needed.

SECTION 25.1.(b) The 107th Congress established the Help America Vote Act (HAVA) as Public Law 107-252 establishing a program to assist in the administration of Federal elections and provide assistance with the administration of certain Federal elections laws and programs; establish minimum election administration standards for States and units of local government with the responsibility for the administration of Federal elections. In HAVA, Congress authorized appropriations for elections assistance in the form of a matching grant program (Title II of HAVA, Requirements Payments) for which states are required as one condition of the Election Assistance Requirements Payments to match federal allocations with a five percent (5%) match of State dollars. The federal government has additional requirements, including a required state plan and a stipulation for each participating state to implement the Maintenance of Effort (MOE) requirements of Title II, section 254(a)(7) of HAVA. The MOE requires that the state maintain the expenditures of the state for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the state for the fiscal year ending prior to November 2000. Congress authorized up to $1.4 billion for Requirements Payments, and $810 million for Title II requirements grants was funded for fiscal year 2003. Title II requirements funding has not been passed by Congress for fiscal years 2004-2005 and 2005-2006 but is currently proposed at $500 million for each year.

Based upon the 2003 approved funding, it is estimated that North Carolina will receive $22.6 million of the Title II funding if North Carolina meets all the conditions of the Election Assistance program, including not only the five percent (5%) state match but also maintenance of its expenditure level on HAVA activities at the expense level the State Board of Elections had in State fiscal year 1999-2000. Actual expenditures for the State Elections Information Management System (SEIMS), which is a qualified HAVA activity, in 1999-2000 was three million four hundred fifty-seven thousand five hundred eighty-five dollars and six cents ($3,457,585.06). The authorized expenditures on SEIMS in 2002-2003 by the State Board of Elections is one million six hundred sixty-five thousand six hundred fifty dollars ($1,665,650). The difference in expenditure levels is one million seven hundred ninety-one thousand nine hundred thirty-five dollars and six cents ($1,791,935.06). To meet HAVA's Title II MOE requirement, North Carolina has to appropriate from its General Fund to a Reserve on a recurring basis (or for as long as Congress requires the MOE as a condition of states' being eligible to receive Requirements Payments), the amount of three million four hundred fifty-seven thousand five hundred eighty-five dollars and six cents ($3,457,585.06) annually.

For the State to meet its obligatory five percent (5%) match for HAVA's Title II Requirements Payment, North Carolina has to match twenty-two million six hundred thousand dollars ($22,600,000) estimated federal funds in 2003-2004; thirteen million

nine hundred forty-four thousand dollars ($13,944,000) estimated federal funds in both 2004-2005 and 2005-2006. The State's match is one million one hundred thirty thousand dollars ($1,130,000) in 2003-2004; six hundred ninety-seven thousand two hundred dollars ($697,200) in 2004-2005 and six hundred ninety-seven thousand two hundred dollars ($697,200) in 2005-2006. The nonrecurring match total required from the General Fund is two million five hundred twenty-four thousand four hundred dollars ($2,524,400).

SECTION 25.1.(c) There is established a special fund to be known as the Election Fund. All funds received for implementation of the Help America Vote Act of 2002, Public Law 107-252, shall be deposited in that fund. The State Board of Elections shall use funds in the Election Fund only to implement HAVA.

SECTION 25.1.(d) G.S. 147-69.2(a) is amended by adding a new subdivision to read:

"(17d) The Election Fund."

SECTION 25.1.(e) Subsections (c) and (d) of this section are effective when this act becomes law.

PART XXVI. OFFICE OF STATE BUDGET AND MANAGEMENT

Requested by: Representatives Jeffus, Walend

NC HUMANITIES COUNCIL

SECTION 26.1. The North Carolina Humanities Council shall:

(1) By January 15, 2004, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:
   a. State fiscal year 2002-2003 program activities, objectives, and accomplishments;
   b. State fiscal year 2002-2003 itemized expenditures and fund sources;
   c. State fiscal year 2003-2004 planned activities, objectives, and accomplishments including actual results through December 31, 2003; and
   d. State fiscal year 2003-2004 estimated itemized expenditures and fund sources including actual expenditures and fund sources through December 31, 2003.

(2) Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

PART XXVII. OFFICE OF THE STATE CONTROLLER

Requested by: Representatives Jeffus, Walend

OVERPAYMENTS AUDIT

SECTION 27.1.(a) During the 2003-2004 fiscal year, receipts generated by the collection of inadvertent overpayments by State agencies to vendors as a result of pricing errors, neglected rebates and discounts, miscalculated freight charges, unclaimed refunds, erroneously paid excise taxes, and related errors as required by G.S. 147-86.22(c) are to be deposited in the Special Reserve Account 24172.

SECTION 27.1.(b) For the 2003-2004 fiscal year, two hundred thousand dollars ($200,000) of the funds transferred from the Special Reserve Account 24172 shall be used by the Office of the State Controller for data processing, debt collection, or e-commerce costs.

SECTION 27.1.(c) All funds available in the Special Reserve Account 24172 on July 1, 2003, are transferred to the General Fund on that date.

SECTION 27.1.(d) Any unobligated funds in the Special Reserve Account 24172 that are realized above the allowance in subsection (b) of this section are subject to appropriation by the General Assembly in the 2004 Regular Session of the 2003 General Assembly.

SECTION 27.1.(e) The State Controller shall report quarterly to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the revenue deposited into the Special Reserve Account and the disbursement of that revenue.

PART XXVIII. DEPARTMENT OF THE STATE TREASURER

Requested by: Representatives Jeffus, Walend

AMENDING FUNDING FOR RETIREMENT AND ESCHEAT OPERATIONS

SECTION 28.1.(a) G.S. 116B-6(h) reads as rewritten:

"(h) Expenditures. – The Treasurer may expend the funds in the Escheat Fund, other than funds in the Escheat Account, for the payment of claims for refunds to owners, holders and claimants under G.S. 116B-4; for the payment of costs of maintenance and upkeep of abandoned or escheated property; costs of preparing lists of names of owners of abandoned property to be furnished to clerks of superior court; costs of notice and publication; costs of appraisals; fees of persons employed pursuant to G.S. 116B-8 costs involved in determining whether a decedent died without heirs; costs of a title search of real property that has escheated; and costs of auction or sale under this Chapter. All other costs, including salaries of personnel, necessary to carry out the duties of the Treasurer under this Chapter, shall be ~~appropriated from the funds of the Escheat Fund pursuant to the provisions of Article 1, Chapter 143 of the General Statutes.~~covered by an appropriation to the State Treasurer for this purpose in the Current Appropriations Act. The Escheat Fund shall deposit as nontax revenue to the General Fund the amount appropriated from the General Fund to cover the cost of the administration, management, and operations of the Escheats program."

SECTION 28.1.(b) G.S. 135-6(g) reads as rewritten:

"(g) Officers and Other Employees; Salaries and Expenses. – The State Treasurer shall be ex officio chairman of the Board of Trustees. The Board of Trustees shall, by a majority vote of all the members, appoint a director, who may be, but need not be, one of its members. The salary of the director of the Retirement System is subject to the provisions of Chapter 126 of the General Statutes of North Carolina. The Board of Trustees shall engage such actuarial and other service as shall be required to transact the business of the Retirement System. The compensation of all persons, other than the director, engaged by the Board of Trustees, and all other expenses of the Board necessary for the operation of the Retirement System, shall be paid at such rates and in such amounts as the Board of Trustees shall approve, subject to the approval of the Director of the Budget. The cost of the administration, management, and operation of the Retirement System shall be covered by an appropriation to the State Treasurer in the Current Appropriations Act. The Retirement System shall deposit its apportioned share of the cost to the General Fund as nontax revenue."

SECTION 28.1.(c) G.S. 128-28(h) reads as rewritten:

"(h) Officers and Other Employees, Salaries and Expenses. – The Board of Trustees shall elect from its membership a chairman, and shall, by a majority vote of all the members, appoint a director, who may be, but need not be, one of its members. The Board of Trustees shall engage such actuarial and other service as shall be required to transact the business of the Retirement System. The compensation of all persons engaged by the Board of Trustees, and all other expenses of the Board necessary for the operation of the Retirement System, shall be paid at such rates and in such amounts as the Board of Trustees shall approve. The cost of the administration, management, and operation of the Retirement System shall be covered by an appropriation to the State

Treasurer in the Current Appropriations Act. The Retirement System shall deposit its apportioned share of the cost to the General Fund as nontax revenue."

SECTION 28.1.(d) Subsections (a) through (c) of this section become effective July 1, 2003.

Requested by: Representatives Jeffus, Walend

STATE TREASURER SUBJECT TO EXECUTIVE BUDGET ACT

SECTION 28.2.(a) G.S. 147-68(e) reads as rewritten:

"(e) The State ~~Treasurer~~ Treasurer, in carrying out the responsibilities of this section, shall ~~except as provided in G.S. 143-25~~ be independent of any fiscal control exercise by the Director of the Budget or the Department of Administration and shall be responsible to the Advisory Budget Commission, the General Assembly and the people of North Carolina for the efficient and faithful exercise of the responsibilities of his office. The State Treasurer, for all other purposes, is subject to Article 1 of Chapter 143 of the General Statutes."

SECTION 28.2.(b) Subsection (a) of this section becomes effective July 1, 2003.

PART XXIX. DEPARTMENT OF TRANSPORTATION

Requested by: Representatives Cole, Gillespie

CASH-FLOW HIGHWAY FUND AND HIGHWAY TRUST FUND APPROPRIATIONS

SECTION 29.1.(a). The General Assembly authorizes and certifies anticipated revenues of the Highway Fund as follows:

For Fiscal Year 2005-2006	$1,409.2 Million
For Fiscal Year 2006-2007	$1,458.9 Million
For Fiscal Year 2007-2008	$1,509.4 Million
For Fiscal Year 2008-2009	$1,558.8 Million

SECTION 29.1.(b) The General Assembly authorizes and certifies anticipated revenues of the Highway Trust Fund as follows:

For Fiscal Year 2005-2006	$1,096.3 Million
For Fiscal Year 2006-2007	$1,148.0 Million
For Fiscal Year 2007-2008	$1,202.6 Million
For Fiscal Year 2008-2009	$1,252.4 Million

Requested by: Representatives Cole, Gillespie

SMALL URBAN CONTINGENCY FUNDS

SECTION 29.2. Of the funds appropriated in this act to the Department of Transportation:

(1) Fourteen million dollars ($14,000,000) shall be allocated in each fiscal year for small urban construction projects. These funds shall be allocated equally in each fiscal year of the biennium among the 14 Highway Divisions for the small urban construction program for small construction projects that are located within the area covered by a one-mile radius of the municipal corporate limits.

(2) Ten million dollars ($10,000,000) in fiscal year 2003-2004 and ten million dollars ($10,000,000) in fiscal year 2004-2005 shall be used statewide for rural or small urban highway improvements and related transportation enhancements to public roads and public facilities, industrial access roads, and spot safety projects as approved by the Secretary of Transportation.

None of these funds used for rural secondary road construction are subject to the county allocation formulas in G.S. 136-44.5(b) and (c).

These funds are not subject to G.S. 136-44.7.

The Department of Transportation shall report to the members of the General Assembly on projects funded pursuant to this section in each member's district prior to the Board of Transportation's action. The Department shall make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

Requested by: Representatives Cole, Gillespie

DEPARTMENT OF TRANSPORTATION PRODUCTIVITY PILOT PROGRAMS

SECTION 29.3. The Department of Transportation may establish two pilot programs to test incentive pay for employees as a means for increasing efficiency and productivity.

One of the pilot programs shall involve the highway resurfacing program using road oil. Up to one-fourth of one percent (0.25%) of the budget allocation for this program may be used to provide employee incentive payments.

The other pilot project may be selected by the Department of Transportation, and up to twenty-five thousand dollars ($25,000) may be used from existing budgets for incentives.

Incentive payments shall be based on quantifiable measures and production schedules determined prior to the implementation of the pilot programs that shall last no more than two years.

The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on the pilot programs at least 30 days prior to their implementation.

Requested by: Representatives Cole, Gillespie

REDUCE HIGHWAY TRUST FUND ADMINISTRATION ALLOCATION

SECTION 29.4. G.S. 136-176(b) reads as rewritten:

"(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed ~~four and one-half percent (4.5%)~~ three and eight-tenths percent (3.8%) of the amount of revenue deposited in the Trust Fund under subdivisions (a)(1), (2), and (3) of this section, may be used each fiscal year by the Department for expenses to administer the Trust Fund. Operation and project development costs of the North Carolina Turnpike Authority are eligible administrative expenses under this subsection. Any funds allocated to the Authority pursuant to this subsection shall be repaid by the Authority from its toll revenue as soon as possible, subject to any restrictions included in the agreements entered into by the Authority in connection with the issuance of the Authority's revenue bonds. Beginning one year after the Authority begins collecting tolls on a completed Turnpike Project, interest shall accrue on any unpaid balance owed to the Highway Trust Fund at a rate equal to the State Treasurer's average annual yield on its investment of Highway Trust Fund funds pursuant to G.S. 147-6.1. Interest earned on the unpaid balance shall be deposited in the Highway Trust Fund upon repayment. The rest of the funds in the Trust Fund shall be allocated and used as follows:

(1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct the projects of the Intrastate System described in G.S. 136-179 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these projects.

(2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to these urban loops.

(3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.

(4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182 and to pay debt service on highway bonds and notes that are issued under the State Highway Bond Act of 1996 and whose proceeds are applied to secondary road construction.

The Department must administer funds allocated under subdivisions (1), (2), and (4) of this subsection in a manner that ensures that sufficient funds are available to make the debt service payments on bonds issued under the State Highway Bond Act of 1996 as they become due."

Requested by: Representatives Cole, Gillespie

USE OF EXCESS OVERWEIGHT/OVERSIZE FUNDS

SECTION 29.5. Funds generated by overweight/oversize permit fees in excess of the cost of administering the program, as determined pursuant to G.S. 20-119(e), shall be used for highway and bridge maintenance required as a result of damages caused from overweight/oversize loads.

Requested by: Representatives Cole, Gillespie

ENVIRONMENTAL PERMITS ON DEPARTMENT OF TRANSPORTATION CONSTRUCTION PROJECTS

SECTION 29.6. Chapter 136 of the General Statutes is amended by adding a new section to read:

"**§ 136-44.7B. Permit issuance by Department of Environment and Natural Resources transportation construction projects.**

(a) Once the Department of Environment and Natural Resources or any agency within the Department of Environment and Natural Resources has received a complete application for a permit that is required for a transportation construction project to be undertaken by or on behalf of the Department of Transportation, the Department of Environment and Natural Resources shall expedite the review of the application and shall issue or deny the permit within 90 days of receipt of the submission. All permits not denied within that time limit shall be deemed approved. The Secretary of Environment and Natural Resources and the Secretary of Transportation shall jointly decide any question as to whether an application for a permit is complete. If the Secretary of Environment and Natural Resources and the Secretary of Transportation are unable to jointly decide any question, the Governor shall decide the question.

(b) Once the Department of Environment and Natural Resources or any agency within the Department of Environment and Natural Resources has issued a permit that is required for a transportation construction project to be undertaken by or on behalf of the Department of Transportation, that permit shall remain in effect until the project is completed. The permit shall not expire and shall not be modified or canceled for any reason, including a subsequent change in federal law or regulations or in State law or rules, unless at least one of the following occurs:

(1) The modification or cancellation is requested by the Department of Transportation.

(2) The modification or cancellation is clearly required by a change in federal law or regulations and a failure to modify or cancel the permit by the Department of Environment and Natural Resources would result in a loss of federal program delegation or a significant reduction in the availability of federal funds to the Department of Environment and Natural Resources or to the Department of Transportation.

(3) The modification or cancellation is clearly required by a change in State law as a result of an act of the General Assembly that includes a statement that the General Assembly specifically intends the change in State law to apply to ongoing transportation construction projects.

(4) The modification or cancellation is ordered by a court of competent jurisdiction.

(5) The nature or scope of the transportation construction project is significantly expanded or otherwise altered."

Requested by: Representatives Cole, Gillespie

DRIVER EDUCATION PRIVATIZATION

SECTION 29.7. The State Board of Education shall study statewide privatization of State-funded driver education programs. The State Board of Education shall report to the Joint Legislative Education Oversight Committee and the joint Legislative Transportation Oversight Committee by November 30, 2003, on proposals for statewide privatization and cost reduction.

Requested by: Representatives Cole, Gillespie

DEPARTMENT OF TRANSPORTATION GENERAL ADMINISTRATION REDUCTIONS.

SECTION 29.8. The Department of Transportation shall reduce expenditures for General Administration by one million eight hundred thousand dollars ($1,800,000) during fiscal year 2003-2004 and by three million six hundred thousand dollars ($3,600,000) in fiscal year 2004-2005. At least seventy-five percent (75%) of the savings shall be achieved through reductions in personnel. Savings shall be used for maintenance. The Department of Transportation shall report to the Joint Legislative Transportation Oversight Committee on or before November 30, 2003, on actions it will be taking to implement the provisions of this section.

PART XXX. SALARIES AND EMPLOYEE BENEFITS

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

GOVERNOR AND COUNCIL OF STATE

SECTION 30.1.(a) Effective July 1, 2003, G.S. 147-11(a) reads as rewritten:

"(a) The salary of the Governor shall be ~~one hundred eighteen thousand four hundred thirty dollars ($118,430)~~ one hundred twenty thousand three hundred twenty-five dollars ($120,325) annually, payable monthly."

SECTION 30.1.(b) Effective July 1, 2003, the annual salaries for the members of the Council of State, payable monthly, for the 2003-2004 and 2004-2005 fiscal years are:

Council of State	Annual Salary
Lieutenant Governor	$ 106,195
Attorney General	106,195
Secretary of State	106,195
State Treasurer	106,195
State Auditor	106,195
Superintendent of Public Instruction	106,195
Agriculture Commissioner	106,195
Insurance Commissioner	106,195
Labor Commissioner	106,195

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

NONELECTED DEPARTMENT HEADS/SALARY INCREASES

SECTION 30.2. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2003-2004 and 2004-2005 fiscal years are:

Nonelected Department Heads	Annual Salary
Secretary of Administration	$ 103,753
Secretary of Correction	103,753
Secretary of Crime Control and Public Safety	103,753
Secretary of Cultural Resources	103,753
Secretary of Commerce	103,753
Secretary of Environment and Natural Resources	103,753
Secretary of Health and Human Services	103,753
Secretary of Juvenile Justice and Delinquency Prevention	103,753
Secretary of Revenue	103,753
Secretary of Transportation	103,753

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

SECTION 30.3. Effective July 1, 2003, the annual salaries, payable monthly, for the 2003-2004 and 2004-2005 fiscal years for the following executive branch officials are:

Executive Branch Officials	Annual Salary
Chairman, Alcoholic Beverage Control Commission	$ 94,433
State Controller	132,159
Commissioner of Motor Vehicles	94,433
Commissioner of Banks	106,195
Chairman, Employment Security Commission	131,992
State Personnel Director	103,753
Chairman, Parole Commission	86,229
Members of the Parole Commission	79,610
Chairman, Utilities Commission	118,267
Members of the Utilities Commission	106,195
Executive Director, Agency for Public Telecommunications	79,610
General Manager, Ports Railway Commission	71,887
Director, Museum of Art	96,764
Executive Director, North Carolina Housing Finance Agency	116,872
Executive Director, North Carolina Agricultural Finance Authority	91,918
State Chief Information Officer	132,080

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

JUDICIAL BRANCH OFFICIALS/SALARY INCREASE

SECTION 30.4.(a) Effective July 1, 2003, the annual salaries, payable monthly, for specified judicial branch officials for the 2003-2004 and 2004-2005 fiscal years are:

Judicial Branch Officials	Annual Salary
Chief Justice, Supreme Court	$ 120,325
Associate Justice, Supreme Court	117,181
Chief Judge, Court of Appeals	114,251
Judge, Court of Appeals	112,298
Judge, Senior Regular Resident Superior Court	109,247
Judge, Superior Court	106,195
Chief Judge, District Court	96,431
Judge, District Court	93,380
Administrative Officer of the Courts	109,247
Assistant Administrative Officer of the Courts	99,787

SECTION 30.4.(b) The district attorney or public defender of a judicial district, with the approval of the Administrative Officer of the Courts or the

Commission on Indigent Defense Services, respectively, 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 sixty-one thousand one hundred fifty-four dollars ($61,154) and the minimum salary of any assistant district attorney or assistant public defender is at least thirty-one thousand five hundred thirty-two dollars ($31,532) effective July 1, 2003.

SECTION 30.4.(c) Effective July 1, 2003, the salaries in effect for the 2003-2004 and 2004-2005 fiscal years for permanent, full-time employees of the Judicial Department, except for those whose salaries are itemized in this Part, shall be increased by one and six-tenths percent (1.6%)

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CLERK OF SUPERIOR COURT/SALARY INCREASES

SECTION 30.5. Effective July 1, 2003, 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	~~$69,911~~$71,030
100,000 to 149,999	~~78,452~~79,707
150,000 to 249,999	~~86,994~~88,386
250,000 and above	~~95,537~~97,066.

The salary schedule in this subsection is intended to represent the following approximate 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."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES/CLERK OF COURT PERSONNEL FLEXIBILITY

SECTION 30.6. Effective July 1, 2003, G.S. 7A-102 reads as rewritten:

"**§ 7A-102. Assistant and deputy clerks; appointment; number; salaries; duties.**

(a) The numbers and salaries of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court shall be determined by the Administrative Officer of the Courts after consultation with the clerk concerned. All personnel in the clerk's office are employees of the State. The clerk appoints the assistants, deputies, and other employees in ~~his~~ the clerk's office to serve at his or her pleasure. Assistant and deputy clerks shall take the oath of office prescribed for clerks of superior court, conformed to the office of assistant or deputy clerk, as the case may be. ~~The~~ Except as provided by subsection (c2) of this section, the job classifications and related salaries of each employee within the office of each superior court clerk shall be

subject to the approval of the Administrative Officer of the Courts after consultation with each clerk concerned and shall be subject to the availability of funds appropriated for that purpose by the General Assembly.

(b) An assistant clerk is authorized to perform all the duties and functions of the office of clerk of superior court, and any act of an assistant clerk is entitled to the same faith and credit as that of the clerk. A deputy clerk is authorized to certify the existence and correctness of any record in the clerk's office, to take the proofs and examinations of the witnesses touching the execution of a will as required by G.S. 31-17, and to perform any other ministerial act which the clerk may be authorized and empowered to do, in his own name and without reciting the name of his principal. The clerk is responsible for the acts of his assistants and deputies. With the consent of the clerk of superior court of each county and the consent of the presiding judge in any proceeding, an assistant or deputy clerk is authorized to perform all the duties and functions of the office of the clerk of superior court in another county in any proceeding in the district or superior court that has been transferred to that county from the county in which the assistant or deputy clerk is employed.

(c) Notwithstanding the provisions of subsection (a), the Administrative Officer of the Courts shall establish an incremental salary plan for assistant clerks and for deputy clerks based on a series of salary steps corresponding to the steps contained in the Salary Plan for State Employees adopted by the Office of State Personnel, subject to a minimum and a maximum annual salary as set forth below. On and after July 1, 1985, each assistant clerk and each deputy clerk shall be eligible for an annual step increase in his salary plan based on satisfactory job performance as determined by each clerk. Notwithstanding the foregoing, if an assistant or deputy clerk's years of service in the office of superior court clerk would warrant an annual salary greater than the salary first established under this section, that assistant or deputy clerk shall be eligible on and after July 1, 1984, for an annual step increase in his salary plan. Furthermore, on and after July 1, 1985, that assistant or deputy clerk shall be eligible for an increase of two steps in his salary plan, and shall remain eligible for a two-step increase each year as recommended by each clerk until that assistant or deputy clerk's annual salary corresponds to his number of years of service. Any person covered by this subsection who would not receive a step increase in fiscal year 1995-96 because that person is at the top of the salary range as it existed for fiscal year 1994-95 shall receive a salary increase to the maximum annual salary provided by subsection (c1) of this section.

(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	~~$26,515~~$26,939
Maximum	~~46,464~~47,207

Deputy Clerks	Annual Salary
Minimum	~~$22,565~~$22,926
Maximum	~~35,934.~~36,508.

(c2) The clerk of superior court may appoint assistant clerks, deputy clerks, and a head bookkeeper and set their salaries above the minimum rate established for the positions by subsection (c1) of this section if, in the clerk's discretion, (i) the needs of the clerk's office would be best served by an appointment above the minimum rate, (ii) the appointee's skills and experience support the higher rate, and (iii) the Administrative Office of the Courts certifies that there are sufficient funds available.

(d) Full-time assistant clerks, licensed to practice law in North Carolina, who are employed in the office of superior court clerk on and after July 1, 1984, and full-time assistant clerks possessing a masters degree in business administration, public

administration, accounting, or other similar discipline from an accredited college or university who are employed in the office of superior court clerk on and after July 1, 1997, are authorized an annual salary of not less than three-fourths of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary but that salary shall not be higher than the maximum annual salary established for assistant clerks. Full-time assistant clerks, holding a law degree from an accredited law school, who are employed in the office of superior court clerk on and after July 1, 1984, are authorized an annual salary of not less than two-thirds of the maximum annual salary established for assistant clerks; the clerk of superior court, with the approval of the Administrative Office of the Courts, may establish a higher annual salary, but the entry-level salary may not be more than three-fourths of the maximum annual salary established for assistant clerks, and in no event may be higher than the maximum annual salary established for assistant clerks. ~~The~~ Except as provided by subsection (c2) of this section, the entry-level annual salary for all other assistant and deputy clerks employed on and after July 1, 1984, shall be at the minimum rates as herein established.

(e) A clerk of superior court may apply to the Director of the Administrative Office of the Courts to enter into contracts with local governments for the provision by the State of services of assistant clerks, deputy clerks, and other employees in the office of each clerk of superior court pursuant to G.S. 153A-212.1 or G.S. 160A-289.1.

(f) The Director of the Administrative Office of the Courts may provide assistance requested pursuant to subsection (e) of this section only upon a showing by the senior resident superior court judge, supported by facts, that the overwhelming public interest warrants the use of additional resources for the speedy disposition of cases involving drug offenses, domestic violence, or other offenses involving a threat to public safety.

(g) The terms of any contract entered into with local governments pursuant to subsection (e) of this section shall be fixed by the Director of the Administrative Office of the Courts in each case. Nothing in this section shall be construed to obligate the General Assembly to make any appropriation to implement the provisions of this section or to obligate the Administrative Office of the Courts to provide the administrative costs of establishing or maintaining the positions or services provided for under this section. Further, nothing in this section shall be construed to obligate the Administrative Office of the Courts to maintain positions or services initially provided for under this section."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

MAGISTRATES/SALARY INCREASES

SECTION 30.7. Effective July 1, 2003, G.S. 7A-171.1 reads as rewritten:

"(a) The Administrative Officer of the Courts, after consultation with the chief district judge and pursuant to the following provisions, shall set an annual salary for each magistrate.

(1) A full-time magistrate shall be paid the annual salary indicated in the table set out in this subdivision. A full-time magistrate is a magistrate who is assigned to work an average of not less than 40 hours a week during the term of office. The Administrative Officer of the Courts shall designate whether a magistrate is full-time. Initial appointment shall be at the entry rate. A magistrate's salary shall increase to the next step every two years on the anniversary of the date the magistrate was originally appointed for increases to Steps 1 through 3, and every four years on the anniversary of the date the magistrate was originally appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary
Entry Rate	~~$26,889~~$27,319
Step 1	~~29,525~~29,997
Step 2	~~32,393~~32,911
Step 3	~~35,523~~36,091
Step 4	~~38,952~~39,575
Step 5	~~42,721~~43,405
Step 6	~~46,864.~~47,614.

(2) A part-time magistrate is a magistrate who is assigned to work an average of less than 40 hours of work a week during the term, except that no magistrate shall be assigned an average of less than 10 hours of work a week during the term. A part-time magistrate is included, in accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10) and G.S. 135-40.2(a). The Administrative Officer of the Courts designates whether a magistrate is a part-time magistrate. A part-time magistrate shall receive an annual salary based on the following formula: The average number of hours a week that a part-time magistrate is assigned work during the term shall be multiplied by the annual salary payable to a full-time magistrate who has the same number of years of service prior to the beginning of that term as does the part-time magistrate and the product of that multiplication shall be divided by the number 40. The quotient shall be the annual salary payable to that part-time magistrate.

(3) Notwithstanding any other provision of this subsection, an individual who, when initially appointed as a full-time magistrate, is licensed to practice law in North Carolina, shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. An individual who, when initially appointed as a part-time magistrate, is licensed to practice law in North Carolina, shall be paid an annual salary based on that for Step 4 and determined according to the formula in subdivision (2) of this subsection. This magistrate's salary shall increase to the next step every four years on the anniversary of the date the magistrate was originally appointed. The salary of a full-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving a salary at a level lower than Step 4 shall be adjusted to Step 4 and, thereafter, shall advance in accordance with the Table's schedule. The salary of a part-time magistrate who acquires a license to practice law in North Carolina while holding the office of magistrate and who at the time of acquiring the license is receiving an annual salary as determined by subdivision (2) of this subsection based on a salary level lower than Step 4 shall be adjusted to a salary based on Step 4 in the Table and, thereafter, shall advance in accordance with the provision in subdivision (2) of this subsection.

(a1) Notwithstanding subsection (a) of this section, the following salary provisions apply to individuals who were serving as magistrates on June 30, 1994:

(1) The salaries of magistrates who on June 30, 1994, were paid at a salary level of less than five years of service under the table in effect that date shall be as follows:

Less than 1 year of service	~~$21,325~~$21,666
1 or more but less than 3 years of service	~~22,389~~22,747

3 or more but less than 5 years of service ~~24,530.~~24,922.

Upon completion of five years of service, those magistrates shall receive the salary set as the Entry Rate in the table in subsection (a).

(2) The salaries of magistrates who on June 30, 1994, were paid at a salary level of five or more years of service shall be based on the rates set out in subsection (a) as follows:

Salary Level on June 30, 1994	Salary Level on July 1, 1994
5 or more but less than 7 years of service	Entry Rate
7 or more but less than 9 years of service	Step 1
9 or more but less than 11 years of service	Step 2
11 or more years of service	Step 3

Thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(3) The salaries of magistrates who are licensed to practice law in North Carolina shall be adjusted to the annual salary provided in the table in subsection (a) as Step 4, and, thereafter, their salaries shall be set in accordance with the provisions in subsection (a).

(4) The salaries of "part-time magistrates" shall be set under the formula set out in subdivision (2) of subsection (a) but according to the rates set out in this subsection.

(a2) The Administrative Officer of the Courts shall provide magistrates with longevity pay at the same rates as are provided by the State to its employees subject to the State Personnel Act.

(b) Notwithstanding G.S. 138-6, a magistrate may not be reimbursed by the State for travel expenses incurred on official business within the county in which the magistrate resides."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

GENERAL ASSEMBLY PRINCIPAL CLERKS

SECTION 30.8. Effective July 1, 2003, G.S. 120-37(c) reads as rewritten:

"(c) 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 of ~~eighty-eight thousand three hundred and six dollars ($88,306)~~ eighty-nine thousand seven hundred nineteen dollars ($89,719) payable monthly. The Legislative Services Commission shall review the salary of the principal clerks prior to submission of the proposed operating budget of the General Assembly to the Governor and Advisory Budget Commission and shall make appropriate recommendations for changes in those salaries. Any changes enacted by the General Assembly shall be by amendment to this paragraph."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

SERGEANT-AT-ARMS AND READING CLERKS

SECTION 30.9. Effective July 1, 2003, 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 ninety-two dollars ($292.00)~~ two hundred ninety-seven dollars ($297.00) 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."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

LEGISLATIVE EMPLOYEES

SECTION 30.10. The Legislative Services Officer shall increase the salaries of nonelected employees of the General Assembly in effect for fiscal year 2002-2003 by one and six-tenths percent (1.6%). Nothing in this act limits any of the provisions of G.S. 120-32.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

SECTION 30.11. The Director of the Budget shall transfer from the Reserve for Compensation Increases, created in this act for fiscal years 2003-2004 and 2004-2005, funds to the North Carolina Community College System Office necessary to provide an annual salary increase of one and six-tenths percent (1.6%) including funds for the employer's retirement and social security contributions, commencing July 1, 2003, for all permanent full-time community college institutional personnel supported by State funds.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA SALARY INCREASES

SECTION 30.12.(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 Increases, created in this act for fiscal years 2003-2004 and 2004-2005, to provide an annual salary increase of one and six-tenths percent (1.6%), including funds for the employer's retirement and social security contributions, commencing July 1, 2003, 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).

SECTION 30.12.(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 Compensation Increases, created in this act for fiscal years 2003-2004 and 2004-2005, to provide an annual salary increase of one and eighty-one hundredths percent (1.81%), including funds for the employer's retirement and social security contributions, commencing July 1, 2003, 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 may not be used for any purpose other than for salary increases and necessary employer contributions provided by this section.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

MOST STATE EMPLOYEES

SECTION 30.13.(a) The salaries in effect June 30, 2003, 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, 2003, unless otherwise provided by this act, by one and six-tenths percent (1.6%).

SECTION 30.13.(b) Except as otherwise provided in this act, the fiscal year 2003-2004 salaries 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 one and six-tenths percent (1.6%), commencing July 1, 2003.

SECTION 30.13.(c) The salaries in effect for fiscal year 2003-2004 for all permanent part-time State employees shall be increased on and after July 1, 2003, by pro rata amounts of the one and six-tenths percent (1.6%) salary increase provided for permanent full-time employees covered under subsection (a) of this section.

SECTION 30.13.(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, 2003, in accordance with subsection (a), (b), or (c) of this section, including funds for the employer's retirement and social security contributions, for the permanent full-time and part-time employees of the agency, provided the employing agency elects to make available the necessary funds.

SECTION 30.13.(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 of the one and six-tenths percent (1.6%) salary increase provided for permanent full-time employees covered by the provisions of subsection (a) of this section, commencing July 1, 2003.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

ALL STATE-SUPPORTED PERSONNEL

SECTION 30.14.(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.

SECTION 30.14.(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.

SECTION 30.14.(c) The salary increases provided in this act are to be effective July 1, 2003, and do not apply to persons separated from State service due to resignation, dismissal, reduction in force, death, or retirement or whose last workday is prior to July 1, 2003.

Payroll checks issued to employees after July 1, 2003, which represent payment of services provided prior to July 1, 2003, 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.

SECTION 30.14.(d) The Director of the Budget shall transfer from the Reserve for Compensation Increases in this act for fiscal year 2003-2004 all funds necessary for the salary increases provided by this act, including funds for the employer's retirement and social security contributions.

SECTION 30.14.(e) Nothing in this act authorizes the transfer of funds between the General Fund and the Highway Fund for salary increases.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

STUDY COMPENSATION OF CERTAIN HIGH-LEVEL OFFICERS

SECTION 30.15. The Office of State Personnel (OSP) and the Office of State Budget and Management (OSBM) shall study jointly the relative compensation of members of the Council of State, State department heads, and other high-ranking

elected and nonelected public officials whose salaries are set by the General Assembly to determine whether the officers are being compensated at rates in accordance with:

(1) The officer's scope of responsibilities and span of control.
(2) The critical nature of the officer's department, agency, institution, or function.
(3) The relative size of the operations and budget under the officer's direct control.
(4) The required credentials, knowledge, and experience necessary to competently manage the officer's organization or function.

In conducting this study, the OSP and OSBM shall focus on the relative compensation among these various officers to determine the appropriate salary levels for the officers given the factors identified in this section.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

SALARY-RELATED CONTRIBUTIONS/EMPLOYER

SECTION 30.16.(a) 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 benefits.

SECTION 30.16.(b) Effective July 1, 2003, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2003-2004 fiscal year are (i) three and ninety-five hundredths percent (3.95%) - Teachers and State Employees; (ii) eight and ninety-five hundredths percent (8.95%) - State Law Enforcement Officers; (iii) ten and forty-one hundredths percent (10.41%) - University Employees' Optional Retirement System; (iv) ten and forty-one hundredths percent (10.41%) - Community College Optional Retirement Program; (v) fourteen and ninety-seven hundredths percent (14.97%) - Consolidated Judicial Retirement System; and (vi) three and five hundredths percent (3.05%) - Legislative Retirement System. Each of the foregoing contribution rates includes three and five hundredths percent (3.05%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, the Community College Optional Retirement Program, and the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

SECTION 30.16.(c) Effective July 1, 2004, the State's employer contribution rates budgeted for retirement and related benefits as percentage of covered salaries for the 2004-2005 fiscal year are (i) five and seventy-eight hundredths percent (5.78%) - Teachers and State Employees; (ii) ten and seventy-eight hundredths percent (10.78%) - State Law Enforcement Officers; (iii) ten and forty-one hundredths percent (10.41%) - University Employees' Optional Retirement System; (iv) ten and forty-one hundredths percent (10.41%) - Community College Optional Retirement Program; (v) fourteen and ninety-seven hundredths percent (14.97%) - Consolidated Judicial Retirement System; and (vi) three and five hundredths percent (3.05%) - Legislative

Retirement System. Each of the foregoing contribution rates includes three and five hundredths percent (3.05%) for hospital and medical benefits. The rate for Teachers and State Employees, State Law Enforcement Officers, the Community College Optional Retirement Program, and the University Employees' Optional Retirement Program includes fifty-two hundredths percent (0.52%) for the Disability Income Plan. The rates for Teachers and State Employees and State Law Enforcement Officers include sixteen hundredths percent (0.16%) for the Death Benefits Plan. The rate for State Law Enforcement Officers includes five percent (5%) for Supplemental Retirement Income.

SECTION 30.16.(d) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2003-2004 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - two thousand four hundred seventeen dollars ($2,417), and (ii) non-Medicare-eligible employees and retirees - three thousand one hundred seventy-five dollars ($3,175).

SECTION 30.16.(e) The maximum annual employer contributions, payable monthly, by the State for each covered employee or retiree for the 2004-2005 fiscal year to the Teachers' and State Employees' Comprehensive Major Medical Plan are: (i) Medicare-eligible employees and retirees - two thousand four hundred seventy-eight dollars ($2,478), and (ii) non-Medicare-eligible employees and retirees - three thousand two hundred fifty-six dollars ($3,256).

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

RETIREMENT COLAS

SECTION 30.17.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(lll) From and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June 1, 2003, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) 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, 2002, and June 30, 2003."

SECTION 30.17.(b) G.S. 135-65 is amended by adding a new subsection to read:

"(x) From and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 2002, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June 1, 2003. Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 2002, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) 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, 2002, and June 30, 2003."

SECTION 30.17.(c) G.S. 120-4.22A is amended by adding a new subsection to read:

"(r) In accordance with subsection (a) of this section, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 2003, shall be increased by one and twenty-eight hundredths percent (1.28%) of the allowance payable on June 1, 2003. Furthermore, from and after July 1, 2003, the retirement allowance to or on account of beneficiaries whose retirement commenced after January 1, 2003, but before June 30, 2003, shall be increased by a prorated amount of one and twenty-eight hundredths percent (1.28%) 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, 2003, and June 30, 2003."

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

TRANSFER OF SERVICE IN THE LEGISLATIVE RETIREMENT SYSTEM TO THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE JUDICIAL RETIREMENT SYSTEM

SECTION 30.18.(a) G.S. 120-4.13 reads as rewritten:

"**§ 120-4.13. Transfer of membership and benefits.**

(a) The Board of Trustees shall set up procedures to transfer membership from the Legislative Retirement Fund to the Retirement System and to recompute benefits paid to retirees of the Legislative Retirement Fund who elect to transfer to the Retirement System.

(b) The accumulated contributions and creditable service of any member whose service as a member of the General Assembly has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-1(13), of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from the Legislative Retirement System to the Teachers' and State Employees' Retirement System, there shall be transferred from the Legislative Retirement System to the Teachers' and State Employees' Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in the Legislative Retirement System as a result of previous contributions by the employer on behalf of the transferring member.

(c) The accumulated contributions and creditable service of any member whose service as a member of the General Assembly has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-53(11), of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Consolidated Judicial Retirement System. In order to effect the transfer of a member's creditable service from the Legislative Retirement System to the Consolidated Judicial Retirement System, there shall be transferred from the Legislative Retirement System to the Consolidated Judicial Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in the Legislative Retirement System as a result of previous contributions by the employer on behalf of the transferring member."

SECTION 30.18.(b) G.S. 135-4 reads as rewritten:

"(j2) The creditable service of a member who was a member of the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement System, and whose accumulated contributions and reserves are transferred from that System to this System, includes service that was creditable in the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement System, and membership service with those Retirement Systems is membership service with this Retirement System."

SECTION 30.18.(c) Article 1 of Chapter 135 of the General Statutes is amended by adding new section to read:

"**§ 135-18.9 Transfer of members from the Legislative Retirement System or the Consolidated Judicial Retirement System.**

(a) The accumulated contributions, creditable service, and reserves, if any, of a member of the Legislative Retirement System, as provided for in Article 1A of G.S.120, or the Consolidated Judicial Retirement System, as provided for in Article 4 of G.S. 135, who later becomes a member of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from the Legislative Retirement System or the Consolidated Judicial Retirement System. The accumulated contributions, creditable service, and reserves of any member whose service as a member of the Legislative Retirement System or the Consolidated Judicial Retirement System is terminated other than by retirement or death and who later becomes a member of the Teachers' and State Employees' Retirement System may, upon application of the member, be transferred from the Legislative Retirement System or the Consolidated Judicial Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from the Legislative Retirement System or the Consolidated Judicial Retirement System to the Teachers' and State Employees' Retirement System, the accumulated contributions of each member credited in the annuity savings fund in the Legislative Retirement System or the Consolidated Judicial Retirement System shall be transferred and credited to the annuity savings fund in the Teachers' and State Employees' Retirement System.

(b) The Board of Trustees shall effect such rules as it may deem necessary to administer the preceding subsection and to prevent any duplication of service credits or benefits that might otherwise occur."

SECTION 30.18.(d) G.S. 135-70 is amended by adding a new subsection to read:

"(a1) The accumulated contributions and creditable service of any member whose service as a member of this Retirement System has been or is terminated other than by retirement or death and who, while still a member of this Retirement System, became or becomes a member, as defined in G.S. 135-1(13), of the Teachers' and State Employees' Retirement System for a period of five or more years may, upon application of the member, be transferred from this Retirement System to the Teachers' and State Employees' Retirement System. In order to effect the transfer of a member's creditable service from this Retirement System to the Teachers' and State Employees' Retirement System, there shall be transferred from this Retirement System to the Teachers' and State Employees' Retirement System the sum of (i) the accumulated contributions of the member credited in the annuity savings fund and (ii) the amount of reserve held in this Retirement System as a result of previous contributions by the employer on behalf of the transferring member."

SECTION 30.18.(e) G.S. 135-70.1 reads as rewritten:

"**§ 135-70.1. Transfer of members from the Local Governmental Employees' Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement ~~System.~~ System, or the Legislative Retirement System.**

(a) The accumulated contributions, creditable service, and reserves, if any, of a former teacher or employee, as defined in G.S. 135-1(25), 135-1(10), and 128-21(10), respectively, or a former member of the General Assembly, who is a member of the Consolidated Judicial Retirement System for a period of five or more years may, upon application of the member, be transferred from the Local Governmental Employees' Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement ~~System~~ System, or the Legislative Retirement System to the Consolidated Judicial Retirement System. The accumulated contributions, creditable service, and reserves of any member whose service as a teacher or employee or member of the General Assembly is terminated other than by retirement or death and who becomes a member of the Consolidated Judicial Retirement System may, upon application of the member, be transferred from the Local Governmental Employees' Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement ~~System~~ System, or the Legislative Retirement System to the Consolidated Judicial Retirement System. In order to effect

the transfer of a member's creditable service from the Local Governmental Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement ~~System~~ System, or the Legislative Retirement System, to the Consolidated Judicial Retirement System, the accumulated contributions of each member credited in the annuity savings fund in the Local Governmental Employees' Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement ~~System~~ System, or the Legislative Retirement System shall be transferred and credited to the annuity savings fund in the Consolidated Judicial Retirement System.

(b) The Board of Trustees shall effect such rules as it may deem necessary to administer the preceding subsection and to prevent any duplication of service credits or benefits that might otherwise occur."

SECTION 30.18.(f) G.S. 135-56(f) reads as rewritten:

"(f) The creditable service of a member who was a member of the Local Governmental Employees' Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement ~~System~~ System, or the Legislative Retirement System and whose accumulated contributions and reserves are transferred from that System to this System, includes service that was creditable in the Local Governmental Employees' Retirement ~~System or~~ System, the Teachers' and State Employees' Retirement System, or the Legislative Retirement System, and membership service with those Retirement Systems is membership service with this Retirement System."

SECTION 30.18.(g) G.S. 135-58(a3) reads as rewritten:

"(a3) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2001, but before January 1, 2004, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of the member's final compensation:

(1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System to this System as provided in G.S. 135-56."

SECTION 30.18.(h) G.S. 135-58 is amended by adding a new section to read:

"(a4) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after January 1, 2004, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of the member's final compensation:

(1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56."

SECTION 30.18.(i) This section becomes effective January 1, 2004.

PART XXXI. CAPITAL APPROPRIATIONS

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CAPITAL APPROPRIATIONS/GENERAL FUND

SECTION 31.1. There is appropriated from the General Fund for the 2003-2004 fiscal year the following amount for capital improvements:

	2003-2004
Department of Environment and Natural Resources Water Resource Projects	$27,601,000
TOTAL CAPITAL APPROPRIATION	$27,601,000

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

WATER RESOURCES DEVELOPMENT PROJECT FUNDS

SECTION 31.2.(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 costs are as indicated:

	Name of Project	2003-2004
(1)	Wilmington Harbor Deepening	$6,800,000
(2)	Morehead City Harbor Maintenance	100,000
(3)	Morehead City Harbor Section 933 Nourishment	4,661,000
(4)	Wilmington Harbor Maintenance	2,700,000
(5)	Manteo (Shallowbag) Bay Channel Maintenance	3,500,000
(6)	John H. Kerr Reservoir Operations Evaluation	200,000
(7)	Beaufort Harbor Maintenance Dredging	80,000
(8)	Carolina Beach Renourishment (New Hanover County)	1,125,000
(9)	Kure Beach Renourishment (New Hanover County)	1,177,000
(10)	Ocean Isle Beach Renourishment (Brunswick County)	813,000
(11)	Bogue Banks Shore Protection Study (Carteret County)	200,000
(12)	Surf City/North Topsail Beach Protection Study	150,000
(13)	Princeville Flood Control Study	400,000
(14)	West Onslow Beach (Topsail)	75,000
(15)	Deep Creek (Yadkin County) Watershed Management	1,500,000
(16)	State Local Projects	2,500,000
(17)	Currituck Sound Water Management Study	150,000
(18)	Aquatic Weed Control, Lake Gaston and Statewide	300,000
(19)	Swan Quarter (Hyde County) Flood Control Dikes	100,000
(20)	Little Sugar Creek Restoration (Mecklenburg County)	20,000
(21)	Neuse River Basin Feasibility Study	100,000
(22)	Environmental Restoration Projects	700,000
(23)	Projected Feasibility Studies	100,000
(24)	Planning Assistance to Communities	150,000
TOTAL		**$27,601,000**

SECTION 31.2.(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 funded under subsection (a) of this section are delayed and the budgeted State funds cannot be used during the 2003-2004 fiscal year, or if the projects funded under 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 2003-2004.

(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 2004-2005 fiscal year.

SECTION 31.2.(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.

SECTION 31.2.(d) Notwithstanding G.S. 143-23, if additional federal funds that require a State match are received for water resources projects or for beach renourishment projects for the 2003-2004 fiscal year, the Director of the Budget may, after consultation with the Joint Legislative Commission on Governmental Operations, transfer funds from General Fund appropriations to match the federal funds.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

PROCEDURES FOR DISBURSEMENT OF CAPITAL FUNDS

SECTION 31.3. The appropriations made by the 2003 General Assembly for capital improvements shall be disbursed for the purposes provided by this act. Expenditure of funds shall not be made by any State department, institution, or agency until an allotment has been approved by the Governor as Director of the Budget. The allotment shall be approved only after full compliance with the Executive Budget Act, Article 1 of Chapter 143 of the General Statutes. Prior to the award of construction contracts for projects to be financed in whole or in part with self-liquidating appropriations, the Director of the Budget shall approve the elements of the method of financing of those projects including the source of funds, interest rate, and liquidation period. Provided, however, that if the Director of the Budget approves the method of financing a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting.

Where direct capital improvement appropriations include the purpose of furnishing fixed and movable equipment for any project, those funds for equipment shall not be subject to transfer into construction accounts except as authorized by the Director of the Budget. The expenditure of funds for fixed and movable equipment and furnishings shall be reviewed and approved by the Director of the Budget prior to commitment of funds.

Capital improvement projects authorized by the 2003 General Assembly shall be completed, including fixed and movable equipment and furnishings, within the limits of the amounts of the direct or self-liquidating appropriations provided, except as otherwise provided in this act. Capital improvement projects authorized by the 2003 General Assembly for the design phase only shall be designed within the scope of the project as defined by the approved cost estimate filed with the Director of the Budget, including costs associated with site preparation, demolition, and movable and fixed equipment.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

ENCUMBERED APPROPRIATIONS AND PROJECT RESERVE FUNDS

SECTION 31.4. When each capital improvement project appropriated by the 2003 General Assembly, other than those projects under the Board of Governors of The University of North Carolina, is placed under a construction contract, direct appropriations shall be encumbered to include all costs for construction, design, investigation, administration, movable equipment, and a reasonable contingency. Unencumbered direct appropriations remaining in the project budget shall be placed in a project reserve fund credited to the Office of State Budget and Management. Funds in the project reserve may be used for emergency repair and renovation projects at State facilities with the approval of the Director of the Budget. The project reserve fund may be used, at the discretion of the Director of the Budget, to allow for award of contracts where bids exceed appropriated funds, if those projects supplemented were designed within the scope intended by the applicable appropriation or any authorized change in it, and if, in the opinion of the Director of the Budget, all means to award contracts within the appropriation were reasonably attempted. At the discretion of the Director of the Budget, any balances in the project reserve fund shall revert to the original source.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

REPAIRS AND RENOVATIONS FUNDS ALLOCATIONS

SECTION 31.5. As the bond referendum passed in 2000 provided funds for capital improvements, repairs, and renovations throughout The University of North Carolina System, no funds in the Reserve for Repairs and Renovations shall be used for projects of the System for the 2003-2004 fiscal year.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

CAPITAL IMPROVEMENT PROJECTS/SUPPLEMENTAL FUNDING APPROVAL/REPORTING REQUIREMENT

SECTION 31.6. Each department receiving capital improvement appropriations from the Highway Fund under this act shall report quarterly to the Director of the Budget on the status of those capital projects. The reporting procedure to be followed shall be developed by the Director of the Budget.

Highway Fund capital improvement projects authorized in this act that have not been placed under contract for construction due to insufficient funds may be supplemented with funds identified by the Director of the Budget, provided:

(1) That the project was designed and bid within the scope as authorized by the General Assembly;

(2) That the funds to supplement the project are from the same source as authorized for the original project;

(3) That the department to which the project was authorized has unsuccessfully pursued all statutory authorizations to award the contract; and

(4) That the action be reported to the Fiscal Research Division of the Legislative Services Office.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

PROJECT COST INCREASE

SECTION 31.7. Upon the request of the administration of a State agency, department, or institution, the Director of the Budget may, when in the Director's opinion it is in the best interest of the State to do so, increase the cost of a capital improvement project. Provided, however, that if the Director of the Budget increases the cost of a project, the Director shall report that action to the Joint Legislative Commission on Governmental Operations at its next meeting. The increase may be

funded from gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or direct capital improvement appropriations to that department or institution.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

NEW PROJECT AUTHORIZATION

SECTION 31.8. Upon the request of the administration of any State agency, department, or institution, the Director of the Budget may authorize the construction of a capital improvement project not specifically authorized by the General Assembly if such project is to be funded by gifts, federal or private grants, special fund receipts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, or self-liquidating indebtedness. Prior to authorizing the construction of a capital improvement project pursuant to this section, the Director shall consult with the Joint Legislative Commission on Governmental Operations.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

ADVANCE PLANNING OF CAPITAL IMPROVEMENT PROJECTS

SECTION 31.9. Funds that become available by gifts, excess patient receipts above those budgeted at the University of North Carolina Hospitals at Chapel Hill, federal or private grants, receipts becoming a part of special funds by act of the General Assembly, or any other funds available to a State department or institution may be utilized for advance planning through the working drawing phase of capital improvement projects, upon approval of the Director of the Budget. The Director of the Budget may make allocations from the Advance Planning Fund for advance planning through the working drawing phase of capital improvement projects, except that this revolving fund shall not be utilized by the Board of Governors of The University of North Carolina or the State Board of Community Colleges.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

APPROPRIATIONS LIMITS/REVERSION OR LAPSE

SECTION 31.10. Except as permitted in previous sections of this act, the appropriations for capital improvements made by the 2003 General Assembly may be expended only for specific projects set out by the 2003 General Assembly and for no other purpose. Construction of all capital improvement projects enumerated by the 2003 General Assembly shall be commenced, or self-liquidating indebtedness with respect to them shall be incurred, within 12 months following the first day of the fiscal year in which the funds are available. If construction contracts on those projects have not been awarded or self-liquidating indebtedness has not been incurred within that period, the direct appropriation for those projects shall revert to the original source, and the self-liquidating appropriation shall lapse; except that direct appropriations may be placed in a reserve fund as authorized in this act. This deadline with respect to both direct and self-liquidating appropriations may be extended with the approval of the Director of the Budget up to an additional 12 months if circumstances and conditions warrant such extension.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

INTENT TO FUND PARTIALLY COMPLETED CAPITAL PROJECTS

SECTION 31.11. It is the intent of the General Assembly that future appropriations for capital improvements shall include funding for new projects only after full funding for partially completed projects has been restored.

PART XXXII. REGULATORY FEE FOR UTILITIES COMMISSION

SECTION 32.1.(a) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) is twelve hundredths of a percent (0.12%) for each public utility's North Carolina jurisdictional revenues earned during each quarter that begins on or after July 1, 2003.

SECTION 32.1.(b) The electric membership corporation regulatory fee imposed under G.S. 62-302(b1) for the 2003-2004 fiscal year is two hundred thousand dollars ($200,000).

SECTION 32.1.(c) This section becomes effective July 1, 2003.

PART XXXIII. INSURANCE REGULATORY CHARGE

SECTION 33.1.(a) The percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25 is six and five-tenths percent (6.5%) for the 2003 calendar year.

SECTION 33.1.(b) This section is effective when it becomes law.

PART XXXIV. DEPARTMENT OF HEALTH AND HUMAN SERVICES FEES

SECTION 34.1.(a) G.S. 131D-2(b)(1) reads as rewritten:

"(b) Licensure; inspections. –

(1) The Department of Health and Human Services shall inspect and license, under rules adopted by the Medical Care Commission, all adult care homes for persons who are aged or mentally or physically disabled except those exempt in subsection (c) of this section. Licenses issued under the authority of this section shall be valid for one year from the date of issuance unless revoked earlier by the Secretary for failure to comply with any part of this section or any rules adopted hereunder. Licenses shall be renewed annually upon filing and the Department's approval of the renewal application. The Department shall charge each adult care home with six or fewer beds a nonrefundable annual license fee in the amount of two hundred fifty dollars ($250.00). The Department shall charge each adult care home with more than six beds a nonrefundable annual license fee in the amount of three hundred fifty dollars ($350.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents ($12.50). A license shall not be renewed if outstanding ~~fines~~ fees, fines, and penalties imposed by the State against the home have not been paid. Fines and penalties for which an appeal is pending are exempt from consideration. The renewal application shall contain all necessary and reasonable information that the Department may by rule require. Except as otherwise provided in this subdivision, the Department may amend a license by reducing it from a full license to a provisional license for a period of not more than 90 days whenever the Department finds that:

a. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles;

b. There is a reasonable probability that the licensee can remedy the licensure deficiencies within a reasonable length of time; and

c. There is a reasonable probability that the licensee will be able thereafter to remain in compliance with the licensure rules for the foreseeable future.

The Department may extend a provisional license for not more than one additional 90-day period upon finding that the licensee has made

substantial progress toward remedying the licensure deficiencies that caused the license to be reduced to provisional status.

The Department may revoke a license whenever:

a. The Department finds that:
   1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
   2. It is not reasonably probable that the licensee can remedy the licensure deficiencies within a reasonable length of time; or

b. The Department finds that:
   1. The licensee has substantially failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles; and
   2. Although the licensee may be able to remedy the deficiencies within a reasonable time, it is not reasonably probable that the licensee will be able to remain in compliance with licensure rules for the foreseeable future; or

c. The Department finds that the licensee has failed to comply with the provisions of Articles 1 and 3 of Chapter 131D of the General Statutes and the rules adopted pursuant to these Articles, and the failure to comply endangered the health, safety, or welfare of the patients in the facility.

The Department may also issue a provisional license to a facility, pursuant to rules adopted by the Medical Care Commission, for substantial failure to comply with the provisions of this section or rules adopted pursuant to this section. Any facility wishing to contest the issuance of a provisional license shall be entitled to an administrative hearing as provided in the Administrative Procedure Act, Chapter 150B of the General Statutes. A petition for a contested case shall be filed within 30 days after the Department mails written notice of the issuance of the provisional license."

SECTION 34.1.(b) This section becomes effective October 1, 2003.

SECTION 34.2.(a) G.S. 131E-77(d) reads as rewritten:

"(d) Upon receipt of an application for a license, the Department shall issue a license if it finds that the applicant complies with the provisions of this Article and the rules of the Commission. The Department shall renew each license in accordance with the rules of the Commission. The Department shall charge the applicant a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Facility Type	Number of Beds	Base Fee	Per-Bed Fee
General Acute Hospitals:	1-49 beds	$250.00	$12.50
	50-99 beds	$350.00	$12.50
	100-199 beds	$450.00	$12.50
	200-399 beds	$550.00	$12.50
	400-699 beds	$750.00	$12.50
	700+ beds	$950.00	$12.50
Other Hospitals		$500.00	$12.50."

SECTION 34.2.(b) This section becomes effective October 1, 2003.

SECTION 34.3.(a) G.S. 131E-102(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the

Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of four hundred fifty dollars ($450.00) plus a nonrefundable annual per-bed fee of twelve dollars and fifty cents ($12.50)."

SECTION 34.3.(b) This section becomes effective October 1, 2003.

SECTION 34.4.(a) G.S. 131E-138(c) reads as rewritten:

"(c) An application for a license shall be available from the Department, and each application filed with the Department shall contain all information requested by the Department. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual license fee in the amount of three hundred fifty dollars ($350.00)."

SECTION 34.4.(b) This section becomes effective October 1, 2003.

SECTION 34.5.(a) G.S. 131E-147(b) reads as rewritten:

"(b) Applications shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A license shall be granted to the applicant upon a determination by the Department that the applicant has complied with the provisions of this Part and the rules promulgated by the Commission under this Part. The Department shall charge the applicant a nonrefundable annual base license fee in the amount of seven hundred dollars ($700.00) plus a nonrefundable annual per-operating room fee in the amount of fifty dollars ($50.00)."

SECTION 34.5.(b) This section becomes effective October 1, 2003.

SECTION 34.6.(a) G.S. 131E-167(a) reads as rewritten:

"(a) Applications for certification shall be available from the Department, and each application filed with the Department shall contain all necessary and reasonable information that the Department may by rule require. A certificate shall be granted to the applicant for a period not to exceed ~~two years~~one year upon a determination by the Department that the applicant has substantially complied with the provisions of this Article and the rules promulgated by the Department under this Article. The Department shall charge the applicant a nonrefundable annual certification fee in the amount of two hundred fifty dollars ($250.00)."

SECTION 34.6.(b) This section becomes effective October 1, 2003.

SECTION 34.7.(a) Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"**§ 131E-269. Authorization to charge fee for certification of facilities suitable to perform abortions.**

The Department of Health and Human Services shall charge each hospital or clinic certified by the Department as a facility suitable for the performance of abortions, as authorized under G.S. 14-45.1, a nonrefundable annual certification fee in the amount of seven hundred dollars ($700.00)."

SECTION 34.7.(b) This section becomes effective October 1, 2003.

SECTION 34.8.(a) G.S. 122C-23 is amended by adding the following new subsection to read:

"(h) The Department shall charge facilities licensed under this Chapter that have licensed beds a nonrefundable annual base license fee plus a nonrefundable annual per-bed fee as follows:

Type of Facility	Number of Beds	Base Fee	Per-Bed Fee
Facilities (non-ICF-MR):	6 or fewer beds	$250.00	$0
	More than 6 beds	$250.00	$12.50
ICF-MR Only:	6 or fewer beds	$650.00	$0
	More than 6 beds	$650.00	$12.50."

SECTION 34.8.(b) This section becomes effective October 1, 2003.

SECTION 34.9.(a) Part 3 of Article 6 of Chapter 131E of the General Statues is amended by adding the following new section to read:

"**§ 131E-138.1. Licensure fees for nursing beds and adult care home beds in continuing care retirement communities.**

The Department shall charge continuing care retirement communities licensed under Article 64 of Chapter 58 of the General Statutes that have nursing home beds or adult care home beds licensed by the Department a nonrefundable annual base license fee in the amount of four hundred fifty dollars ($450.00) plus a nonrefundable annual per-bed fee in the amount of twelve dollars and fifty cents ($12.50)."

SECTION 34.9.(b) This section becomes effective October 1, 2003.

SECTION 34.10.(a) Article 56 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"**§ 143-520 Fees.**

The Department of Health and Human Services shall charge a nonrefundable annual fee for emergency medical services provided under this Article, as follows:

Type of Provider	**Annual Fee**
Credentialing of persons paid for providing EMS Services	$90.00
Licensing of EMS Providers/Vehicle Inspections	$50.00
Licensing of Emergency Dispatch Providers	$185.00."

SECTION 34.10.(b) This section becomes effective October 1, 2003.

SECTION 34.11.(a) Article 16 of Chapter 131E of the General Statutes is amended by adding the following new section to read:

"**§ 131E-267. Fees for departmental review of health care facility construction projects.**

The Department of Health and Human Services shall charge a fee for the review of each health care facility construction project to ensure that project plans and construction are in compliance with State law. The fee shall be charged on a one-time, per-project basis, as follows, and shall not exceed twenty-five thousand dollars ($25,000) for any single project:

Institutional Project	**Project Fee**
Hospitals	$300.00 plus $0.20/square foot of project space
Nursing Homes	$250.00 plus $0.15/square foot of project space
Ambulatory Surgical Facility	$200.00 plus $0.15/square foot of project space
Psychiatric Hospital	$200.00 plus $0.15/square foot of project space
Adult Care Home more than 7 beds	$175.00 plus $0.10/square foot of project space

Residential Project	**Project Fee**
Family Care Homes	$175.00 flat fee
ICF/MR Group Homes	$275.00 flat fee
Group Homes: 1-3 beds	$100.00 flat fee
Group Homes: 4-6 beds	$175.00 flat fee
Group Homes: 7-9 beds	$225.00 flat fee
Other residential:	
More than 9 beds	$225.00 plus $0.075/square foot of facility space."

SECTION 34.11.(b) This section becomes effective October 1, 2003.

SECTION 34.12.(a) G.S. 110-90 reads as rewritten:

"**§ 110-90. Powers and duties of Secretary of Health and Human Services.**

The Secretary shall have the following powers and duties under the policies and rules of the Commission:

(1) To administer the licensing program for child care facilities.

(1a) To establish a fee for the licensing of child care facilities. The amount of the fee may not exceed the amount listed in this subdivision. The

fee does not apply to a religious-sponsored child care center operated pursuant to a letter of compliance.

Capacity of Facility	Maximum Fee
12 or fewer children	$ 35.00
13-50 children	$125.00
51-100 children	$250.00
101 or more children	$400.00

(2) To obtain and coordinate the necessary services from other State departments and units of local government which are necessary to implement the provisions of this Article.

(3) To employ the administrative personnel and staff as may be necessary to implement this Article where required services, inspections or reports are not available from existing State agencies and units of local government.

(4) To issue a rated license to any child care facility which meets the standards established by this Article. The rating shall be based on program standards, education levels of staff, and compliance history of the child care facility.

(5) To revoke the license of any child care facility that ceases to meet the standards established by this Article and rules on these standards adopted by the Commission, or that demonstrates a pattern of noncompliance with this Article or the rules, or to deny a license to any applicant that fails to meet the standards or the rules. These revocations and denials shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.

(6) To prosecute or defend on behalf of the State, through the office of the Attorney General, any legal actions arising out of the administration or enforcement of this Article.

(7) To promote and coordinate educational programs and materials for operators of child care facilities which are designed to improve the quality of child care available in the State, using the resources of other State and local agencies and educational institutions where appropriate.

(8) Repealed by Session Laws 1997-506, s. 5.

(9) To levy a civil penalty pursuant to G.S. 110-103.1, or an administrative penalty pursuant to G.S. 110-102.2, or to order summary suspension of a license. These actions shall be done in accordance with the procedures set out in G.S. 150B and this Article and rules adopted by the Commission.

(10) To issue final agency decisions in all G.S. 150B contested cases proceedings filed as a result of actions taken under this Article including, but not limited to the denial, revocation, or suspension of a license or the levying of a civil or administrative penalty.

(11) To issue a license to any child care arrangement that does not meet the definition of child care facility in G.S. 110-86 whenever the operator of the arrangement chooses to comply with the requirements of this Article and the rules adopted by the Commission and voluntarily applies for a child care facility license. The Commission shall adopt rules for the issuance or removal of the licenses."

SECTION 34.12.(b) This section becomes effective October 1, 2003.

SECTION 34.13.(a) G.S. 130A-5 is amended by adding the following new subdivision to read:

"(15) To establish a fee to cover the cost of analyzing clinical Pap smear specimens sent to the State Laboratory by local health departments and

State-owned facilities and for reporting the results of the analysis. This fee shall be in addition to the charge for the Pap smear test kit."

SECTION 34.13.(b) This section becomes effective July 1, 2003.

PART XXXV. DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES FEES

SECTION 35.1.(a) G.S. 113-34(c) reads as rewritten:

"(c) The Department, with the approval of the Governor and Council of State, may enter into leases of lands and waters for State parks, State lakes and recreational purposes; and the Department may construct, operate, and maintain on the lands and waters suitable public service facilities and conveniences and may charge and collect reasonable fees for each of the following:

(1) The erection, maintenance and use of docks, piers and other structures as may be permitted in or on the waters under its own rules.

(2) Fishing privileges in the waters, provided that the privileges shall be extended only to holders of bona fide North Carolina fishing licenses, and provided further that all State fishing laws and rules are complied with.

(3) Vehicle access to Fort Fisher State Recreation Area."

SECTION 35.1.(b) Notwithstanding G.S. 150B-21.1, the Department of Environment and Natural Resources may adopt temporary rules to establish fees under G.S. 113-34(c)(3), as amended by subsection (a) of this section, within six months after the effective date of this section.

SECTION 35.1.(c) This section becomes effective July 1, 2003.

PART XXXVI. DEPARTMENT OF TRANSPORTATION FEES

SECTION 36.1.(a) G.S. 138-82 reads as rewritten:

"**§ 136-82. Department of Transportation to establish and maintain ferries.**

The Department of Transportation is vested with authority to provide for the establishment and maintenance of ferries connecting the parts of the State highway system, whenever in its discretion the public good may so ~~require, and to prescribe and collect such tolls therefor as may, in the discretion of the Department of Transportation, be expedient.~~ require. The Department of Transportation shall collect tolls on all ferries. The Department may establish various classes of ferry users.

To accomplish the purpose of this section said Department of Transportation is authorized to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or other facilities required for the proper operation of such ferries or to enter into contracts with persons, firms or corporations for the operation thereof and to pay therefor such reasonable sums as may in the opinion of said Department of Transportation represent the fair value of the public service rendered.

The Department of Transportation, notwithstanding any other provision of law, may operate, or contract for the operation of, concessions on the ferries and at ferry facilities to provide to passengers on the ferries food, drink, and other refreshments, personal comfort items, and souvenirs publicizing the ferry system."

SECTION 36.1.(b) This section becomes effective July 1, 2004.

PART XXXVII. ADJUST LOCAL GOVERNMENT HOLD HARMLESS

SECTION 37.1. G.S. 105-521 reads as rewritten:

"**§ 105-521. Transitional local government hold harmless.**

(a) Definitions. – The following definitions apply in this section:

(1) Local government. – A county or municipality that received a distribution of local sales taxes in the most recent fiscal year for which a local sales tax share has been calculated.

(2) Local sales tax share. – A local government's percentage share of the two-cent (2¢) sales taxes distributed during the most recent fiscal year for which data are available.

(3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.

(4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax authorized in Article 42 of this Chapter.

(b) Distributions. – On or before ~~September~~ August 15, 2003, and each ~~September~~ August 15 thereafter, the Secretary must multiply each local government's local sales tax share by the estimated amount that all local governments would be expected to receive during the current fiscal year under G.S. 105-520 if every county levied the tax under this Article for the year. If the resulting amount is less than one hundred percent (100%) of the local government's repealed reimbursement amount, the Secretary must pay the local government the difference, but not less than one hundred dollars ($100.00).

On or before May 1, 2003, and each May 1 thereafter, the Office of State Budget and Management and the Fiscal Research Division of the General Assembly must each submit to the Secretary and to the General Assembly a final projection of the estimated amount that all local governments would be expected to receive during the upcoming fiscal year under G.S. 105-520 if every county levied the tax under this Article for the fiscal year. If the Secretary does not use the lower of the two final projections to make the calculation required by this subsection, the Secretary must report the reasons for this decision to the Joint Legislative Commission on Governmental Operations within 60 days after receiving the projections.

(c) Source of Funds. – The Secretary must draw the funds distributed under this section from sales and use tax collections under Article 5 of this Chapter.

(d) Reports. – The Secretary must report to the Revenue Laws Study Committee by January 31, 2004, and each January 31 thereafter, the amount distributed under this section for the current fiscal year."

SECTION 37.2. Effective January 1, 2013, G.S. 105-521 is repealed.

PART XXXVIII. TEMPORARILY MAINTAIN STATE SALES TAX RATE

SECTION 38.1. Section 34.13(c) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies to sales made on or after that date. This section is repealed effective for sales made on or after July 1, 2005. ~~2003.~~ This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal."

PART XXXIX. TEMPORARILY MAINTAIN UPPER INCOME TAX RATE

SECTION 39.1. Effective for taxable years beginning on or after January 1, 2006, G.S. 105-134.2(a) reads as rewritten:

"(a) A tax is imposed upon the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually and shall be computed at the following percentages of the taxpayer's North Carolina taxable income.

(1) For married individuals who file a joint return under G.S. 105-152 and for surviving spouses, as defined in section 2(a) of the Code:

Over	Up To	Rate
-0-	$21,250	6%
$21,250	$100,000	7%
$100,000	~~$200,000~~NA	7.75%
~~$200,000~~	~~NA~~	~~8.25%~~

(2) For heads of households, as defined in section 2(b) of the Code:

Over	Up To	Rate
-0-	$17,000	6%
$17,000	$80,000	7%
$80,000	~~$160,000~~NA	7.75%
~~$160,000~~	~~NA~~	~~8.25%~~

(3) For unmarried individuals other than surviving spouses and heads of households:

Over	Up To	Rate
-0-	$12,750	6%
$12,750	$60,000	7%
$60,000	~~$120,000~~NA	7.75%
~~$120,000~~	~~NA~~	~~8.25%~~

(4) For married individuals who do not file a joint return under G.S. 105-152:

Over	Up To	Rate
-0-	$10,625	6%
$10,625	$50,000	7%
$50,000	~~$100,000~~NA	7.75%
~~$100,000~~	~~NA~~	~~8.25%~~"

SECTION 39.2. Section 34.18(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.18.(b)** This section becomes effective for taxable years beginning on or after January 1, ~~2001, and expires for taxable years beginning on or after January 1, 2004.~~2001. Notwithstanding G.S. 105-163.15, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of individual income tax to the extent the underpayment was created or increased by this section."

PART XL. REPAIR AND RENOVATION

SECTION 40.1. Repair and Renovation. – This section authorizes the issuance or incurrence of special indebtedness in a maximum aggregate principal amount of two hundred million dollars ($200,000,000) to be used only in accordance with this section for the repair and renovation of State facilities and related infrastructure that are supported from the General Fund.

Proceeds of the Repair and Renovation special indebtedness shall be used only for the purposes and in accordance with the procedures provided in G.S. 143-15.3A, the Repairs and Renovations Reserve Account.

Except in the case of an emergency as provided in G.S. 143-15.3A, the Director of the Budget shall use the Repair and Renovations funds only for repairs and renovations that have been approved by an act of the General Assembly or, if the General Assembly is not in session, for repairs and renovations about which the Director of the Budget has first consulted with the Joint Legislative Commission on Governmental Operations under G.S. 143-15.3A(c). The Director of the Budget shall direct the State Treasurer to carry out the financing for repair and renovation projects selected pursuant to this section. Special indebtedness authorized by this section shall be

issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes, as enacted by this Part.

SECTION 40.2. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.
"State Repair and Renovation Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Repair and Renovation Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for repair and renovation of capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities repair and renovations when circumstances and conditions warrant the providing of capital facilities repair and renovations through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:
a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.
b. The cost of engineering, architectural, and other consulting services.
c. The cost of providing personnel to ensure effective management of capital facilities.
d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.
e. Administrative expenses and charges.
f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.
g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.
h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:
a. Is entered into by 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; and
b. Provides 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 with respect to any special indebtedness payable on demand or tender by the owner in consideration of the State's agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.

(8) Department of Administration. – The North Carolina Department of Administration, created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type installment

financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principles.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

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

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(15b) Repair and renovation. – Any project of the type that may be funded from the Repairs and Renovations Reserve Account created in G.S. 143-15.3A.

(16) Special corporation. – Either of the following:

a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.

b. A private corporation or other entity issuing certificates of participation pursuant to this Article.

(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.
(18) State. – The State of North Carolina, including any State agency.
(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.
(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.
(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities, and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency determines that special indebtedness is appropriate to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration concurs, it shall provide written notice to the State Treasurer advising the State Treasurer of this determination.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.
(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.
(3) Set the maturity or maximum maturity of the special indebtedness authorized.
(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.
(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State,

which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Financing Terms. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection, which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness, is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Oversight by Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article,

whether to a deed of trust trustee or other secured party as security for special indebtedness, or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Documentation. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process, to the extent required by applicable law, and if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer after having approved the financing contract, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Documentation. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any 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 any prices, including a price greater than the face amount of the bonds or notes, and under any 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 in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. 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. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that 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 of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes, were the proper officers to sign any bond or note although at the date of the bond or note those persons may not have been 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 prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, 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 any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the 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) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

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

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. 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 have been used in paying interest on or principal of the bonds.

(f) 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 for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are

permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee, and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

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

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness 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 and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that 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 later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals, to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 40.3. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery, and furnishings in connection therewith; additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery, and similar items; or any combination of the foregoing, through installment

purchase, lease-purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

SECTION 40.4. Interpretation of Part. (a) Additional Method. – This Part provides an additional and alternative method for the doing of the things authorized by this Part and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this Part shall not be regarded as in derogation of any powers now existing. The authority granted in this Part is in addition to other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 40.4.(b) Statutory References. – References in this Part to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 40.4.(c) Liberal Construction. – This Part, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 40.4.(d) Severability. – If any provision of this Part or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the Part that can be given effect without the invalid provision or application, and to this end the provisions of this Part are severable.

PART XLI. GENERAL PROVISIONS

SECTION 41.1. Parts 32 through 40 of this act do not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by those parts before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

SECTION 41.2. Except as otherwise provided in this act, Parts 32 through 41 of this act are effective when it becomes law.

PART XLII. MISCELLANEOUS PROVISIONS

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

EXECUTIVE BUDGET ACT APPLIES

SECTION 42.1. The provisions of the Executive Budget Act, Chapter 143, Article 1 of the General Statutes, are reenacted and shall remain in full force and effect and are incorporated in this act by reference.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

COMMITTEE REPORT

SECTION 42.2.(a) The House Appropriations Committee Report on the Continuation, Expansion and Capital Budgets, dated April 14, 2003, which was distributed in the House of Representatives and used to explain this act, shall indicate action by the General Assembly on this act and shall therefore be used to construe this act, as provided in G.S. 143-15 of the Executive Budget Act, and for these purposes shall be considered a part of this act and as such shall be printed as a part of the Session Laws.

SECTION 42.2.(b) The budget enacted by the General Assembly for the maintenance of the various departments, institutions, and other spending agencies of the

State for the 2003-2005 fiscal biennium is a line item budget, in accordance with the Budget Code Structure and the State Accounting System Uniform Chart of Accounts set out in the Administrative Policies and Procedures Manual of the Office of the State Controller. This budget includes the appropriations made from all sources including the General Fund, Highway Fund, special funds, cash balances, federal receipts, and departmental receipts.

The General Assembly amended the itemized budget requests submitted to the General Assembly by the Director of the Budget and the Advisory Budget Commission, in accordance with the House Appropriations Committee Report on the Continuation, Expansion and Capital Budgets, dated April 14, 2003, together with any accompanying correction sheets.

The budget enacted by the General Assembly shall be interpreted in accordance with the special provisions in this act and in accordance with other appropriate legislation.

In the event that there is a conflict between the line item budget certified by the Director of the Budget and the budget enacted by the General Assembly, the budget enacted by the General Assembly shall prevail.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

MOST TEXT APPLIES ONLY TO THE 2003-2005 FISCAL BIENNIUM

SECTION 42.3. Except for statutory changes or other provisions that clearly indicate an intention to have effects beyond the 2003-2005 fiscal biennium, the textual provisions of this act apply only to funds appropriated for, and activities occurring during, the 2003-2005 fiscal biennium.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

EFFECT OF HEADINGS

SECTION 42.4. The headings to the parts and 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, except for effective dates referring to a Part.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

SEVERABILITY CLAUSE

SECTION 42.5. 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.

Requested by: Representatives Crawford, Sherrill, Baker, Clary, Earle, Grady, Owens, Wright

EFFECTIVE DATE

SECTION 42.6. Except as otherwise provided, this act becomes effective July 1, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
H.B. 397 A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS FOR CURRENT OPERATIONS AND CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

☐ 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 the committee substitute bill (# 2), ☒ which changes the title, unfavorable as to ~~(the original~~ bill) (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.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

RULES — 15 APR 03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Holleman	NCAE
Cleve Wootson	Daily Tar Heel
Kari Barsness	NCDENR
Cardyn Justus (east)	Rep
Willie Riddick	OBR
Dan Lerner	N2O
Karen Peterson Cooke	UNC
Joe M&C	M&C Consultants
Jan Mott	Gov Office
Laura DeFino	NCGA
Stella McKenney	NC DHHS
Tim Minton	NC Home Builders Assn
John Rust	NCFPC
Don Barson	BS&T
Kevin Howell	Governor's office

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
APRIL23, 2003
1:05 P.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE BILL 758 – AN ACT TO MAKE IT UNLAWFUL TO TAKE SHRIMP WITH A TRAWL NET IN CERTAIN INLAND WATERS IN BRUNSWICK AND NEW HANOVER COUNTIES

HOUSE BILL 694 – AN ACT TO DESIGNATE THE ASHEBORO MUNICIPAL AIRPORT AS THE OFFICIAL LOCATION OF THE NORTH CAROLINA AVIATION HALL OF FAME AND THE NORTH CAROLINA AVIATION MUSEUM

HOUSE BILL 1074 – AN ACT TO REVISE A STATUTE TO CREATE A BUTNER ADVISORY COUNCIL SO AS TO ELECT ALL MEMBERS AT LARGE IN ONE MULTISEAT RACE AND ELIMINATE STAGGERED TERMS; TO DEFINE THE ELECTORAL JURISDICTION OF THE COUNCIL; AND TO AMEND THE LEGISLATION IN OTHER NEEDED WAYS

COMMITTEE SUBSTITUTE FOR SENATE BILL 39 – AN ACT TO AUTHORIZE CERTAIN CHARTER SCHOOLS TO ELECT TO PARTICIPATE IN THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN; AND TO ASSESS INTEREST ON PREMIUM PAYMENTS NOT REMITTED BY CHARTER SCHOOL EMPLOYING UNITS IN A TIMELY MANNER

HOUSE BILL 281 – AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

April 23, 2003

The Committee on Rules, Calendar and Operations of the House met on April 23, 2003 at 1:05 p.m. in Room 421 of the Legislative Building. The following members were present; Representative Culpepper, Chairman; Hackney, Vice Chairman; Brubaker, Church, Crawford, Howard, Justus, LaRoque, Luebke, McComas, Miller, Miner, Owens, Sherrill and Yongue.

The following bills were considered:

HOUSE BILL 758 – AN ACT TO MAKE IT UNLAWFUL TO TAKE SHRIMP WITH A TRAWL NET IN CERTAIN INLAND WATERS IN BRUNSWICK AND NEW HANOVER COUNTIES. A proposed committee substitute was offered, and Representative LaRoque moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Representative Stiller, sponsor, was recognized to explain the bill. He stated that the bill would discontinue shrimp trawling only in the estuaries and inland waters of Brunswick and New Hanover Counties where the beginnings of life takes place for marine and aquatic life. After fish reach a certain size, they migrate into the ocean. He further stated that it would not negatively affect the large shrimp boats that trawl in the Atlantic Ocean. Representative Luebke inquired if he had consulted with the different environment advocacy groups, and if they had any questions about the bill. Representative Stiller stated that he had not consulted with them, but he had not had any objection to the bill from any conservancy group. Representative Brubaker moved that the proposed committee substitute be given a favorable report, unfavorable to the original bill. The motion passed.

HOUSE BILL 694 – AN ACT TO DESIGNATE THE ASHEBORO MUNCIPAL AIRPORT AS THE OFFICIAL LOCATION OF THE NORTH CAROLINA AVIATION HALL OF FAME AND THE NORTH CAROLINA AVIATION MUSEUM. Representative Brubaker, sponsor, was recognized to explain the bill. He stated that no state funds will be required because there is an established facility already serving as a museum in Asheboro. Representative McComas made a motion for a favorable report, and the motion carried.

HOUSE BILL 1074 – AN ACT TO REVISE A STATUTE TO CREATE A BUTNER ADVISORY COUNCIL SO AS TO ELECT ALL MEMBERS AT LARGE IN ONE MULTISEAT RACE AND ELIMINATE STAGGERED TERMS; TO DEFINE THE ELECTORAL JURISDICTION OF THE COUNCIL; AND TO AMEND THE LEGISLATION IN OTHER NEEDED WAYS. A proposed committee substitute was offered. Without objection, the chairman stated that the proposed committee was before the committee. Representative Crawford, sponsor, was recognized. He stated that the Town of Butner is owned by the state and the citizens do not have the right to vote on any legislation. The bill would create a Butner Advisory Council to be elected by the

residents of the town and would require the Department of Health and Human Services to reimburse the Granville County Board of Elections for the actual cost of administering the election. Representative Luebke made a motion to give the proposed committee substitute a favorable report, and be re-referred to the Committee on Appropriations, unfavorable to the original bill. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 39 – AN ACT TO AUTHORIZE CERTAIN CHARTER SCHOOLS TO ELECT TO PARTICIPATE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN; AND TO ASSESS INTEREST ON PREMIUM PAYMENTS NOT REMITTED BY CHARTER SCHOOL EMPLOYING UNITS IN A TIMELY MANNER. Representative Luebke was recognized to present the bill. He stated that a charter school in Durham misunderstood the deadlines for opting into the state employees health care plan and retirement system and is having trouble hiring teachers who will not change from the public school system into the charter school unless the school can participate in the plan and system. The bill solves the problem by providing that the board of directors of any charter school that receives State Board of Education approval on or after January 1, 2002, may elect to participate in the system and plan. Representative Miner moved that the bill be given a favorable report with the recommendation that it be referred to the Committee on Pensions and Retirement, which motion carried.

HOUSE BILL 281 – AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION. The chairman asked Representative Hackney to preside. Representative Culpepper, sponsor, was recognized to explain the bill. He offered a proposed committee substitute and moved for its adoption. The motion carried. He stated that the corrections in the proposed committee substitute are strictly technical. Representative Owens made a motion to give the proposed committee substitute a favorable report, unfavorable to the original bill. The motion carried.

The meeting adjourned at 1:30 p.m.

Bill Culpepper

Representative Bill Culpepper
Chairman

Dorothy C. Crocker

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 758

Short Title:	Ban Shrimp Nets/Certain Inland Waters.	(Local)
Sponsors:	Representative Stiller.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE IT UNLAWFUL TO TAKE SHRIMP WITH A TRAWL NET IN CERTAIN INLAND WATERS IN BRUNSWICK AND NEW HANOVER COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 758
PROPOSED COMMITTEE SUBSTITUTE H758-PCS45081-RW-20

Short Title: Ban Shrimp Nets/Certain Inland Waters. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE IT UNLAWFUL TO TAKE SHRIMP WITH A TRAWL NET IN CERTAIN INLAND WATERS IN BRUNSWICK AND NEW HANOVER COUNTIES.

The General Assembly of North Carolina enacts:

SECTION 1. It is hereby unlawful to take shrimp with a trawl net in the following described inland waters:

All inland waters (internal coastal fishing waters) in New Hanover and Brunswick Counties with the exception of those waters in the Cape Fear River south of a line beginning at a point on the west shore at 34° 04.6040'N - 77° 56.4780'W running easterly to a point on the east shore 34° 04.7920'N - 77° 53.3550'W. The following area in the Cape Fear River is also closed by this act. Those waters in the Cape Fear River bounded by a line beginning on the south side of the Spoil island at the intersection of the IWW and the Cape Fear River ship channel at a point 34° 01.5780'N - 77° 56.0010'W; running easterly to the east shore of the Cape Fear River at a point 34° 01.7230'N - 77° 55.1010'W; running southerly and bounded by the shoreline to the Ferry Slip at Federal Point at a point 33° 57.8080'N - 77° 56.4120'W; running northerly to Bird Island at a point 33° 58.3870'N - 77° 56.5780'W; running northerly along the west shoreline of Bird Island and the Cape Fear River Spoil islands back to point of origin.

SECTION 2. Violation of this act shall constitute a violation of G.S. 113-187, and shall be punishable pursuant to that section.

SECTION 3. This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 758 A BILL TO BE ENTITLED AN ACT TO MAKE IT UNLAWFUL TO TAKE SHRIMP WITH A TRAWL NET IN CERTAIN INLAND WATERS IN BRUNSWICK AND NEW HANOVER COUNTIES.

☐ 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 the committee substitute bill, unfavorable as to the original bill.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 694

Short Title:	NC Aviation Hall of Fame and Museum.	(Public)
Sponsors:	Representatives Brubaker; Dockham, Culp, and K. Williams.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO DESIGNATE THE ASHEBORO MUNICIPAL AIRPORT AS THE OFFICIAL LOCATION OF THE NORTH CAROLINA AVIATION HALL OF FAME AND THE NORTH CAROLINA AVIATION MUSEUM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 145 of the General Statutes is amended by adding a new section to read:

"**§ 145-19. State Aviation Hall of Fame and State Aviation Museum.**

The Asheboro Municipal Airport is designated as the official location of the North Carolina Aviation Hall of Fame and the North Carolina Aviation Museum."

SECTION 2. Nothing in this act shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

SECTION 3. Nothing in this act shall be construed to obligate the City of Asheboro or Randolph County to expend funds for the purposes of this act.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 694 A BILL TO BE ENTITLED AN ACT TO DESIGNATE THE ASHEBORO MUNICIPAL AIRPORT AS THE OFFICIAL LOCATION OF THE NORTH CAROLINA AVIATION HALL OF FAME AND THE NORTH CAROLINA AVIATION MUSEUM.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1074

Short Title:	Butner Advisory Council.	(Public)
Sponsors:	Representative Crawford.	
Referred to:	Rules, Calendar, and Operations of the House.	

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REVISE A STATUTE TO CREATE A BUTNER ADVISORY COUNCIL SO AS TO ELECT ALL MEMBERS AT LARGE IN ONE MULTISEAT RACE AND ELIMINATE STAGGERED TERMS; TO DEFINE THE ELECTORAL JURISDICTION OF THE COUNCIL; AND TO AMEND THE LEGISLATION IN OTHER NEEDED WAYS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-413 reads as rewritten:

"**§ 122C-413. Butner Advisory Council; created.**

(a) There is created a Butner Advisory Council to consist of seven members, to be elected by the residents of the territorial jurisdiction established by G.S. 122C-408(a), as the boundaries of that jurisdiction existed on January 1, 2003, as shown on a map produced April 3, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of the Granville County Board of Elections. The Butner Advisory Council shall be elected at a nonpartisan election pursuant to G.S. 163-292 administered by the Granville County Board of Elections to be ~~set after preclearance from the federal Department of Justice.~~ held in the first odd-numbered year after preclearance under Section 5 of the Voting Rights Act of 1965 is obtained. The Granville County Board of Elections may change the dates of the candidate-filing period for the first election if preclearance is not obtained before the statutory filing period begins.

(b) ~~Members~~ All members of the Butner Advisory Council shall be elected at ~~large,~~ large in one multiseat race, and the election shall be held in accordance with all applicable federal and State constitutional and statutory provisions, including the Voting Rights Act of 1965. For the purpose of elections under this Part, the jurisdiction shall be considered a city under Chapters 160A and 163 of the General Statutes. In accordance with North Carolina law, a candidate for the Butner Advisory Council must be a registered voter and a resident of the territorial jurisdiction established by G.S. ~~122C-408(a).~~ 122C-408(a) as the boundaries of that jurisdiction existed on January 1,

2003, as shown on a map produced April 3, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of the Granville County Board of Elections.

(c) The candidates for the Butner Advisory Council shall file their notices of candidacy with the Granville County Board of Elections. Absentee voting by qualified voters residing in the territorial jurisdiction shall be in accordance with G.S. 163-302. The filing fee shall be the minimum set by G.S. 163-294.2(e).

(d) The seven candidates receiving the highest numbers of votes shall be elected for ~~the following terms:~~ four-year terms.

~~(1) If the election is held in an even-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of four years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of two years.~~

~~(2) If the election is held in an odd-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of five years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of three years.~~

~~Biennially thereafter, in each even-numbered year, the members whose terms expire shall be elected to four-year terms.~~

(d1) The Department of Health and Human Services shall reimburse the Granville County Board of Elections for the actual cost of administering the election of the Butner Advisory Council according to the provisions of G.S. 163-284 as if Butner were a city.

(e) The Chair of the Butner Advisory Council shall be elected from among its members, shall serve a one-year term, may be reelected, and shall serve at the pleasure of the council.

(f) The Butner Advisory Council shall comply with the applicable and relevant provisions of Parts 1, 2, and 3 of Article 5 of Chapter 160A of the General Statutes with respect to the filling of vacancies and the organization and procedures of the council as if it were a city."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1074
PROPOSED COMMITTEE SUBSTITUTE H1074-CSRR-19 [v.1]

4/23/2003 12:47:10 PM

Short Title: Butner Advisory Council. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REVISE A STATUTE TO CREATE A BUTNER ADVISORY COUNCIL SO AS TO ELECT ALL MEMBERS AT LARGE IN ONE MULTISEAT RACE AND ELIMINATE STAGGERED TERMS; TO DEFINE THE ELECTORAL JURISDICTION OF THE COUNCIL; AND TO AMEND THE LEGISLATION IN OTHER NEEDED WAYS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 122C-413 reads as rewritten:

"**§ 122C-413. Butner Advisory Council; created.**

(a) There is created a Butner Advisory Council to consist of seven members, to be elected by the residents of the ~~territorial jurisdiction established by G.S. 122C-408(a),~~ Butner Advisory Council Jurisdiction, as shown on a map produced April 3, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of the Granville County Board of Elections. The Butner Advisory Council shall be elected at a nonpartisan election pursuant to G.S. 163-292 administered by the Granville County Board of Elections to be ~~set after preclearance from the federal Department of Justice.~~ held in the first odd-numbered year after preclearance under Section 5 of the Voting Rights Act of 1965 is obtained. The Granville County Board of Elections may change the dates of the candidate-filing period for the first election if preclearance is not obtained before the statutory filing period begins.

(b) ~~Members~~ All members of the Butner Advisory Council shall be elected at ~~large,~~ large in one multiseat race, and the election shall be held in accordance with all applicable federal and State constitutional and statutory provisions, including the Voting Rights Act of 1965. For the purpose of elections under this Part, the jurisdiction shall be considered a city under Chapters 160A and 163 of the General Statutes. In accordance with North Carolina law, a candidate for the Butner Advisory Council must be a registered voter and a resident of the ~~territorial jurisdiction established by G.S.~~

~~122C-408(a).~~ Butner Advisory Council Jurisdiction, as shown on a map produced April 3, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and in the office of the Granville County Board of Elections.

(c) The candidates for the Butner Advisory Council shall file their notices of candidacy with the Granville County Board of Elections. Absentee voting by qualified voters residing in the territorial jurisdiction shall be in accordance with G.S. 163-302. The filing fee shall be the minimum set by G.S. 163-294.2(e).

(d) The seven candidates receiving the highest numbers of votes shall be elected for ~~the following terms:~~ four-year terms.

~~(1) If the election is held in an even-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of four years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of two years.~~

~~(2) If the election is held in an odd-numbered year, the four candidates receiving the highest numbers of votes shall be elected for terms of five years, and the three candidates receiving the next highest numbers of votes shall be elected for terms of three years.~~

~~Biennially thereafter, in each even-numbered year, the members whose terms expire shall be elected to four-year terms.~~

(d1) The Department of Health and Human Services shall reimburse the Granville County Board of Elections for the actual cost of administering the election of the Butner Advisory Council according to the provisions of G.S. 163-284 as if Butner were a city.

(e) The Chair of the Butner Advisory Council shall be elected from among its members, shall serve a one-year term, may be reelected, and shall serve at the pleasure of the council.

(f) The Butner Advisory Council shall comply with the applicable and relevant provisions of Parts 1, 2, and 3 of Article 5 of Chapter 160A of the General Statutes with respect to the filling of vacancies and the organization and procedures of the council as if it were a city."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1074 A BILL TO BE ENTITLED AN ACT TO REVISE A STATUTE TO CREATE A BUTNER ADVISORY COUNCIL SO AS TO ELECT ALL MEMBERS AT LARGE IN ONE MULTISEAT RACE AND ELIMINATE STAGGERED TERMS; TO DEFINE THE ELECTORAL JURISDICTION OF THE COUNCIL; AND TO AMEND THE LEGISLATION IN OTHER NEEDED WAYS.

☐ 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 the committee substitute bill, unfavorable as to the original bill.
(

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 39

Select Committee on Employee Hospital and Medical Benefits Committee Substitute Adopted 3/19/03

Short Title: Charter Sch. & State Retire. & Med. Plans. (Public)

Sponsors:

Referred to:

February 13, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CERTAIN CHARTER SCHOOLS TO ELECT TO PARTICIPATE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN; AND TO ASSESS INTEREST ON PREMIUM PAYMENTS NOT REMITTED BY CHARTER SCHOOL EMPLOYING UNITS IN A TIMELY MANNER.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the time limitations contained in G.S. 135-5.3(b) and G.S. 135-40.3A(b), the board of directors of any charter school that received State Board of Education approval under G.S. 115C-238.29D on or after January 1, 2002, may elect to become a participating employer in the Teachers' and State Employees' Retirement System in accordance with Article 1 of Chapter 135 of the General Statutes and may also elect to become a participating employing unit in the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in accordance with Article 3 of Chapter 135. The elections authorized by this section shall be made no later than 30 days after the effective date of this act and shall be made in accordance with all other requirements of G.S. 135-5.3 and G.S. 135-40.3A.

SECTION 2. G.S. 135-39.6A reads as rewritten:

"**§ 135-39.6A. Premiums set.**

(a) The Executive Administrator and Board of Trustees shall, from time to time, establish premium rates for the Comprehensive Major Medical Plan except as they may be established by the General Assembly in the Current Operations Appropriations Act, and establish regulations for payment of the premiums. Premium rates shall be established for coverages where Medicare is the primary payer of health benefits separate and apart from the rates established for coverages where Medicare is not the primary payer of health benefits.

(b) The Executive Administrator and Board of Trustees shall establish separate premium rates for the long-term care benefits provided by Part 4 of this Article if the benefits are administered on a self-insured basis.

(c) The Executive Administrator and Board of Trustees shall establish premium rates for benefits provided under Part 5 of this Article. The Department of Health and Human Services shall, from State and federal appropriations and from any other funds made available for the Health Insurance Program for Children established under Part 8 of Article 2 of Chapter 108A of the General Statutes, make payments to the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan as determined by the Plan for its administration, claims processing, and other services authorized to provide coverage for acute medical care for children eligible for benefits provided under Part 5 of this Article.

(d) In setting premiums for firemen, rescue squad workers, and members of the national guard, and their eligible dependents, the Executive Administrator and Board of Trustees shall establish rates separate from those affecting other members of the Plan. These separate premium rates shall include rate factors for incurred but unreported claim costs, for the effects of adverse selection from voluntary participation in the Plan, and for any other actuarially determined measures needed to protect the financial integrity of the Plan for the benefit of its served employees, retired employees, and their eligible dependents.

(e) The total amount of premiums due the Plan from charter schools as employing units, including amounts withheld from the compensation of Plan members, that is not remitted to the Plan by the fifteenth day of the month following the due date of remittance shall be assessed interest of one and one-half percent (1 1/2%) of the amount due the Plan, per month or fraction thereof, beginning with the sixteenth day of the month following the due date of the remittance. The interest authorized by this section shall be assessed until the premium payment plus the accrued interest amount is remitted to the Plan. The remittance of premium payments under this section shall be presumed to have been made if the remittance is postmarked in the United States mail on a date not later than the fifteenth day of the month following the due date of the remittance."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 39 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE CERTAIN CHARTER SCHOOLS TO ELECT TO PARTICIPATE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN; AND TO ASSESS INTEREST ON PREMIUM PAYMENTS NOT REMITTED BY CHARTER SCHOOL EMPLOYING UNITS IN A TIMELY MANNER.

☐ With a favorable report.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on ☒.Pensions and Retirement.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

HOUSE BILL 281

Short Title:	Technical Corrections Act.	(Public)
Sponsors:	Representative Culpepper.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 78A-17 reads as rewritten:

"**§ 78A-17. Exempt transactions.**

Except as otherwise provided in this Chapter, the following transactions are exempted from G.S. 78A-24 and G.S. 78A-49(d):

(1) Any isolated nonissuer transaction, whether effected through a dealer or ~~not;~~not.

(2) Any nonissuer distribution other than by a controlling person of an outstanding security if

a. A recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or

b. A registered dealer files with the Administrator such information relating to the issuer as the Administrator may by rule or order require, or

c. The security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the ~~security;~~security.

(3) Any nonissuer transaction effected by or through a registered dealer pursuant to an unsolicited order or offer to buy; but the Administrator

may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the dealer for a specified ~~period;~~period.

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among ~~underwriters;~~underwriters.

(5) Any transaction in a bond or other evidence of indebtedness secured by a lien or security interest in real or personal property, or by an agreement for the sale of real estate or chattels, if the entire security interest or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a ~~unit;~~unit.

(6) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or ~~conservator;~~conservator.

(7) Any transaction executed by a person holding a bona fide security interest without any purpose of evading this ~~Chapter;~~Chapter.

(8) Any offer or sale to an entity which has a net worth in excess of one million dollars ($1,000,000) as determined by generally accepted accounting principles, bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a dealer, whether the purchaser is acting for itself or in some fiduciary ~~capacity;~~capacity.

(9) Any transaction pursuant to an offer directed by the offeror to not more than 25 persons, other than those persons designated in subdivision (8), in this State during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this State, if the seller reasonably believes that all the buyers in this State are purchasing for investment. The Administrator may by rule or order withdraw, amend, or further condition this exemption for any security or security transaction. There is established a fee of one hundred fifty dollars ($150.00) to recover costs for any filing required.

(10) Any offer or sale of a preorganizational certificate or subscription if: (i) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber; (ii) no public advertising or solicitation is used in connection with the offer or sale; (iii) the number of subscribers does not exceed 10 and the number of offerees does not exceed 25; and (iv) no payment is made by any subscriber.

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if (i) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any

security holder in this State, or (ii) the issuer first files a notice specifying the terms of the offer and the Administrator does not by order disallow the exemption within the next 10 full business ~~days;~~days.

(12) Any offer (but not a sale) of a security for which registration statements have been filed under both this Chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either ~~act;~~act.

(13) Any offer or sale by a domestic entity of its own securities if (i) the entity was organized for the purpose of promoting community, agricultural or industrial development of the area in which the principal office is located, (ii) the offer or sale has been approved by resolution of the county commissioners of the county in which its principal office is located, and, if located in a municipality or within two miles of the boundaries thereof, by resolution of the governing body of such municipality, (iii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this State, and (iv) the ~~corporation~~ entity is both organized and operated principally to promote some community, industrial, or agricultural development that confers a public benefit rather than organized and operated principally to generate a pecuniary ~~profit;~~profit.

(14) Any offer, sale or issuance of securities pursuant to an employees' stock or equity purchase, option, savings, pension, profit-sharing, or other similar benefit plan that is exempt under the provisions of G.S. ~~78A-16(11);~~78A-16(11).

(15) Any offer or sale of limited partnership interests in a partnership organized under the North Carolina Uniform Limited Partnership Act for the sole purpose of constructing, owning and operating a low and moderate income rental housing project located in North Carolina if the total amount of the offering and the total number of limited partners, both within and without this State for each such partnership, does not exceed five hundred thousand dollars ($500,000) and 100 respectively. This exemption shall be allowed without limitation as to (i) the number, either in total or within any time period, of separate partnerships which may be formed by the same general partner or partners, sponsors or individuals in which partnership interests are offered; (ii) the period over which such offerings can be made; (iii) the amount of each limited partner's investment; or (iv) the period over which such investment is payable to the partnership. For purposes of this subdivision (15), the term "low and moderate rental housing project" means:

a. Any housing project with respect to which a mortgage is insured or guaranteed under section 221(d)(3) or 221(d)(4) or 236 of the National Housing Act, or any housing project financed or assisted by direct loan, mortgage insurance or guaranty, or tax abatement under similar provisions of federal, State or local laws, whether now existing or hereafter enacted; or

b. Any housing project, some or all of the units of which are available for occupancy by families or individuals eligible to receive subsidies under section 8 of the United States Housing Act of 1937, as amended, or under the provisions of other federal, State or local law authorizing similar levels of subsidy for lower income families, whether now existing or hereafter enacted; or

c. Any housing project with respect to which a loan is made, insured or guaranteed under Title V, section 515, of the Housing Act of 1949, or under similar provisions of other federal, State or local laws, whether now existing or hereafter enacted.

(16) Any offer to purchase or to sell or any sale or issuance of a security, other than a security covered under federal law, pursuant to a plan approved by the Administrator after a hearing conducted pursuant to the provisions of G.S. 78A-30 or any transaction incident to any other judicially or governmentally approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims or property interests, or partly in such exchange and partly cash.

(17) Any transaction that is exempt pursuant to rules established by the Administrator creating limited offering transactional exemptions that are consistent with the objectives of compatibility with federal limited offering exemptions and uniformity among the states. There is established a fee of one hundred fifty dollars ($150.00) to recover costs for any filing required by such rules.

(18) Any transaction incident to a class vote by security holders, pursuant to the articles of incorporation or similar organizational document or the applicable statute governing the internal affairs of the entity, on a merger, conversion, consolidation, share exchange, reclassification of securities, or sale of an entity's assets in consideration of the issuance of securities of entity.

(19) Any offer or sale of any viatical settlement contract or any fractionalized or pooled interest therein by the issuer in a transaction that meets all of the following criteria:

a. The underlying viatical settlement transaction with the viator was not in violation of any applicable state or federal law; and

b. The offer and sale of such contract or interest therein is conducted in accordance with such conditions as the Administrator requires by rule or order, including conditions governing advertising, suitability standards, financial statements, the investor's right of rescission, and the disclosure of information to offerees and purchasers.

The Administrator may establish a fee to recover costs for any filing required by such rules, not to exceed five hundred dollars ($500.00)."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 281
PROPOSED COMMITTEE SUBSTITUTE H281-CSRW-32 [v.4]

4/23/2003 11:01:06 AM

Short Title: Technical Corrections Act. (Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 78A-17 reads as rewritten:

"**§ 78A-17. Exempt transactions.**

Except as otherwise provided in this Chapter, the following transactions are exempted from G.S. 78A-24 and G.S. 78A-49(d):

(1) Any isolated nonissuer transaction, whether effected through a dealer or ~~not;~~not.

(2) Any nonissuer distribution other than by a controlling person of an outstanding security if

a. A recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or

b. A registered dealer files with the Administrator such information relating to the issuer as the Administrator may by rule or order require, or

c. The security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the ~~security;~~security.

(3) Any nonissuer transaction effected by or through a registered dealer pursuant to an unsolicited order or offer to buy; but the Administrator may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the dealer for a specified ~~period;~~period.

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among ~~underwriters;~~underwriters.

(5) Any transaction in a bond or other evidence of indebtedness secured by a lien or security interest in real or personal property, or by an agreement for the sale of real estate or chattels, if the entire security interest or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a ~~unit;~~unit.

(6) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or ~~conservator;~~conservator.

(7) Any transaction executed by a person holding a bona fide security interest without any purpose of evading this ~~Chapter;~~Chapter.

(8) Any offer or sale to an entity which has a net worth in excess of one million dollars ($1,000,000) as determined by generally accepted accounting principles, bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a dealer, whether the purchaser is acting for itself or in some fiduciary ~~capacity;~~capacity.

(9) Any transaction pursuant to an offer directed by the offeror to not more than 25 persons, other than those persons designated in subdivision (8), in this State during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this State, if the seller reasonably believes that all the buyers in this State are purchasing for investment. The Administrator may by rule or order withdraw, amend, or further condition this exemption for any security or security transaction. There is established a fee of one hundred fifty dollars ($150.00) to recover costs for any filing required.

(10) Any offer or sale of a preorganizational certificate or subscription if: (i) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber; (ii) no public advertising or solicitation is used in connection with the offer or sale; (iii) the number of subscribers does not exceed 10 and the number of offerees does not exceed 25; and (iv) no payment is made by any subscriber.

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if

(i) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this State, or (ii) the issuer first files a notice specifying the terms of the offer and the Administrator does not by order disallow the exemption within the next 10 full business ~~days;~~days.

(12) Any offer (but not a sale) of a security for which registration statements have been filed under both this Chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either ~~act;~~act.

(13) Any offer or sale by a domestic entity of its own securities if (i) the entity was organized for the purpose of promoting community, agricultural or industrial development of the area in which the principal office is located, (ii) the offer or sale has been approved by resolution of the county commissioners of the county in which its principal office is located, and, if located in a municipality or within two miles of the boundaries thereof, by resolution of the governing body of such municipality, (iii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this State, and (iv) the ~~corporation~~ entity is both organized and operated principally to promote some community, industrial, or agricultural development that confers a public benefit rather than organized and operated principally to generate a pecuniary ~~profit;~~profit.

(14) Any offer, sale or issuance of securities pursuant to an employees' stock or equity purchase, option, savings, pension, profit-sharing, or other similar benefit plan that is exempt under the provisions of G.S. ~~78A-16(11);~~78A-16(11).

(15) Any offer or sale of limited partnership interests in a partnership organized under the North Carolina Uniform Limited Partnership Act for the sole purpose of constructing, owning and operating a low and moderate income rental housing project located in North Carolina if the total amount of the offering and the total number of limited partners, both within and without this State for each such partnership, does not exceed five hundred thousand dollars ($500,000) and 100 respectively. This exemption shall be allowed without limitation as to (i) the number, either in total or within any time period, of separate partnerships which may be formed by the same general partner or partners, sponsors or individuals in which partnership interests are offered; (ii) the period over which such offerings can be made; (iii) the amount of each limited partner's investment; or (iv) the period over which such investment is payable to the partnership. For purposes of

this subdivision (15), the term "low and moderate rental housing project" means:

a. Any housing project with respect to which a mortgage is insured or guaranteed under section 221(d)(3) or 221(d)(4) or 236 of the National Housing Act, or any housing project financed or assisted by direct loan, mortgage insurance or guaranty, or tax abatement under similar provisions of federal, State or local laws, whether now existing or hereafter enacted; or

b. Any housing project, some or all of the units of which are available for occupancy by families or individuals eligible to receive subsidies under section 8 of the United States Housing Act of 1937, as amended, or under the provisions of other federal, State or local law authorizing similar levels of subsidy for lower income families, whether now existing or hereafter enacted; or

c. Any housing project with respect to which a loan is made, insured or guaranteed under Title V, section 515, of the Housing Act of 1949, or under similar provisions of other federal, State or local laws, whether now existing or hereafter enacted.

(16) Any offer to purchase or to sell or any sale or issuance of a security, other than a security covered under federal law, pursuant to a plan approved by the Administrator after a hearing conducted pursuant to the provisions of G.S. 78A-30 or any transaction incident to any other judicially or governmentally approved reorganization in which a security is issued in exchange for one or more outstanding securities, claims or property interests, or partly in such exchange and partly cash.

(17) Any transaction that is exempt pursuant to rules established by the Administrator creating limited offering transactional exemptions that are consistent with the objectives of compatibility with federal limited offering exemptions and uniformity among the states. There is established a fee of one hundred fifty dollars ($150.00) to recover costs for any filing required by such rules.

(18) Any transaction incident to a class vote by security holders, pursuant to the articles of incorporation or similar organizational document or the applicable statute governing the internal affairs of the entity, on a merger, conversion, consolidation, share exchange, reclassification of securities, or sale of an entity's assets in consideration of the issuance of securities of entity.

(19) Any offer or sale of any viatical settlement contract or any fractionalized or pooled interest therein by the issuer in a transaction that meets all of the following criteria:

a. The underlying viatical settlement transaction with the viator was not in violation of any applicable state or federal law; and

b. The offer and sale of such contract or interest therein is conducted in accordance with such conditions as the Administrator requires by rule or order, including conditions governing advertising, suitability standards, financial statements, the investor's right of rescission, and the disclosure of information to offerees and purchasers.

The Administrator may establish a fee to recover costs for any filing required by such rules, not to exceed five hundred dollars ($500.00)."

SECTION 2.(a) Section 1 of S.L. 0001-37 is repealed.

SECTION 2.(b) S.L. 2001-37 is amended by adding a new section to read:

"Section 1.1. G.S. 160A-58.1(b)(5) does not apply to the Cities of Marion, Oxford, and Rockingham and the Towns of Calabash, Catawba, Dallas, Godwin, Louisburg, Mocksville, Pembroke, Rutherfordton, and Waynesville."

SECTION 2.(c) G.S. 160-58.1(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%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Hickory, Marion, Mount Airy, New Bern, Newton, Oxford, Rockingham, Sanford, Salisbury, Southport, and Statesville, and the Towns of Calabash, Catawba, Dallas, Godwin, Kenly, Louisburg, Maiden, Midland, Mocksville, Mooresville, Pembroke, Rutherfordton, Swansboro, ~~and Warsaw.~~ Warsaw, and Waynesville."

SECTION 2.(d) G.S. 160A-58.1(b1) is repealed.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 281 A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES 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 the committee substitute bill, unfavorable as to the original bill.
(

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

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

RULES 23 APR 03

Name of Committee Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Nancy Thompson	UMCIC
Steve Woodson	NCFB
Rich Gannon	NC DWQ
Boyd Outlaw	" "
Robin Smith	DENR
[illegible]	DKMH
Michelle Frazier	NC Bar Ass'n
[illegible]	AOC
[illegible]	NCEPC
[illegible]	ACP
Joe McClure	McClure Consulting
Fred [illegible]	NC Aggregates Assn.
[illegible]	Martin Marietta Materials
Michael Munsey	NCAE
Paige Johnson	Planned Parenthood of Central NC
Brian Lewis	Planned Parenthood Health Systems, Inc.
Otho Turner	DPI
ANN LORE	DOJ
P. Bartlett	Annual Statutes Commission
Jim Blackburn	Assoc. County Commissioners
BRUCE THOMPSON	PARKER POE
R. Scott Wilms	NCHBA
Colleen Kochanek	Hafer & Caldwell, P.A.
Ken Melton	Alley & Assoc., Inc.
Julie Ann	NC Statewatch
[illegible]	GOV OFFICE
Raleigh Rogers	ISP
Tom Boney	NC Enviro Defense

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Roz Savitt	NC CCC
Bobby Bryan	BRC
Gordon McKeithan	N.C. Conservation Network
Kim Hibbard	NCLM
Rick Zechini	NC Association of REALTORS
Lisa Martin	NC HBA

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
APRIL 29, 2003
1:00 P.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE BILL 116 – AN ACT RELATING TO THE 20TH HOUSE DISTRICT

COMMITTEE SUBSTITUTE FOR HOUSE BILL 147 – AN ACT TO PERMIT LEFT TURNS ON RED IN CERTAIN SITUATIONS

HOUSE BILL 694 – AN ACT TO DESIGNATE THE ASHEBORO MUNICIPAL AIRPORT AS THE OFFICIAL LOCATION OF THE NORTH CAROLINA AVIATION HALL OF FAME AND THE NORTH CAROLINA AVIATION MUSEUM

HOUSE BILL 783 – AN ACT TO TEMPORARILY REQUIRE THE AFFIRMATIVE VOTE OF AT LEASE FOUR MEMBERS OF THE BOARD OF COMMISSIONERS OF BURKE COUNTY TO AMEND OR REPEAL ARTICLE XII OF THE BURKE COUNTY ZONING ORDINANCE, RELATING TO THE CATAWBA RIVER, LAKE JAMES, LAKE RHODHISS, AND LAKE HICKORY OVERLAY DISTRICT, SO AS TO ALLOW THE ORDINANCE TO CONTINUE TO WORK

COMMITTEE SUBSTITUTE FOR SENATE BILL 772 – AN ACT TO CLARIFY THE LAW GOVERNING PLUMBING, HEATING, AND FIRE SPRINKLER CONTRACTORS THAT ALLOWS RETAILERS WHO ARE NOT LICENSED AS PLUMBING, HEATING, OR FIRE SPRINKLER CONTRACTORS TO SELL CERTAIN GOODS AND SERVICES TO BE INSTALLED BY LICENSEES

SENATE JOINT RESOLUTION 1019 – A JOINT RESOLUTION ACKNOWLEDGING THE HENDERSON COUNTY EDUCATION FOUNDATION ON ESTABLISHING A HALL OF FAME AND HONORING THE MEMORY OF GLENN C. MARLOW AND HUGH D. RANDALL, FORMER SUPERINTENDENTS AND INDUCTEES OF THE HALL OF FAME

HOUSE BILL 566 – AN ACT TO DISAPPROVE THE ADMINISTRATIVE RULE RECLASSIFICATION BY THE ENVIRONMENTAL MANAGEMENT

COMMISSION OF PORTIONS OF SWIFT CREEK AND SANDY CREEK IN THE TAR-PAMLICO RIVER BASIN THAT WOULD HAVE THE EFFECT OF IMPOSING CERTAIN MANAGEMENT STRATEGIES APPLICABLE TO OUTSTANDING RESOURCE WATERS (ORW) IN THE WATERSHED OF THESE CREEKS

HOUSE BILL 1207 – AN ACT TO REQUIRE THE PREPARATION, COMPILATION, AND PRESENTATION TO THE GENERAL ASSEMBLY OF SUMMARIES OF EACH RULE SUBJECT TO LEGISLATIVE DISAPPROVAL

HOUSE BILL 1171 – AN ACT TO AMEND THE LAWS REGARDING HAZING

HOUSE RESOLUTION 280 – A HOUR RESOLUTION ADOPTING THE PERMANENT RULES OF THE HOUSE OF REPRESENTATIVES FOR THE 2003 REGULAR SESSIONS

COMMITTEE SUBSTITUTE FOR HOUSE BILL 656 – AN ACT TO AMEND THE TRUST ADMINISTRATION ACT AND TO MAKE RELATED CHANGES TO THE LAW GOVERNING ACCOUNTING IN TESTAMENTARY TRUSTS

COMMITTEE SUBSTITUTE FOR HOUSE BILL 807 – AN ACT TO CLARIFY CERTAIN PROVISIONS OF THE LAW ESTABLISHING THE ELECTIVE SHARE OF A DECEDENT'S SURVIVING SPOUSE AND TO REPEAL THE RIGHT OF A SURVIVING SPOUSE TO ELECT A LIFE INTEREST IN LIEU OF AN INTESTATE SHARE

HOUSE BILL 1093 – AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE NORTH CAROLINA INSURANCE GUARANTY ASSOCIATION ACT

HOUSE BILL 278 – AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

April 29, 2003

The Committee on Rules, Calendar and Operations of the House met on April 29, 2003 at 1:00 p.m. in Room 421 of the Legislative Office Building. All members were present except Representatives LaRoque and Luebke.

The following bills were considered:

HOUSE BILL 116 – AN ACT RELATING TO THE 20TH HOUSE DISTRICT. A proposed committee substitute changing the title to AN ACT TO AMEND THE LAW GOVERNING NOTICE OF TERMINATION OF FARM MACHINERY AGREEMENTS was offered. Representative Hill moved for adoption of the proposed committee substitute for the purpose of discussion. Without objection the chairman so ordered. Representative Hill, sponsor, was recognized. The chairman explained that a bill containing the exact language of the proposed committee substitute received a favorable report in the Agriculture Committee and was calendared. The bill was removed from the calendar and re-referred to the Rules Committee at the request of the sponsor, Representative Lewis, who felt that it would be improper for him to sponsor the bill due to the fact that he is a farm machinery dealer. Representative Crawford made a motion that the proposed committee substitute be given a favorable report, unfavorable to the original bill. The motion carried.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 147 – AN ACT TO PERMIT LEFT TURNS ON RED IN CERTAIN SITUATIONS. Representative Gulley, sponsor, was recognized to explain the bill. He stated that the Department of Transportation has no objection to the bill which is in conformity with 40 other states. It would improve traffic flow and promote a reduction in vehicle emission pollution. Cynthia Timoshenko, from the Governor's Advocacy Council, spoke in favor of the bill.
Representative Gorman moved for a favorable report on the bill, which motion passed. Representative Hackney did not support the bill and requested it be noted that he voted no.

HOUSE BILL 694 – AN ACT TO DESIGNATE THE ASHEBORO MUNICPAL AIRPORT AS THE OFFICIAL LOCATION OF THE NORTH CAROLINA AVIATION HALL OF FAME AND THE NORTH CAROLINA AVIATION MUSEUM. A proposed committee substitute changing the title to AN ACT TO DESIGNATE THE ASHEBORO MUNICIPAL AIRPORT AS THE OFFICIAL LOCATION OF THE NORTH CAROLINA AVIATION HALL OF FAME AND THE NORTH CAROLINA AVIATION MUSEUM AND TO DESIGNATE THE WILMINGTON INTERNATIONAL AIRPORT AS THE NORTH CAROLINA MUSEUM OF AVIATION was offered, and Representative Brubaker moved for its adoption. Without objection, the chairman so ordered. Representative Brubaker, sponsor, was recognized to explain the proposed committee substitute. He stated that the

title was self-explanatory, and Representative Church moved for a favorable report for the proposed committee substitute, unfavorable to the original bill. The motion carried.

HOUSE BILL 783 – AN ACT TO TEMPORARILY REQUIRE THE AFFIRMATIVE VOTE OF AT LEAST FOUR MEMBERS OF THE BOARD OF COMMISSIONERS OF BURKE COUNTY TO AMEND OR REPEAL ARTICLE XII OF THE BURKE COUNTY ZONING ORDINANCE, RELATING TO THE CATAWBA RIVER, LAKE JAMES, LAKE RHODHISS, AND LAKE HICKORY OVERLAY DISTRICT, SO AS TO ALLOW THE ORDINANCE TO CONTINUE TO WORK. A proposed committee substitute changing the title to AN ACT TO TEMPORARILY REQUIRE THE AFFIRMATIVE VOTE OF AT LEAST FOUR MEMBERS OF THE BOARD OF COMMISSIONERS OF BURKE COUNTY TO AMEND OR REPEAL ARTICLE XII OF THE BURKE COUNTY ZONING ORDINANCE, RELATING TO LAKE JAMES, SO AS TO ALLOW THE ORDINANCE TO CONTINUE TO WORK was offered, and Representative Church moved for its adoption. Without objection, the chairman so ordered. Representative Church, sponsor, was recognized. He spoke from the notes attached hereto. Representative Gillespie opposed the bill, and Jeff Morris, City Manager of Valdese, spoke in favor of the bill. Representative Church moved that the proposed committee substitute be given a favorable report, unfavorable to the original bill. By a vote of 8 to 6 the motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 772 – AN ACT TO CLARIFY THE LAW GOVERNING PLUMBING, HEATING, AND FIRE SPRINKLER CONTRACTORS THAT ALLOWS RETAILERS WHO NOT LICENSED AS PLUMBING, HEATING, OR FIRE SPRINKLER CONTRACTORS TO SELL CERTAIN GOODS AND SERVICES TO BE INSTALLED BY LICENSEES. A proposed House committee substitute was offered, and Representative Crawford moved for its adoption. Without objection, the chairman so ordered. Senator Allran, sponsor, was recognized. The bill is a compromise by all the parties that objected to a similar bill introduced last year. Walter Reagan, staff attorney, explained the technical aspects of the bill. Henry Jones, representing the North Carolina Association of Plumbing-Heating-Cooling Contractors, and Andy Ellen on behalf of the Retail Merchants Association, spoke in favor of the bill. Representative Brubaker moved for a favorable report of the proposed committee substitution, unfavorable to the Senate committee substitute. The motion carried.

SENATE JOINT RESOLUTION 1019 – A JOINT RESOLUTION ACKNOWLEDGING THE HENDERSON COUNTY EDUCATION FOUNDATION ON ESTABLISHING A HALL OF FAME AND HONORING THE MEMORY OF GLENN C. MARLOW AND HUGH D. RANDALL, FORMER SUPERINTENDENTS AND INDUCTEES OF THE HALL OF FAME. Representative Justus stated that the Education Foundation has proved very valuable in the area and moved that the joint resolution be given a favorable report. The motion carried.

HOUSE BILL 566 – AN ACT TO DISAPPROVE THE ADMINISTRATIVE RULE RECLASSIFICATION BY THE ENVIRONMENTAL MANAGEMENT COMMISSION OF PORTIONS OF SWIFT CREEK AND SANDY CREEK IN THE TAR-PAMLICO RIVER BASIN THAT WOULD HAVE THE EFFECT OF IMPOSING CERTAIN MANAGEMENT STRATEGIES APPLICABLE TO OUTSTANDING RESOURCE WATERS (ORW) IN THE WATERSHED OF THESE CREEKS. Representative Tolson, sponsor, was recognized. He stated that the rules were to have to gone into effect on April 12, 2003 but further discussion of them was requested. It is not the purpose of the bill to stop the rules, but it was necessary to file it in order to stop them from going into place on that date. Representative Gibson also spoke on the bill. Mr. Thomas G. Bean, speaking for the North Carolina Environmental Defense Fund, opposed the bill as did Colleen Sullins, Deputy Director for the Division of Water Quality. Lisa Martin, Director of Regulatory Affairs for The Homebuilders Association, spoke in favor of it. Representative Owens moved for a favorable report of the bill, which motion passed.

HOUSE BILL 1207 – AN ACT TO REQUIRE THE PREPARATION, COMPILATION, AND PRESENTATION TO THE GENERAL ASSEMBLY OF SUMMARIES OF EACH RULE SUBJECT TO LEGISLATIVE DISAPPROVAL. A proposed committee substitute changing the title to AN ACT TO REQUIRE THE PREPARATION, COMPILATION, AND PRESENTATION TO THE GENERAL ASSEMBLY OF SUMMARIES OF EACH RULE SUBJECT TO LEGISLATIVE DISAPPROVAL AND TO PROVIDE THAT A BILL THAT SPECIFICALLY DISAPPROVES A RULE IS NOT SUBJECT TO THE CROSSOVER DEADLINE. Without objection, the chairman stated that the bill was before the committee. Representative Gibson, sponsor, was recognized to explain the proposed committee substitute. He stated that the bill would allow bills subject to rule disapproval not be subject to the crossover deadline. Representative Hackney objected to the bill and stated that it is not a move forward, rather, it is a move backward. Representative Sherrill made a motion that the proposed committee substitute be given a favorable report, unfavorable to the original bill. The motion carried.

HOUSE BILL 1171 – AN ACT TO AMEND THE LAWS REGARDING HAZING. A proposed committee substitute changing the title to AN ACT TO MAKE CHANGES IN THE LAW PROHIBITING HAZING was offered. The chairman stated that without objection the bill was before the committee for the purpose of discussion. Representative Dickson sponsor, was recognized. She stated that the proposed committee substitute updates the definition of hazing and would give the institution the discretion as to punishment if the student is convicted of hazing. Chancellor Bordeaux of Western Carolina University spoke in favor of the bill. Representative Miller liked the flexibility of the language in the old version of the bill. Representative Hackney disagreed and prefers the new language. Representative Dickson said that the new language came from the University system's attorney. Following discussion, Representative Owens made a motion for a favorable report for the proposed committee substitute, unfavorable to the original bill, which motion carried.

HOUSE RESOLUTION 280 – A HOUSE RESOLUTION ADOPTING THE PERMANENT RULES OF THE HOUSE OF REPRESENTATIVES FOR THE 2003 REGULAR SESSIONS. Representative Hackney was requested to preside for the rest of the meeting. A proposed committee substitute was offered, and Representative Miller moved for its adoption. The motion carried. Representative Culpepper, sponsor, was recognized. He stated that were only a few minor changes made to the rules under which the House is currently operating. The changes were made to Rules 14, 20(h), 27, 32(a) and 36.1(a). Representative Yongue moved that the proposed committee substitute be given a favorable report, unfavorable to the original bill. The motion passed.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 656 – AN ACT TO AMEND THE TRUST ADMINISTRATION ACT AND TO MAKE RELATED CHANGES TO THE LAW GOVERNING ACCOUNTINGS IN TESTAMENTARY TRUSTS. With Representative Hackney still presiding, a second proposed committee substitute was offered, and Representative Yongue moved for its adoption. The motion passed. Representative Culpepper, sponsor, was recognized. The only change in the proposed committee substitute is the effective date. Representative Culpepper moved for a favorable report for the proposed committee substitute, unfavorable to the prior committee substitute. The motion passed.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 807 – AN ACT TO CLARIFY CERTAIN PROVISIONS OF THE LAW ESTABLISHING THE ELECTIVE SHARE OF A DECEDENT'S SURVIVING SPOUSE AND TO REPEAL THE RIGHT OF A SURVIVING SPOUSE TO ELECT A LIFE INTEREST IN LIEU OF AN INTESTATE SHARE. A proposed committee substitute changing the title to AN ACT TO CLARIFY CERTAIN PROVISION OF THE LAW ESTABLISHING THE ELECTIVE SHARE OF A DECEDENT'S SURVIVING SPOUSE was offered. Representative Yongue moved for its adoption, and the motion carried. Representative Culpepper, sponsor, stated that an amendment to the bill was adopted by the Judiciary IV Committee, but the title was not changed. There are no substantive changes in the bill and was before the committee only to change the title. He moved for a favorable report for the proposed committee substitute, unfavorable to the prior committee substitute. The motion passed.

HOUSE BILL 1093 – AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE NORTH CAROLINA INSURANCE GUARANTY ASSOCIATION ACT. Representative Culpepper, sponsor, requested Dianna Jessup, staff attorney, for comments on the bill. She stated that the Guaranty Act pays covered claims in the event an insurance company becomes insolvent and explained the technical changes made in the bill. Mr. Joe Eason, representing the North Carolina Insurance Guaranty Association, spoke in favor of the bill. Representative Culpepper moved for a favorable report for the bill, and the motion passed.

HOUSE BILL 278 – AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. A proposed committee substitute changing the title to AN ACT TO AMEND THE LAW REGARDING EXAMINATIONS FOR

LICENSURE TO PRACTICE CHIROPRACTIC was offered, and Representative Hill moved for its adoption. The motion carried. Representative Culpepper, sponsor, was recognized. He asked Mr. Vance Kinlaw, representing the North Carolina Board of Chiropractic Examiners, to explain the committee substitute. He stated that under the current law, since 1997, the Board has given applicants for chiropractic licensure a choice of either taking the state clinical competency examination or the national clinical competency exam. The Board believes the national exam to be the better test, and the bill requests that the Board be allowed to use the national exam exclusively. Dianna Jessup, staff attorney, listed other boards that have been granted the same authority. Representative Culpepper made a motion to give a favorable report for the proposed committee substitute, unfavorable to the original bill.

The meeting adjourned at 2:35 p.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 116

Short Title:	20th House District Local Act-3.	(Local)
Sponsors:	Representative Hill.	
Referred to:	Rules, Calendar, and Operations of the House.	

February 27, 2003

A BILL TO BE ENTITLED

AN ACT RELATING TO THE 20TH HOUSE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. This act relates only to the 20th House District.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 116
PROPOSED COMMITTEE SUBSTITUTE H116-CSSW-26 [v.2]

4/28/2003 3:25:28 PM

Short Title: Farm Machinery Law/Notice of Termination. (Public)

Sponsors:

Referred to:

February 27, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW GOVERNING NOTICE OF TERMINATION OF FARM MACHINERY AGREEMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-182 reads as rewritten:

"**§ 66-182. Notice of termination of agreements.**

(a) ~~No supplier, directly or through an officer, agent, or employee, may terminate, cancel, fail to renew, or substantially change the competitive circumstances of an agreement without good cause.~~ Notwithstanding any agreement to the contrary, a supplier who terminates or otherwise fails to renew or substantially changes the competitive circumstances of an agreement with a dealer without good cause shall notify the dealer of the termination not less than 90 days prior to the effective date of the termination and shall provide a 60-day right-to-cure the deficiency. If the deficiency is cured within the allotted time, the notice is void. In the case where cancellation is enacted due to market penetration, a reasonable period of time shall have existed where the supplier has worked with the dealer to gain the desired market share. If there is any reason constituting good cause for action, the notice shall state that reason.

(a1) Notwithstanding any agreement to the contrary, a supplier who terminates or otherwise fails to renew or substantially changes the competitive circumstances of an agreement with a dealer for good cause is not required to notify the dealer of the termination or to provide a right-to-cure the deficiency.

(b) Notwithstanding any agreement to the contrary, a dealer who terminates an agreement with a supplier shall notify the supplier of the termination not less than 90 days prior to the effective date of the termination.

~~(b1) A supplier shall provide a dealer with at least 90 days' written notice of termination of the agreement and a 60-day right-to-cure the deficiency. If the deficiency is cured within the allotted time, the notice is void. In the case where cancellation of an agreement is based upon the dealer's failure to capture the share of the market required~~

~~in the agreement, a minimum 12 month period of time shall have existed where the supplier has worked with the dealer to gain the desired market share. The notice shall state all reasons constituting good cause.~~

(c) Notification under this section shall be in writing and shall be by certified mail or personally delivered to the recipient. It shall contain all of the following:

(1) A statement of intention to terminate the dealership.

(2) A statement of the reasons for the termination.

(3) The date on which the termination takes effect."

SECTION 2. This act becomes effective October 1, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 116 A BILL TO BE ENTITLED AN ACT RELATING TO THE 20TH HOUSE DISTRICT.

☐ 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 the committee substitute bill, ☒ which changes the title, unfavorable as to the original bill.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 147

Committee Substitute Favorable 3/19/03

Short Title: Left Turn on Red. (Public)

Sponsors:

Referred to:

February 27, 2003

A BILL TO BE ENTITLED

AN ACT TO PERMIT LEFT TURNS ON RED IN CERTAIN SITUATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-158(b) reads as rewritten:

"(b) Control of Vehicles at Intersections. –

(1) When a stop sign has been erected or installed at an intersection, it shall be unlawful for the driver of any vehicle to fail to stop in obedience thereto and yield the right-of-way to vehicles operating on the designated main-traveled or through highway. When stop signs have been erected at three or more entrances to an intersection, the driver, after stopping in obedience thereto, may proceed with caution.

(2) ~~Vehicles facing a red light controlling traffic passing straight through an intersection from a steady or strobe beam stoplight shall not enter the intersection while the steady or strobe beam stoplight is emitting a red light controlling traffic passing straight through an intersection; provided that, except where prohibited by an appropriate sign, vehicular traffic facing a red light controlling traffic passing straight through an intersection, after coming to a complete stop at the intersection, may enter the intersection to make a right turn but such vehicle shall yield the right-of-way to pedestrians and to other traffic using the intersection.~~ When a steady or strobe beam stoplight is emitting a red light controlling traffic passing through an intersection, an approaching vehicle facing the red light shall come to a stop and shall not enter the intersection. After coming to a complete stop and unless prohibited by an appropriate sign, that approaching vehicle may turn under one of the following conditions:

a. That vehicle may make a right turn. The turning vehicle shall yield the right-of-way to pedestrians and to other traffic using the intersection.

b. If that vehicle is in the leftmost lane of travel on a one-way street that intersects with another one-way street with traffic traveling from the turning driver's right to the turning driver's left, then that vehicle may enter the intersection and make a left turn into the extreme left-hand lane lawfully available to traffic. The turning vehicle shall yield the right-of-way to pedestrians and to other traffic using the intersection.

(2a) When ~~the~~ a stoplight is emitting a steady yellow circular light on a traffic signal controlling traffic passing straight through an intersection or a steady yellow arrow light on a traffic signal controlling traffic turning at an intersection, vehicles facing the yellow light are warned that the related green light is being terminated or a red light will be immediately forthcoming. When the stoplight is emitting a steady green light, vehicles may proceed with due care through the intersection subject to the rights of pedestrians and other vehicles as may otherwise be provided by law.

(3) When a flashing red light has been erected or installed at an intersection, approaching vehicles facing the red light shall stop and yield the right-of-way to vehicles in or approaching the intersection. The right to proceed shall be subject to the rules applicable to making a stop at a stop sign.

(4) When a flashing yellow light has been erected or installed at an intersection, approaching vehicles facing the yellow flashing light may proceed through the intersection with caution, yielding the right-of-way to vehicles in or approaching the intersection.

(5) When a stop sign, stoplight, flashing light, or other traffic-control device authorized by subsection (a) of this section requires a vehicle to stop at an intersection, the driver shall stop (i) at an appropriately marked stop line, or if none, (ii) before entering a marked crosswalk, or if none, (iii) before entering the intersection at the point nearest the intersecting street where the driver has a view of approaching traffic on the intersecting street."

SECTION 2. This act becomes effective October 1, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
H.B. 147 A BILL TO BE ENTITLED AN ACT TO PERMIT LEFT TURNS ON RED IN CERTAIN SITUATIONS.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 694

Short Title:	NC Aviation Hall of Fame and Museum.	(Public)
Sponsors:	Representatives Brubaker; Dockham, Culp, and K. Williams.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO DESIGNATE THE ASHEBORO MUNICIPAL AIRPORT AS THE OFFICIAL LOCATION OF THE NORTH CAROLINA AVIATION HALL OF FAME AND THE NORTH CAROLINA AVIATION MUSEUM.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 145 of the General Statutes is amended by adding a new section to read:

"**§ 145-19. State Aviation Hall of Fame and State Aviation Museum.**

The Asheboro Municipal Airport is designated as the official location of the North Carolina Aviation Hall of Fame and the North Carolina Aviation Museum."

SECTION 2. Nothing in this act shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

SECTION 3. Nothing in this act shall be construed to obligate the City of Asheboro or Randolph County to expend funds for the purposes of this act.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 694
PROPOSED COMMITTEE SUBSTITUTE H694-CSSW-22 [v.4]

4/28/2003 7:57:10 PM

Short Title: NC Aviation Hall of Fame and Aviation Museum. (Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO DESIGNATE THE ASHEBORO MUNICIPAL AIRPORT AS THE OFFICIAL LOCATION OF THE NORTH CAROLINA AVIATION HALL OF FAME AND THE NORTH CAROLINA AVIATION MUSEUM AND TO DESIGNATE THE WILMINGTON INTERNATIONAL AIRPORT AS THE NORTH CAROLINA MUSEUM OF AVIATION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 145 of the General Statutes is amended by adding a new section to read:

"**§ 145-19. State Aviation Hall of Fame and Museum and State Museum of Aviation.**

The Asheboro Municipal Airport is designated as the official location of the North Carolina Aviation Hall of Fame and the North Carolina Aviation Museum. The Wilmington International Airport is designated as the official location of the North Carolina Museum of Aviation."

SECTION 2. Nothing in this act shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

SECTION 3. Nothing in this act shall be construed to obligate the City of Asheboro, the City of Wilmington, Randolph County or New Hanover County to expend funds for the purposes of this act.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 694 A BILL TO BE ENTITLED AN ACT TO DESIGNATE THE ASHEBORO MUNICIPAL AIRPORT AS THE OFFICIAL LOCATION OF THE NORTH CAROLINA AVIATION HALL OF FAME AND THE NORTH CAROLINA AVIATION MUSEUM.

☐ 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 the committee substitute bill ☒ which changes the title, unfavorable as to the original bill.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 783

Short Title:	Burke County Zoning.	(Local)
Sponsors:	Representative Church.	
Referred to:	Local Government I.	

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO TEMPORARILY REQUIRE THE AFFIRMATIVE VOTE OF AT LEAST FOUR MEMBERS OF THE BOARD OF COMMISSIONERS OF BURKE COUNTY TO AMEND OR REPEAL ARTICLE XII OF THE BURKE COUNTY ZONING ORDINANCE, RELATING TO THE CATAWBA RIVER, LAKE JAMES, LAKE RHODHISS, AND LAKE HICKORY OVERLAY DISTRICT, SO AS TO ALLOW THE ORDINANCE TO CONTINUE TO WORK.

The General Assembly of North Carolina enacts:

SECTION 1. The Board of Commissioners of Burke County may not adopt any ordinance amending or repealing (whether expressly or by implication) Article XII of the Burke County Zoning Ordinance (relating to the Catawba River, Lake James, Lake Rhodhiss and Lake Hickory overlay district), except with the affirmative vote of at least four members of the board.

SECTION 2. This act is effective when it becomes law but expires with respect to ordinances adopted on or after July 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 783
PROPOSED COMMITTEE SUBSTITUTE H783-CSLB-33 [v.1]

Short Title: Burke County Zoning. (Local)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO TEMPORARILY REQUIRE THE AFFIRMATIVE VOTE OF AT LEAST FOUR MEMBERS OF THE BOARD OF COMMISSIONERS OF BURKE COUNTY TO AMEND OR REPEAL ARTICLE XII OF THE BURKE COUNTY ZONING ORDINANCE, RELATING TO LAKE JAMES, SO AS TO ALLOW THE ORDINANCE TO CONTINUE TO WORK.

The General Assembly of North Carolina enacts:

SECTION 1. The Board of Commissioners of Burke County may not adopt any ordinance amending or repealing (whether expressly or by implication) Article XII of the Burke County Zoning Ordinance as it applies to Lake James, except with the affirmative vote of at least four members of the board.

SECTION 2. This act becomes effective March 27, 2003, but expires with respect to ordinances adopted on or after July 1, 2005.

REP. CHURCH

H.B. 783 IS A LOCAL BILL – SHORT TITLE: BURKE COUNTY ZONING –AN ACT TO TEMPORARILY REQUIRE THE AFFIRMATIVE VOTE OF AT LEAST 4 MEMBERS OF THE BOARD OF COMMISSIONERS OF BURKE COUNTY TO AMEND OR REPEAL ARTICLE XII OF BURKE COUNTY ZONING ORDINANCE RELATING TO LAKE JAMES. ARTICLE XII WAS ADOPTED BY THE BURKE COUNTY BOARD OF COMMISSIONERS ON FEBRUARY 20, 2002. TWO MONTHS LATER, ON APRIL 19, 2002, CRESCENT RESOURCES (A SUBSIDIARY OF DUKE POWER) FILED A LAWSUIT (ONE IN SUPERIOR COURT AND ONE IN FEDERAL COURT) CHALLENGING THE AMENDMENTS TO THE BURKE COUNTY ORDINANCE. THE COURTS HAVE NOT RULED AS OF TODAY. THE LAKE JAMES TASK FORCE IS REQUESTING THE GENERAL ASSEMBLY TO REQUIRE A 4-1 VOTE OF THE BURKE COUNTY COMMISSION BEFORE ANY CHANGE TO ARTICLE XII CAN BE MADE. THIS WILL ENSURE A BI-PARTISAN PROCESS AND WOULD ALSO REFLECT A SUPER MAJORITY VOTE.

THIS LOCAL BILL WILL SUNSET OR EXPIRE JULY 1, 2005. I URGE ADOPTION OF THIS LOCAL BILL. THANK YOU

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **RULES, CALENDAR AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for

H.B. 783 A BILL TO BE ENTITLED AN ACT TO TEMPORARILY REQUIRE THE AFFIRMATIVE VOTE OF AT LEAST FOUR MEMBERS OF THE BOARD OF COMMISSIONERS OF BURKE COUNTY TO AMEND OR REPEAL ARTICLE XII OF THE BURKE COUNTY ZONING ORDINANCE, RELATING TO THE CATAWBA RIVER, LAKE JAMES, LAKE RHODHISS, AND LAKE HICKORY OVERLAY DISTRICT, SO AS TO ALLOW THE ORDINANCE TO CONTINUE TO WORK.

☐ 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 the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to ~~(~~the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 772

Judiciary I Committee Substitute Adopted 4/21/03

Short Title: Clarify Certain Plumbing Laws. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW GOVERNING PLUMBING, HEATING, AND FIRE SPRINKLER CONTRACTORS THAT ALLOWS RETAILERS WHO ARE NOT LICENSED AS PLUMBING, HEATING, OR FIRE SPRINKLER CONTRACTORS TO SELL CERTAIN GOODS AND SERVICES TO BE INSTALLED BY LICENSEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-21(c) reads as rewritten:

"(c) To Whom Article Applies. – The provisions of this Article shall apply to all persons, firms, or corporations who engage in, or attempt to engage in, the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof as defined in this Article. The provisions of this Article shall not apply to those who make minor repairs or minor replacements to an already installed system of ~~plumbing or heating~~,plumbing, heating or air conditioning, but shall apply to those who make repairs, replacements, or modifications to an already installed fire sprinkler system. Minor repairs or minor replacements within the meaning of this subsection shall include the replacement of parts in an installed system which do not require any change in energy source, fuel type, or routing or sizing of venting or piping. Parts shall include a compressor, coil, contactor, motor, or capacitor."

SECTION 2. G.S. 87-21(i) reads as rewritten:

"(i) The provisions of this Article shall not apply to a retailer, as defined in G.S. 105-164.3(35), who, in the ordinary course of business, enters into a transaction with a buyer in which the retailer of a ~~good and the services necessary for the installation of the good,~~water heater sold for installation in a one- or two-family residential dwelling contracts with a licensee under this Article to provide the installation services ~~if the contract, containing the licensee's license number,~~ for the water heater if the retail sales and installation contract with the buyer is signed by the buyer, the retailer, and the ~~licensee.~~licensee and bears the licensee's license number and telephone number. All installation services rendered ~~pursuant to this section~~ by the licensee in connection with

any such contract must be performed in compliance with all ~~local~~ building code, ~~permit~~ permit, and inspection requirements."

SECTION 3. G.S. 87-21 is amended by adding the following new subsections:

"(j) The provisions of this Article shall not apply to a person primarily engaged in the retail sale of goods and services who contracts for or arranges financing for the sale and installation of a single-family residential heating or cooling system for which a license to install such system is required under this Article, provided all of the following requirements are met:

(1) No contract or proposal for sale or installation may be presented to or signed by the buyer unless either (i) the specifications for and design of the system have been first reviewed and approved by an employee of the retail seller who is licensed under this Article or (ii) the specifications for and design of the system have been first reviewed and approved by the person licensed under this Article who will install the system, if the installer is not an employee of the retail seller. This subdivision does not prohibit the retailer from providing a written estimate to a potential buyer so long as no contract or proposal for contract is presented or signed prior to the review and approval required by this subsection.

(2) The person installing the system is licensed under this Article.

(3) The contract for sale and for installation is signed by the buyer, by an authorized representative of the retail seller, and by the licensed contractor and contains the contractor's name, license number, and telephone number and the license number of the person approving the system design specifications.

(4) Installation services are performed in compliance with all applicable building codes, manufacturer's installation instructions, and permit and inspection requirements.

(5) The retailer provides, in addition to any other warranties it may offer with respect to the system itself, a warranty for a period of at least one year for any defects in installation.

(k) The provisions of subsections (i) and (j) of this section shall not apply to a system meeting the definition of subdivision (a)(11) of this section."

SECTION 3. This act becomes effective July 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 772

Judiciary I Committee Substitute Adopted 4/21/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S772-CSRU-31 [v.2]

4/28/2003 8:43:19 PM

Short Title: Clarify Certain Plumbing and HVAC Laws. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW GOVERNING PLUMBING, HEATING, AND FIRE SPRINKLER CONTRACTORS THAT ALLOWS RETAILERS WHO ARE NOT LICENSED AS PLUMBING, HEATING, OR FIRE SPRINKLER CONTRACTORS TO SELL CERTAIN GOODS AND SERVICES TO BE INSTALLED BY LICENSEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 87-21(c) reads as rewritten:

"(c) To Whom Article Applies. – The provisions of this Article shall apply to all persons, firms, or corporations who engage in, or attempt to engage in, the business of plumbing, heating, or fire sprinkler contracting, or any combination thereof as defined in this Article. The provisions of this Article shall not apply to those who make minor repairs or minor replacements to an already installed system of ~~plumbing or heating~~,plumbing, heating or air conditioning, but shall apply to those who make repairs, replacements, or modifications to an already installed fire sprinkler system. Minor repairs or minor replacements within the meaning of this subsection shall include the replacement of parts in an installed system which do not require any change in energy source, fuel type, or routing or sizing of venting or piping. Parts shall include a compressor, coil, contactor, motor, or capacitor."

SECTION 2. G.S. 87-21(i), as enacted in Section 36(a) of S.L. 2002-159, reads as rewritten:

"(i) The provisions of this Article shall not apply to a retailer, as defined in G.S. 105-164.3(35), who, in the ordinary course of business, enters into a transaction with a buyer in which the retailer of a ~~good and the services necessary for the installation of the good~~,water heater sold for installation in a one- or two-family residential dwelling contracts with a licensee under this Article to provide the installation services ~~if the contract, containing the licensee's license number,~~ for the water heater if the retail sales

and installation contract with the buyer is signed by the buyer, the retailer, and the ~~licensee.~~licensee and bears the licensee's license number and telephone number. All installation services rendered ~~pursuant to this section~~ by the licensee in connection with any such contract must be performed in compliance with all ~~local~~ building code, ~~permit~~ permit, and inspection requirements."

SECTION 3. G.S. 87-21 is amended by adding the following new subsections:

"(j) The provisions of this Article shall not apply to a person primarily engaged in the retail sale of goods and services who contracts for or arranges financing for the sale and installation of a single-family residential heating or cooling system for which a license to install such system is required under this Article, provided all of the following requirements are met:

(1) No contract or proposal for sale or installation may be presented to or signed by the buyer unless either (i) the specifications for and design of the system have been first reviewed and approved by an employee of the retail seller who is licensed under this Article or (ii) the specifications for and design of the system have been first reviewed and approved by the person licensed under this Article who will install the system, if the installer is not an employee of the retail seller. This subdivision does not prohibit the retailer from providing a written estimate to a potential buyer so long as no contract or proposal for contract is presented or signed prior to the review and approval required by this subsection.

(2) The person installing the system is licensed under this Article.

(3) The contract for sale and for installation is signed by the buyer, by an authorized representative of the retail seller, and by the licensed contractor and contains the contractor's name, license number, and telephone number and the license number of the person approving the system design specifications.

(4) Installation services are performed in compliance with all applicable building codes, manufacturer's installation instructions, and permit and inspection requirements.

(5) The retailer provides, in addition to any other warranties it may offer with respect to the system itself, a warranty for a period of at least one year for any defects in installation.

(k) The provisions of subsections (i) and (j) of this section shall not apply to a system meeting the definition of subdivision (a)(11) of this section."

SECTION 3. Section 36.(b) of S.L. 2002-159, as amended by Section 1 of S.L. 2003-2, reads as rewritten:

"**SECTION 36.(b)** This section becomes effective ~~May 1, 2003.~~July 1, 2003."

SECTION 4. This act becomes effective July 1, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 772 A BILL TO BE ENTITLED AN ACT TO CLARIFY THE LAW GOVERNING PLUMBING, HEATING, AND FIRE SPRINKLER CONTRACTORS THAT ALLOWS RETAILERS WHO ARE NOT LICENSED AS PLUMBING, HEATING, OR FIRE SPRINKLER CONTRACTORS TO SELL CERTAIN GOODS AND SERVICES TO BE INSTALLED BY LICENSEES.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE JOINT RESOLUTION 1019

Sponsors: Senator Apodaca.

Referred to: Rules and Operations of the Senate.

April 21, 2003

A JOINT RESOLUTION ACKNOWLEDGING THE HENDERSON COUNTY EDUCATION FOUNDATION ON ESTABLISHING A HALL OF FAME AND HONORING THE MEMORY OF GLENN C. MARLOW AND HUGH D. RANDALL, FORMER SUPERINTENDENTS AND INDUCTEES OF THE HALL OF FAME.

Whereas, the Henderson County Education Foundation has established a Hall of Fame to honor individuals who have demonstrated measurable influence or made significant contributions to the growth and development of education in Henderson County; and

Whereas, a selection committee, consisting of a teacher, a school administration, a foundation board member, and two county residents, has recommended 14 people as the first inductees into the Hall of Fame; and

Whereas, inductees were nominated in the categories of teacher or administrator, other contributor, including school board members, and support personnel; and

Whereas, the inductees are former county superintendents, R.G. Anders and Glenn C. Marlow; school board member Mary Kellogg Bell; city superintendents Charles L. Byrd and Hugh D. Randall; former teachers Amy F. Pace and Susie Smith Sinclair; former principals C.F. Jervis and Ernest L. Justus; Blue Ridge Community College founding President William D. Killian; former county system secretary and finance officer Grace E. Ledbetter; former teacher and principal John R. Marable; principal, county school board member, and Blue Ridge Community College trustee Joe D. Spearman, Sr., and former county physical education director Kenneth B. "Keg" Wheeler; and

Whereas, the Hall of Fame is a fitting memorial to the late Glenn C. Marlow and Hugh D. Randall, former school administrators and first-time inductees; and

Whereas, Glenn C. Marlow, who served as a teacher, principal, and superintendent, was successful at motivating students and managing school funds. During his tenure as the County's superintendent, a State accreditation report ranked the

Henderson County Public Schools second among 134 school systems on standards of performance and opportunity for the 1989-1990 school year; and

Whereas, Hugh D. Randall served as superintendent of the former city schools from 1954 to 1978 and was instrumental in getting kindergarten started statewide, helping establish Blue Ridge Community College, and setting up one of the first schools for immigrants. He was responsible for expanding school personnel to include a physical education teacher, secretary, librarian, and assistant principal in each school; and

Whereas, each year the Education Foundation plans to add five new members to the Hall of Fame; and

Whereas, establishing the Hall of Fame is worthy of recognition and acknowledgement; Now, therefore,

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

SECTION 1. The General Assembly honors the memory of former superintendents Glenn C. Marlow and Hugh D. Randall, two individuals who dedicated their lives to educating the children of Henderson County.

SECTION 2. The General Assembly acknowledges the Henderson County Education Foundation on establishing the Hall of Fame to recognize those who have gone beyond the call of duty in providing an education to the children of Henderson County.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the Henderson County Education Foundation.

SECTION 4. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **Rules, Calendar and Operations of the House.**

☐ Committee Substitute for

S.J.R. 1019 A JOINT RESOLUTION ACKNOWLEDGING THE HENDERSON COUNTY EDUCATION FOUNDATION ON ESTABLISHING A HALL OF FAME AND HONORING THE MEMORY OF GLENN C. MARLOW AND HUGH D. RANDALL, FORMER SUPERINTENDENTS AND INDUCTEES OF THE HALL OF FAME.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 566

Short Title:	Disapprove Swift Creek Reclassification.	(Public)
Sponsors:	Representatives Gibson and Tolson (Primary Sponsors).	
Referred to:	Rules, Calendar, and Operations of the House.	

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO DISAPPROVE THE ADMINISTRATIVE RULE RECLASSIFICATION BY THE ENVIRONMENTAL MANAGEMENT COMMISSION OF PORTIONS OF SWIFT CREEK AND SANDY CREEK IN THE TAR-PAMLICO RIVER BASIN THAT WOULD HAVE THE EFFECT OF IMPOSING CERTAIN MANAGEMENT STRATEGIES APPLICABLE TO OUTSTANDING RESOURCE WATERS (ORW) IN THE WATERSHED OF THESE CREEKS.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 150B-21.3(b), 15A NCAC 2B.0225 (Outstanding Resource Waters) and 15A NCAC 2B.0316 (Tar-Pamlico River Basin), as adopted by the Environmental Management Commission on 11 July 2003 and approved by the Rules Review Commission on 15 August 2002, are disapproved.

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

H 566



North Carolina Wildlife Resources Commission

Charles R. Fullwood, Executive Director

April 15, 2003

William G. Ross, Jr.
Secretary NCDENR
1601 Mail Service Center
Raleigh, NC 27699-1601

Dear Secretary Ross:

The North Carolina Wildlife Resources Commission (WRC) fully supports the Outstanding Resource Water (ORW) classification of portions of Swift Creek in the Tar River Basin and conservation of the rest of the sub-basin under an ORW conservation strategy. Swift Creek is one of the more significant aquatic ecosystems along the entire Atlantic Seaboard. The Swift Creek Sub-Basin is characterized by its great taxonomic diversity and abundance, and its habitat for two federally listed endangered species and numerous state-listed species. Conservation of the aquatic resources within this sub-basin is critical to restoration of the lower Tar River Basin.

Sixty one species of fish, approximately one fourth of all the freshwater and anadramous fish species in North Carolina, have been found in the Swift Creek drainage. Several fish species have been listed as "Special Concern" by WRC and one is listed as a federal species of concern. The river also supports large game fish populations.

Sixteen species of native freshwater mussels are known to inhabit the Swift Creek basin. There are two federally listed endangered species, and three federally listed species of concern. There are four other state listed species. The stream supports a rich diversity of aquatic insects including several rare species.

Its rich fauna is a reflection of the high quality of the habitat in Swift Creek. ORW classification plays a very important role in managing water quality in the affected portions of Swift Creek to maintain this high quality habitat. ORW classification is necessary to ensure continuance of Swift Creek's rich natural heritage and significant ecological role that is the basis for the quality of life deserved by future generations of North Carolinians.

Sincerely,

Richard B. Hamilton

Richard B. Hamilton, Chief Deputy Director
North Carolina Wildlife Resources Commission

Mailing Address: 1701 Mail Service Center • Raleigh, NC 27699-1701
Office Location: 512 N. Salisbury Street • Raleigh, NC 27604-1188 • Telephone: (919) 733-3391

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 566 A BILL TO BE ENTITLED AN ACT TO DISAPPROVE THE ADMINISTRATIVE RULE RECLASSIFICATION BY THE ENVIRONMENTAL MANAGEMENT COMMISSION OF PORTIONS OF SWIFT CREEK AND SANDY CREEK IN THE TAR-PAMLICO RIVER BASIN THAT WOULD HAVE THE EFFECT OF IMPOSING CERTAIN MANAGEMENT STRATEGIES APPLICABLE TO OUTSTANDING RESOURCE WATERS (ORW) IN THE WATERSHED OF THESE CREEKS.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1207

Short Title:	Rules Subj. to Legislative Review/Summaries.	(Public)
Sponsors:	Representative Gibson.	
Referred to:	Rules, Calendar, and Operations of the House.	

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE PREPARATION, COMPILATION, AND PRESENTATION TO THE GENERAL ASSEMBLY OF SUMMARIES OF EACH RULE SUBJECT TO LEGISLATIVE DISAPPROVAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 150B-21.3(b) reads as rewritten:

"(b) Permanent Rule. –

(1) A permanent rule approved by the Commission becomes effective on the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule, unless a different effective date applies under this section. If a bill that specifically disapproves the rule is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule. If the agency adopting the rule specifies a later effective date than the date that would otherwise apply under this subsection, the later date applies. A permanent rule that is not approved by the Commission or that is specifically disapproved by a bill enacted into law before it becomes effective does not become effective.

(2) A bill specifically disapproves a rule if it contains a provision that refers to the rule by appropriate North Carolina Administrative Code citation and states that the rule is disapproved. Notwithstanding any rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove a rule that has been approved

by the Commission and that either has not become effective or has become effective by executive order under subsection (c) of this section.

(3) Each agency that adopts a rule that is subject to legislative disapproval under this subsection shall prepare a concise summary of the purpose and effect of the rule. The summary shall be prepared in the manner prescribed by the Commission and shall be submitted to the Commission within 15 days after the Commission approves the rule. The Commission shall compile the summary of each rule that is subject to legislative disapproval into one document and shall transmit a copy of the document to each member of the General Assembly on or before the first day of the legislative session during which those rules are subject to legislative disapproval."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **D**

HOUSE BILL 1207
PROPOSED COMMITTEE SUBSTITUTE H1207-PCS45106-RT-18

Short Title: Rules Subj. to Legislative Review/Summaries. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THE PREPARATION, COMPILATION, AND PRESENTATION TO THE GENERAL ASSEMBLY OF SUMMARIES OF EACH RULE SUBJECT TO LEGISLATIVE DISAPPROVAL AND TO PROVIDE THAT A BILL THAT SPECIFICALLY DISAPPROVES A RULE IS NOT SUBJECT TO THE CROSSOVER DEADLINE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 150B-21.3(b) reads as rewritten:

"(b) Permanent Rule. –

(1) A permanent rule approved by the Commission becomes effective on the earlier of the thirty-first legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the Commission approved the rule, unless a different effective date applies under this section. If a bill that specifically disapproves the rule is introduced in either house of the General Assembly before the thirty-first legislative day of that session, the rule becomes effective on the earlier of either the day an unfavorable final action is taken on the bill or the day that session of the General Assembly adjourns without ratifying a bill that specifically disapproves the rule. If the agency adopting the rule specifies a later effective date than the date that would otherwise apply under this subsection, the later date applies. A permanent rule that is not approved by the Commission or that is specifically disapproved by a bill enacted into law before it becomes effective does not become effective.

(2) A bill specifically disapproves a rule if it contains a provision that refers to the rule by appropriate North Carolina Administrative Code citation and states that the rule is disapproved. Notwithstanding any

rule of either house of the General Assembly, any member of the General Assembly may introduce a bill during the first 30 legislative days of any regular session to disapprove a rule that has been approved by the Commission and that either has not become effective or has become effective by executive order under subsection (c) of this section. Notwithstanding any rule of either house of the General Assembly, once a bill that specifically disapproves a rule has been introduced in accordance with this subsection, that bill shall be eligible for consideration in the house in which the bill is introduced until the day of adjournment and, if passed by that house, shall be eligible for consideration in the other house until the day of adjournment.

(3) Each agency that adopts a rule that is subject to legislative disapproval under this subsection shall prepare a concise summary of the purpose and effect of the rule. The summary shall be prepared in the manner prescribed by the Commission and shall be submitted to the Commission within 15 days after the Commission approves the rule. The Commission shall compile the summary of each rule that is subject to legislative disapproval into one document and shall transmit a copy of the document to each member of the General Assembly on or before the first day of the legislative session during which those rules are subject to legislative disapproval."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1207 A BILL TO BE ENTITLED AN ACT TO REQUIRE THE PREPARATION, COMPILATION, AND PRESENTATION TO THE GENERAL ASSEMBLY OF SUMMARIES OF EACH RULE SUBJECT TO LEGISLATIVE DISAPPROVAL.

☐ 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 the committee substitute bill, ☒ which changes the title, unfavorable as to(the original bill.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 1171

Short Title:	Amend Hazing Laws.	(Public)
Sponsors:	Representative Dickson.	
Referred to:	Rules, Calendar, and Operations of the House.	

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAWS REGARDING HAZING.

The General Assembly of North Carolina enacts:

SECTION 1. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1171
PROPOSED COMMITTEE SUBSTITUTE H1171-CSLH-10 [v.2]

4/29/2003 12:27:37 PM

Short Title: Amend Hazing Laws. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES IN THE LAW PROHIBITING HAZING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-35 reads as rewritten:

"§ 14-35. Hazing; definition and punishment.

It ~~shall be~~ is unlawful for any student in attendance at any university, college or school in this State to engage in ~~what is known as~~ hazing, or to aid or abet any other student in the commission of this offense. For the purposes of this section hazing is defined as follows: ~~"to annoy any student by playing abusive or ridiculous tricks upon him, to frighten, scold, beat or harass him, or to subject him to personal indignity."~~ "to cause, require, or permit a person, incident to initiation into or membership in a society, club, athletic team, or similar organized group, to participate in any activity that subjects or is likely to subject that person or others to risks of physical injury, mental distress, or personal indignities." Any violation of this section shall constitute a Class 2 misdemeanor."

SECTION 2. G.S. 14-36 reads as rewritten:

"§ 14-36. ~~Expulsion from school; duty of faculty to expel.~~Disciplinary action.

Upon conviction of any student of the offense of hazing, or of aiding or abetting in the commission of this offense, ~~he shall, in addition to any punishment imposed by the court, be expelled from the college or school he is attending. The faculty or governing board of any college or school charged with the duty of expulsion of students for proper cause shall, upon such conviction at once expel the offender, and a failure to do so shall be a Class 1 misdemeanor.~~the university, college, or school shall initiate appropriate disciplinary procedures and shall impose punishment commensurate with the offense."

SECTION 3. This act becomes effective December 1, 2003, and applies to offenses committed on or after that date.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1171 A BILL TO BE ENTITLED AN ACT TO AMEND THE LAWS REGARDING HAZING.

☐ 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 the committee substitute bill, unfavorable as to the original bill which changes title

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE RESOLUTION 280

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

March 6, 2003

A HOUSE RESOLUTION ADOPTING THE PERMANENT RULES OF THE HOUSE OF REPRESENTATIVES FOR THE 2003 REGULAR SESSIONS.

Be it resolved by the House of Representatives:

SECTION 1. The permanent rules of the Regular Sessions of the House of Representatives of the 2003 General Assembly are:

SECTION 2. This resolution is effective upon adoption.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE RESOLUTION 280
PROPOSED COMMITTEE SUBSTITUTE H280-PCS45109-LB-35

Sponsors:

Referred to:

March 6, 2003

A HOUSE RESOLUTION ADOPTING THE PERMANENT RULES OF THE HOUSE OF REPRESENTATIVES FOR THE 2003 REGULAR SESSIONS.

Be it resolved by the House of Representatives:

SECTION 1. The permanent rules of the Regular Sessions of the House of Representatives of the 2003 General Assembly are:

PERMANENT RULES OF THE REGULAR SESSIONS OF THE HOUSE OF REPRESENTATIVES OF THE 2003 GENERAL ASSEMBLY OF NORTH CAROLINA

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I. Order of Business

RULE 1. **Convening Hour, Limitation on Friday, Night, and Sunday Legislative Sessions.** – The House shall convene each legislative day at the hour fixed by the House. In the event the House adjourns on the preceding legislative day without having fixed an hour for reconvening, the House shall convene on the next legislative day at 2:00 P.M. During January and February of 2003, no sessions may be held on Friday. No session shall continue after 10:00 P.M. on Monday nor after 9:00 P.M. on any other days, and the Speaker shall adjourn the House without motion at that point, except that a motion may be made as to the time and day of next convening. No session shall be held on Sunday.

RULE 2. **Opening the Session.** – At the convening hour on each legislative day, the Speaker shall call the members to order and shall have the session opened with prayer. At the convening hour on the first day of each legislative week, the Speaker, or the

Speaker's designee, shall lead the members in the Pledge of Allegiance to the American Flag.

RULE 3. **Quorum.** – (a) A quorum consists of a majority of the qualified members of the House.

(b) Should the point of a quorum be raised, the doors shall be closed, and the Clerk shall call the roll of the House, after which the names of those not responding shall again be called. In the absence of a quorum, 15 members are authorized to compel the attendance of absent members and may order that absentees for whom no sufficient excuses are made be taken into custody wherever they may be found by special messenger appointed for that purpose.

RULE 4. **Approval of Journal.** – (a) The Standing Committee on Rules, Calendar, and Operations of the House shall cause the Journal of the House to be examined daily before the hour of convening to determine if the proceedings of the previous day have been correctly recorded.

(b) Immediately following the opening prayer and upon appearance of a quorum, the Speaker shall call for the Journal report by the Chair of the Standing Committee on Rules, Calendar, and Operations of the House, or by a Representative designated by the Chair, as to whether the proceedings of the previous day have been correctly recorded. Without objection, the Speaker shall cause the Journal to stand approved.

RULE 5. **Order of Business of the Day.** – After the approval of the Journal of the preceding day, unless otherwise ordered by the Speaker, the House shall proceed to business in the following order:

(1) The receiving of petitions, memorials, and papers addressed to the General Assembly or to the House;
(1a) Messages from the Governor;
(2) Ratification of bills;
(3) Reports of standing committees and permanent subcommittees;
(4) Reports of select committees;
(5) Reports of referral by standing committee Chairs of bills to permanent subcommittees;
(6) First reading and reference to committee of bills and resolutions;
(7) Messages from the Senate;
(8) Concurrence with Senate amendments or Senate committee substitutes;
(9) The unfinished business of the preceding day;
(10) Calendar (each category in accordance with Rule 40):
  a. Local bills (roll call), third reading
  b. Local bills (roll call), second reading
  c. Local bills, third reading
  d. Local bills, second reading
  e. Public bills (roll call), third reading
  f. Public bills (roll call), second reading
  g. Public bills and resolutions, third reading
  h. Public bills and resolutions, second reading;

(11) Reading of notices and announcements.

II. Conduct of Debate

RULE 6. **Duties and Powers of the Speaker.** – The Speaker shall have general direction of the Hall. The Speaker may name any member to perform the duties of the chair, but substitution shall not extend beyond one day, except in the case of sickness or by leave of the House. If the Speaker is absent and has not designated a member to perform the duties of the chair, the Principal Clerk shall preside during such absence. If there is a vacancy in the office of Speaker, the Principal Clerk shall preside in place of that Speaker until a replacement is elected by the House.

RULE 7. **Obtaining Floor.** – (a) When any member desires recognition for any purpose, the member shall rise and respectfully address the Speaker. No member shall proceed until recognized by the Speaker for a purpose.

(b) When a member desires to interrupt a member having the floor, the member shall first obtain recognition by the Speaker and permission of the member occupying the floor, and when such recognition and permission have been obtained, he or she may propound a question to the member occupying the floor; but he or she shall not otherwise interrupt the member having the floor, except as provided in subsection (c) of this rule; and the Speaker shall, without the point of order being raised, enforce this rule.

(c) A member who has obtained the floor may be interrupted only for the following reasons:

(1) A request that the member speaking yield for a question,
(2) A point of order,
(3) A parliamentary inquiry, or
(4) A question of privilege.

RULE 8. **Questions of Privilege.** – Upon recognition by the Speaker for that purpose, any member may speak to a question of privilege for a time not to exceed three minutes. Questions of privilege shall be those affecting, first, the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of members, individually, in their representative capacity only; and shall have precedence over all other questions, except motions to adjourn. Privilege may not be used to explain a vote or debate a bill. The Speaker shall determine if the question is one of privilege and shall, without the point of order being raised, enforce this rule.

RULE 9. **Points of Order.** – (a) The Speaker shall decide questions of order and may speak to points of order in preference to other members arising from their seats for that purpose. Any member may appeal from the ruling of the chair on questions of order; on such appeal no member may speak more than once, unless by leave of the House. A two-thirds vote of the members present shall be necessary to sustain any appeal from the ruling of the chair.

(b) When the Speaker calls a member to order, the member shall be seated, except that a member called to order may clear a matter of fact, or explain, but shall not proceed in debate so long as the decision stands. If the member appeals from the ruling of the chair and the decision by a two-thirds vote of the members present be in favor of the member called to order, the member may proceed; if otherwise, the member shall

not; and if the case, in the judgment of the House, requires it, the member shall be liable to censure by the House.

RULE 10. **Limitations on Debate.** – (a) No member shall speak on, debate, or solicit cosponsors for a bill or resolution at its first reading.

(b) No member shall speak more than twice on the main question nor longer than 20 minutes for the first speech and 10 minutes for the second speech; nor shall the member speak more than twice upon an amendment or motion to reconsider, re-refer, appeal, or postpone or any motion on concurrence, and then not longer than 10 minutes for the first speech and five minutes for the second speech.

(c) A member may speak only once and for not more than 20 minutes on the question of the adoption of a minority report.

(d) The House, by consent of a majority of the members present, may suspend the operation of subsections (b) and (c) of this rule during any debate on any particular question before the House.

RULE 11. **Reading of Papers.** – When there is a call for the reading of the text of a paper which has been presented to the House and there is objection to such reading, the question shall be determined by a majority vote of the members of the House present. Except for protests permitted by the Constitution, no member may have material printed in the Journal until said material has been presented to the House and the printing approved by the House, and said material shall not exceed 1,000 words.

RULE 12. **General Decorum.** – (a) The Speaker shall preserve order and decorum.

(b) Decency of speech shall be observed and disrespect to personalities carefully avoided.

(c) When the Speaker is putting any question, or addressing the House, no person shall speak, stand up, walk out of, or cross the House nor, when a member is speaking, engage in disruptive discourse or pass between the member and the chair.

(d) Food or beverages shall not be permitted on the floor of the House during the first two hours of the daily session.

(e) The reading of newspapers shall not be permitted on the floor of the House while the House is in session.

(f) Smoking shall not be permitted on the floor of the House or in the galleries at any time. The consumption of food or beverages shall not be permitted in the galleries at any time.

(g) Special recitals and performances by musicians or other groups shall not be permitted on the floor of the House; and special guests of members of the House shall not be permitted on the floor of the House.

(h) Members shall observe appropriate attire, coat and tie for male members and dignified dress for female members.

(i) The use of wireless telephones shall not be permitted in the House Chamber.

(j) Placards, stickers, or signs not approved by the Speaker are not permitted in the House Chamber.

III. Motions

RULE 13. **Motions Generally.** – (a) Every motion shall be reduced to writing if the Speaker or any two members request it. No motion relating to a bill shall be in order which does not identify the bill by its number and short title.

(b) When a motion is made, it shall be stated by the Speaker, or, if written, it shall be handed to the chair and read aloud by the Speaker or Clerk before debate.

(c) After a motion has been stated by the Speaker or read by the Speaker or Clerk, it shall be in the possession of the House; but it may be withdrawn before a decision or amendment, except in case of a motion to reconsider, which motion, when made by a member, shall be in possession of the House and shall not be withdrawn without leave of the House.

RULE 14. **Motions, Order of Precedence.** – When there are motions before the House, the order of precedence is as follows:

To adjourn.
To lay on the table.
Previous question.
To recess.
To postpone indefinitely.
To reconsider.
To postpone to a day certain.
To re-refer.
To amend an amendment.
To amend.
To pass the bill.

No motion to lay on the table, to postpone indefinitely, to postpone to a day certain, to re-refer, or to make a particular amendment, being decided, shall be again allowed at the same stage of the bill or proposition.

RULE 15. **Motion to Adjourn.** – (a) A motion to adjourn shall be seconded before the motion is put to the vote of the House.

(b) A motion to adjourn shall be decided without debate and shall always be in order, except when the House is voting or some member is speaking; but a motion to adjourn shall not follow a motion to adjourn until debate or some other business of the House has intervened.

RULE 16. **Motion to Table.** – (a) A motion to table shall be seconded before the motion is put to the vote of the House and is in order except when a motion to adjourn is before the House.

(b) A motion to table shall be decided without debate.

(c) A motion to table shall not be paired with a motion to reconsider.

(d) A motion to table a bill shall constitute a motion to table the bill and all amendments thereto.

(e) When the question before the House is the adoption of an amendment to a bill or resolution, a motion to table the bill is not in order; and a motion to table an amendment applies to the amendment only, and the motion may not expressly or by implication or construction be expanded to include a motion to table the bill also.

(f) When a question has been tabled, it shall not thereafter be considered except on motion to reconsider under Rule 18 or to remove from the table approved by a two-thirds vote.

RULE 17. **Motion to Postpone Indefinitely.** – A motion to postpone indefinitely is in order except when a motion to adjourn or to lay on the table or for the previous question is before the House. However, after one motion to postpone indefinitely has been decided, another motion to postpone indefinitely shall not be allowed at the same stage of the bill or proposition. When a question has been postponed indefinitely, it shall not thereafter be considered except on motion to reconsider under Rule 18 or to place on the favorable calendar approved by a two-thirds vote.

RULE 18. **Motion to Reconsider.** – (a) When a question has been decided, it is in order for any member to move for the reconsideration thereof on the same or the succeeding legislative day; provided that if the vote by which the motion was originally decided was taken by a recorded vote, only a member of the prevailing side may move for reconsideration.

(b) A motion to reconsider shall be determined by a majority vote, except the following shall require a two-thirds vote: a second or subsequent motion to reconsider and a motion to reconsider:

(1) A vote upon a motion to table,
(2) A motion to postpone indefinitely,
(3) A motion to remove a bill from the unfavorable calendar,
(4) A motion that a bill be read twice on the same day, or
(5) A motion to remove from the table.

(c) A motion to reconsider the vote by which a person has been elected as Speaker or Speaker Pro Tempore shall not be in order. This subsection of this rule cannot be suspended.

RULE 19. **Previous Question.** – (a) The previous question may be called only by:

(1) The Chair of the Committee on Rules, Calendar, and Operations of the House;
(2) The member submitting the report on the bill or other matter under consideration;
(3) The member introducing the bill or other matter under consideration; or
(4) The member in charge of the measure, who shall be designated by the chair of the standing committee or permanent subcommittee reporting the same to the House at the time the bill or other matter under consideration is reported to the House or taken up for consideration.

(b) The previous question shall be as follows: "Call for the previous question having been made, is the call sustained?" When the call for the previous question has been decided in the affirmative by a majority vote of the House, the question is on the passage of the bill, resolution, or other matter under consideration.

(c) The call for the previous question shall preclude all motions, amendments, and debate, except the motion to adjourn or motion to table.

(d) If the previous question is decided in the negative, the question remains under debate.

IV. Voting

RULE 20. **Use of Electronic Voting System.** – (a) Votes on the following questions shall be taken on the electronic voting system, and the ayes and noes shall be recorded on the Journal:

(1) The passage as required by Article II, Section 23 of the North Carolina Constitution on second and third readings of any bill:
  a. Raising money on the credit of the State,
  b. Pledging the faith of the State for the payment of a debt,
  c. Imposing a State tax, or
  d. Authorizing a county, municipality, or other local governmental unit to
    1. Raise money on its credit,
    2. Pledge its faith for the payment of a debt, or
    3. Impose a local tax.

(2) All measures affecting a fee imposed by the State or any subdivision thereof.

(3) All questions on which a call for the ayes and noes under Rule 24(a) and Article II, Section 19 of the North Carolina Constitution has been sustained.

(4) Both second and third readings of bills proposing amendment of the North Carolina Constitution or ratifying resolutions amending the United States Constitution.

(5) The passage of a bill notwithstanding the Governor's veto thereof pursuant to Article II, Section 22 of the North Carolina Constitution.

(b) Votes on the following questions shall be taken on the electronic voting system:

(1) Second reading of all public bills, all amendments to public bills offered after second reading, third reading if a public bill was amended after second reading or if the reading occurs on a day or days following the second reading, all conference reports on public bills, all motions to lay public bills on the table, and all motions to postpone public bills indefinitely.

(2) Upon a call for division.

(3) Any other question upon direction of the Speaker or upon motion of any member supported by one-fifth of the members present.

(c) When the electronic voting system is used, 15 seconds shall be allowed for voting on the question before the House, unless the Chair shall direct otherwise. The system shall be set to close automatically when that time has expired. Once the system is locked, the vote shall be recorded and printed.

(d) The voting station at each member's desk in the Chamber shall be used only by the member to which the station is assigned. Under no circumstances shall any other person vote at a member's station. It is a breach of the ethical obligation of a member

either to request that another person vote at the requesting member's station or to vote at another member's station. The Speaker shall enforce this rule without exception.

(e) When the electronic voting system is used, the Speaker shall state the question and shall then state substantially the following: "All in favor vote 'aye'; all opposed vote 'no'; the Clerk will open the vote." In order to have the vote recorded, the member must vote by the electronic voting system within the time allowed for that vote, unless the voting station assigned to a member is malfunctioning. The Speaker shall enforce this rule without exception. After the allotted time for voting has elapsed, the Speaker shall say: "The Clerk will now lock the machine and record the vote." After the machine is locked and the vote recorded, the Speaker shall announce the vote and declare the result.

(f) One copy of the machine printout of the vote record of all votes taken on the electronic voting system shall be filed in the office of the Principal Clerk, and two copies shall be filed in the Legislative Library where the copies shall be open to public inspection. A legible copy of the bill, amendment, or motion on which the vote was taken shall be filed with the printout of the vote in the Legislative Library.

(g) When the Speaker ascertains that the electronic voting system is inoperative before a vote is taken or while a vote is being taken on the electronic voting system, the Speaker shall announce that fact to the House, and any partial electronic voting system voting record shall be voided. In such a case, if the North Carolina Constitution or the Rules of the House require a call of the ayes and noes, the Clerk shall call the roll of the House, and the ayes and noes shall be taken manually and shall be recorded on the Journal. All roll call votes shall be taken alphabetically. If, after a vote is taken on the electronic voting system, it is discovered that a malfunction caused an error in the electronic voting system printout, the Speaker shall direct the Reading Clerk and the Principal Clerk to verify and correct the printout record and so advise the House.

(h) For the purpose of identifying motions on which the vote is taken on the electronic voting system, the motions are coded as follows:

(1) To adjourn.
(2) To lay on the table.
(3) Previous question.
(4) To recess.
(5) To postpone indefinitely.
(6) To reconsider.
(7) To postpone to a day certain.
(8) To re-refer.
(9) To amend an amendment.
(10) To amend.
(11) To concur or not concur.
(12) Miscellaneous.

RULE 21. **Voice Votes; Stating Questions.** – (a) All other votes except those required to be taken on the electronic voting system shall be taken by voice vote.

(b) When a voice vote is taken, the Speaker shall put the question substantially as follows: "Those in favor (as the question may be) will say 'Aye'", and after the affirmative voice has been expressed, "Those opposed will say 'No'".

(c) No statement, explanation, debate, motion, parliamentary inquiry, or point of order shall be allowed once the voice vote has begun. Any point of order or parliamentary inquiry may be raised, however, after the completion of the vote.

RULE 22. **Determining Questions.** – (a) Unless otherwise provided by the Constitution of North Carolina or by these rules, all questions shall be determined by a simple majority of the members present and voting.

(b) No member may vote unless the member is in the Chamber when the question is put. This subsection of this rule cannot be suspended.

RULE 23. **Voting by Division.** – Any member may call for a division of the members upon the question before the result of the vote has been announced. Upon a call for a division, the Speaker shall cause the number voting in the affirmative and in the negative to be determined. Upon a division and count of the House on any question, no member away from the member's seat shall be counted.

RULE 24. **Roll Call Vote.** – (a) Before a question is put, any member may call for the ayes and noes. If the call is sustained by one-fifth of the members present, the question shall be decided by the ayes and noes upon a roll call vote.

(b) Every member who is in the Hall of the House when the question is put shall vote upon a call of the ayes and noes, unless excused pursuant to Rule 24.1A.

RULE 24.1A. **Excuse From Deliberations and Voting on a Bill.** – (a) Any member shall, upon request, be excused from the deliberations and voting on a particular bill, but to do so must make that request after the second reading of the bill and before any motion or vote on the bill or any amendment thereto. If the reason for the request arises at some point later in the proceedings, the request may be made at that time.

(b) The member may make a brief oral statement of the reasons for making the request. The member may send forward to the Principal Clerk, on a form provided by the Clerk, a concise written statement of the reason for the request, and the Clerk shall include this statement in the Journal.

(c) The member so excused shall not debate the bill or any amendment to the bill, vote on the bill, offer or vote on any amendment to the bill, or offer or vote on any motion concerning the bill at that reading, any subsequent reading, or any subsequent consideration of the bill.

(d) A member may request that his or her excuse from deliberations on a particular bill be withdrawn.

RULE 24.1B. **Division of Amendments.** – Any member may call for an amendment to be divided into two or more amendments to be voted on separately, and the Speaker shall determine whether the amendment admits of such a division.

RULE 25. **Voting by Speaker.** – In all elections the Speaker may vote. In all other instances the Speaker may vote or may reserve this right until there is a tie in which event the Speaker may vote; but in no instance may the Speaker vote twice on the same question.

V. Committees

RULE 26. **Standing Committees and Permanent Subcommittees Generally.** – (a) The Speaker shall appoint a chair, or cochairs, of every standing committee, permanent subcommittee, and select committee, if any. In the construction of these rules, the word "chair" as applied to a committee extends to and includes a cochair of the committee. The Speaker shall have the exclusive right and authority to establish select committees, but this does not exclude the right of the House by resolution to establish select committees.

(b) All permanent subcommittees of each standing committee shall be appointed by the Speaker, and the members appointed, along with the chair of the standing committee, shall constitute the standing committee of which the permanent subcommittee is a part. The Speaker shall appoint all members of permanent subcommittees at the beginning of the first regular session in a manner to reflect the partisan membership of the House.

(c) The Speaker shall appoint the members of all standing committees having no permanent subcommittees at the beginning of the first regular session in a manner to reflect the partisan membership of the House, except that the standing committees on Congressional Redistricting and Legislative Redistricting shall have an equal number of members of the two parties having the largest membership in the House.

(d) Each chair of a permanent subcommittee shall be a vice-chair of the standing committee of which it is a permanent subcommittee. The Speaker may name other members as vice-chairs of the standing committee. The Speaker may name one or more vice-chairs for any standing committee not having permanent subcommittees.

(e) The chair of the standing committee shall be a voting member of each permanent subcommittee of the standing committee.

(f) Either the chair or acting chair, designated by the chair or by the Speaker, and five other members of the standing committee or permanent subcommittee, or a majority of the standing committee or permanent subcommittee, whichever is fewer, shall constitute a quorum of that standing committee or permanent subcommittee. For purposes of determining a quorum, the persons designated by the Speaker when serving only as ex officio members under subsection (h) of this rule, shall be counted among the membership of the committee or subcommittee only when present.

(g) In any joint meeting of the Senate and House committees or subcommittees, the House standing committee or permanent subcommittee reserves the right to vote separately.

(h) Four members designated by the Speaker at the time of appointments of chairs of standing committees are ex officio members of every standing committee and permanent subcommittee, except the standing committees on Congressional Redistricting and Legislative Redistricting and any permanent subcommittees thereof, with the right to vote.

RULE 26.1. **Mentions of Standing Committee Includes Select Committee.** – Any reference in these rules to standing committees shall extend to select committees unless the context requires otherwise.

RULE 27. **List of Standing Committees and Permanent Subcommittees.** – The standing committees and permanent subcommittees thereof are:

Committees	Subcommittees
Aging	(None)
Agriculture	(None)
Alcoholic Beverage Control	(None)
Appropriations	-Capital -Education -General Government -Health and Human Services -Information Technology -Justice and Public Safety -Natural and Economic Resources -Transportation
Children, Youth and Families	(None)
Commerce (formerly Economic Growth and Community Development)	(None)
Congressional Redistricting	(None)
Cultural Resources	(None)
Education	-Community Colleges -Pre-School, Elementary and Secondary Education -Universities
Election Law and Campaign Finance Reform	(None)
Environment and Natural Resources	(None)
Ethics	(None)
Finance	(None)
Financial Institutions	(None)

Health	(None)
Highway Safety	(None)
Insurance	(None)
Judiciary I	(None)
Judiciary II	(None)
Judiciary III	(None)
Judiciary IV	(None)
Law Enforcement	(None)
Legislative Redistricting	(None)
Local Government I	(None)
Local Government II	(None)
Marine Fisheries	(None)
Mental Health	(None)
Military, Veterans and Indian Affairs	(None)
Occupational Safety and Health	(None)
Pensions and Retirement	(None)
Public Health	(None)
Public Utilities	(None)
Rules, Calendar, and Operations of the House	(None)
Science and Technology	(None)
Small Business	(None)

State Government	(None)
State Personnel	(None)
Transportation	(None)
Travel and Tourism	(None)
University Board of Governors Nominating	(None)
Ways and Means	(None)
Welfare Reform	(None)
Wildlife Resources	(None)

RULE 28. **Standing Committee and Permanent Subcommittee Meetings.** – (a) Standing committees and permanent subcommittees of standing committees shall be furnished with suitable meeting places pursuant to a schedule adopted by the Standing Committee on Rules, Calendar, and Operations of the House. Select committees shall be furnished with suitable meeting places as their needs require by the Chair of the Standing Committee on Rules, Calendar, and Operations of the House.

(b) Subject to the provisions of subsection (c) of this rule, standing committees and permanent subcommittees thereof shall permit other members of the General Assembly, the press, and the general public to attend all sessions of said standing committees or permanent subcommittees.

(c) The Chair or other presiding officer shall have general direction of the meeting place of the standing committee or permanent subcommittee, and, in case of any disturbance or disorderly conduct therein, or if the peace, good order, and proper conduct of the legislative business is hindered by any person or persons, the Chair or presiding officer shall have power to exclude from the session any individual or individuals so hindering the legislative business.

(d) Procedure in the standing committees and permanent subcommittees shall be governed by the rules of the House, so far as the same may be applicable to such procedure. Before a question is put, any member may call for the ayes and noes. If the call is sustained by one-fifth of the members present, the question shall be decided by the ayes and noes upon a roll call vote. All roll call votes shall be taken alphabetically and shall be subject to Rule 21(c).

(e) No standing committee or permanent subcommittee shall meet on any day when the House shall not convene except by permission of the Speaker or by approval of the House by resolution adopted by a majority vote of the House.

(f) No standing committee or permanent subcommittee shall meet during any session of the House. Standing committees and permanent subcommittees shall meet at

their regularly scheduled hour. No permanent subcommittee shall meet at the same time that its standing committee is meeting. Standing committees and permanent subcommittees may meet at other times as authorized by the Chair of the Standing Committee on Rules, Calendar, and Operations of the House in order to assure the availability of the meeting room and that no conflicts will exist with the meetings of other bodies. All standing committee and permanent subcommittee meetings shall adjourn no later than:

(1) 15 minutes preceding a regular session of the House, and

(2) 10 minutes preceding the hour of the next regularly scheduled standing committee or permanent subcommittee meeting.

(g) Any call or notice of a standing committee or permanent subcommittee meeting between legislative sessions shall be mailed to each member of the standing committee or permanent subcommittee at least five days prior to such meeting. If a member of the body so requests in writing to the chair of the standing committee or permanent subcommittee, the member shall be notified by certified mail of the meetings.

(h) During standing committee and permanent subcommittee meetings, the chair may exercise the right to vote, or may reserve this right until there is a tie, in which event the chair may vote, but in no instance may the chair vote twice on the same question.

RULE 28.1. **Ethics Committee Investigations Into Violations of the Open Meetings Law.** – (a) On its own motion, or in response to signed and sworn complaint of any individual filed with the Standing Committee on Ethics, the Committee shall inquire into any alleged violation by members of the House of the Open Meetings Law (Article 33C of Chapter 143 of the General Statutes), as the same may be amended in the future.

(b) If, after such preliminary investigation as it may make, the Committee determines to proceed with an inquiry into the conduct of any individual, the Committee shall notify the individual as to the fact of the inquiry and the charges against the individual and shall schedule one or more hearings on the matter. The individual shall have the right to present evidence, cross-examine witnesses, and be represented by counsel at any hearings.

(c) After the Committee has concluded its inquiries into the alleged violations, the Committee shall dispose of the matter by taking one of the following actions:

(1) Dismiss the complaint and take no further action.

(2) Issue a private letter of reprimand to the legislator, if the legislator unintentionally violated the provisions of the Open Meetings Law.

(3) Issue a public letter of reprimand if the violation of the Open Meetings Law was intentional or if the legislator has previously received a private letter of reprimand. The Chair of the Committee on Ethics shall have the public letter of reprimand spread on the pages of the House Journal.

(4) Refer the matter to the House for appropriate action.

RULE 29. **Notice of Standing Committee and Permanent Subcommittee Meetings and Hearings.** – Public notice of all standing committee and permanent subcommittee meetings shall be given in the House. The chair of the standing committee or permanent subcommittee shall notify or cause to be notified the sponsor of each bill which is set for hearing or consideration before the standing committee or permanent subcommittee as to the date, time, and place of that meeting.

RULE 29.1. **Public Hearings.** – (a) Requests for a public hearing shall be made in writing to the chair of the standing committee and, if applicable, the chair of the permanent subcommittee to which the bill has been referred. The chair of the standing committee may schedule a public hearing by the standing committee as a whole after the adjournment of a regular daily House session. The chair of the permanent subcommittee may schedule a public hearing before the permanent subcommittee at its regularly scheduled hour. Denial of a request made by a House member may be appealed to the Speaker.

Notice shall be given not less than five calendar days prior to public hearings. These notices shall be issued as information for the press and shall be posted in the places designated by the Principal Clerk.

(b) Persons desiring to appear and be heard at a public hearing shall submit their requests to the chair of the standing committee or permanent subcommittee. The standing committee or permanent subcommittee chair may designate one or more members to arrange the order of appearance of interested parties. A brief written statement of testimony may be submitted without oral presentation and shall be incorporated into the minutes of the public hearing.

RULE 29.2. **Minutes to Legislative Library.** – The chair of a standing committee or a permanent subcommittee shall ensure that written minutes are compiled for each of the body's meetings. The minutes shall indicate the members present and the actions taken at the meeting. Not later than 20 days after the adjournment of each session of the General Assembly, the chair shall deliver the minutes to the Legislative Library. The Speaker of the House may grant a reasonable extension of time for filing said minutes upon written application of the chair.

RULE 30. **Standing Committee of the Whole House.** – (a) A Standing Committee of the Whole House shall not be formed, except by suspension of the rules, if there be objection by any member.

(b) After passage of a motion to form a Standing Committee of the Whole House, the Speaker shall appoint a chair to preside in the standing committee, and the Speaker shall leave the dais.

(c) The rules of procedure in the House shall be observed in the Standing Committee of the Whole House, so far as they may be applicable, except the rule limiting the time of speaking and the previous question.

(d) In the Standing Committee of the Whole House, a motion that the standing committee rise shall always be in order, except when a member is speaking, and shall be decided without debate.

(e) When a bill is submitted to the Standing Committee of the Whole House, it shall be read and debated by sections, leaving the preamble to be last considered. The

body of the bill shall not be defaced or interlined, but all amendments, noting the page and line, shall be duly entered by the Principal Clerk on a separate paper as the same shall be agreed to by the standing committee and be so reported to the House. After report, the bill shall again be subject to be debated and amended by sections before a question on its passage be taken.

VI. Handling of Bills

RULE 31. **Introduction of Bills and Resolutions.** – (a) All bills and resolutions shall be introduced by submitting same to the Principal Clerk's office on the legislative day prior to the first reading and reference thereof according to the following schedule: by 30 minutes after adjournment each Monday; and by 3:00 P.M. each Tuesday, Wednesday, Thursday, and Friday.

(b) Bills shall not become resolutions provided the Senate has a similar rule. Resolutions shall not become bills. Resolutions are not law but may be used when a law is not necessary for the purpose contained therein. Resolutions shall not be used to appropriate funds for any purpose, but may be used to create study commissions or committees or establish investigative committees, to honor deceased persons, and to adopt House rules and internal affairs. Resolutions cannot amend, repeal, or modify a statute; nor do they have life beyond the term of the session during which they are adopted.

(c) Every bill or resolution shall be read in regular order of business, except upon permission of the Speaker or on the report of a standing committee.

(d) All bills and resolutions shall show in their captions a brief descriptive statement of the true substance of same, which captions may thereafter be amended. Captions of public bills may be amended only by amendment proposed by the standing committee to which the bill was referred. Third reading shall not be had on any bill or resolution on the same day that such caption is amended.

(e) A Substitute Bill shall be covered with the same color jacket as the original bill and shall be prefaced as follows: "House Committee Substitute for_____".

(f) House Resolutions need not be read more than twice.

(g) All memorializing, celebration, commendation, and commemoration resolutions, except those honoring the memory of deceased persons, shall be excluded from introduction and consideration in the House.

(h) Any reference in these rules to bills shall extend to resolutions unless the context requires otherwise.

RULE 31.1. **Deadlines on Introduction and Receipt; Single Subject Rule.** – (a) All public bills or resolutions recommended by commissions or standing committees authorized or directed by act or resolution of the General Assembly to report to the 2003 Regular Session of the General Assembly, or to report prior to convening of that session, must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. on the fourth Wednesday in February (February 26) and must be introduced not later than 3:00 P.M. on the next Wednesday (March 5) of the first year of the biennial session; and

(a1) All bills prepared to be introduced for departments, agencies, or institutions of the State must have been submitted to the Bill Drafting Division of the Legislative

Services Office by 4:00 P.M. on the fourth Wednesday in February (February 26) and must be introduced not later than 3:00 P.M. on the next Wednesday (March 5). A bill introduced under this subsection shall be identified as an Agency Bill after its short title.

(a2) All local bills must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. on the third Wednesday in March (March 19) and must be introduced not later than 3:00 P.M. on the next Wednesday (March 26) of the first year of the biennial session.

(b) All public bills which would not be required to be re-referred to the Appropriations or Finance Committees under Rule 38 must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. on the first Wednesday in April (April 2) and must be introduced not later than 3:00 P.M. on the next Wednesday (April 9) of the first year of the biennial session.

(c) All public bills which under Rule 38 would be required to be re-referred to the Appropriations Committee, or to both the Appropriations and Finance Committees, must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. on the third Wednesday in April (April 16) and must be introduced not later than 3:00 P.M. on the next Wednesday (April 23) of the first year of the biennial session. All public bills which under Rule 38 would be required to be re-referred to the Finance Committee but not the Appropriations Committee must have been submitted to the Bill Drafting Division of the Legislative Services Office by 4:00 P.M. on the first Wednesday in May (May 7) and must be introduced not later than 3:00 P.M. on the next Wednesday (May 14) of the first year of the biennial session. If any bill is eligible for introduction on account of the date only under this subsection, and the bill is amended so that qualifying appropriation or tax law change does not remain in the bill, it shall not be eligible for further consideration. For the purpose of this section, a "tax law change" includes any provision that would require a bill under Rule 38(b) to be referred to the Standing Committee on Finance.

(d) In order to be eligible for consideration by the House during the first Regular Session, all Senate bills other than finance or appropriations bills which would be required to be re-referred to the Appropriations or Finance Committees under Rule 38 or adjournment resolutions must be received and read on the floor of the House as a message from the Senate no later than May 1; provided that a message from the Senate received by the next legislative day stating that a bill has passed its third reading and is being engrossed shall comply with the requirements of this subsection and provided that the Senate has a similar rule.

(d1) Except by motion approved by a majority of members of the House present and voting, no public House bill other than the Current Operations Appropriations Act or the Capital Improvement Appropriations Act may contain more than one subject.

(e) This rule, other than subsection (d1), does not apply to bills establishing districts for Congress or State or local entities. This rule, other than subsection (d1), does not apply to measures ratifying an amendment or amendments to the Constitution of the United States.

RULE 32. **Reference to Standing Committee and to Permanent Subcommittee; Serial Referrals.** – (a) Each bill not introduced on the report of a standing committee

shall immediately upon its first reading be referred by the Speaker to such standing committee or permanent subcommittee as the Speaker deems appropriate. The Speaker at the same time may order that, if the bill is reported with any favorable recommendation or without prejudice, it be re-referred automatically upon the committee report to another committee or permanent subcommittee designated in the order. Each joint resolution or House resolution not introduced on the report of a standing committee shall immediately upon its first reading either be referred by the Speaker to a standing committee or permanent subcommittee or be calendared on the date designated by the Speaker, as the Speaker deems appropriate.

(b) The standing committee chair may refer each bill referred to the standing committee to the permanent subcommittee specifically charged with the subject matter of the bill. A report of that referral shall be made in writing and submitted to the body pursuant to Rule 5(5). Except as provided in Rule 36, the permanent subcommittee to which the bill is referred shall report the bill back to the full standing committee. That subcommittee report shall include one of the following recommendations:

(1) Favorable, without prejudice, or unfavorable as to the original bill with the recommendation that the report be made to the standing committee;

(2) Favorable, without prejudice, or unfavorable as to the original bill, as amended, with the recommendation that the report be made to the standing committee;

(3) Favorable or without prejudice to the proposed committee substitute, and unfavorable to the original bill, with the recommendation that the report be made to the standing committee;

(4) Favorable as to the original bill with the recommendation that the report be made directly to the floor of the House, if approved by the standing committee chair;

(5) Favorable to the original bill, as amended, with the recommendation that the report be made directly to the floor of the House, if approved by the standing committee chair; or

(6) Favorable to the proposed committee substitute with the recommendation that the report be made directly to the floor of the House, if approved by the standing committee chair, and unfavorable to the original bill.

Any recommendation of favorable or without prejudice may include a recommendation of re-referral to another standing committee. After a bill is reported to a standing committee by a permanent subcommittee of that standing committee, the standing committee chair may re-refer the bill to another permanent subcommittee of that standing committee.

Upon recommendation to the standing committee, the bill shall be before that body for further action unless the permanent subcommittee chair reports the bill directly pursuant to Rule 36.

RULE 33. **Papers Addressed to the House.** – Petitions, memorials, and other papers addressed to the House shall be presented by the Speaker. A brief statement of

the contents thereof may be made orally by the introducer before reference to a committee, but such papers shall not be debated or decided on the day of their first being read unless the House shall direct otherwise.

RULE 34. **Introduction of Resolutions and Bills, Copies Required.** – (a) Whenever any resolution or bill is introduced, a duplicate copy thereof shall be attached thereto, and the Principal Clerk shall cause said duplicate copy to be numbered as the original resolution or bill is numbered and shall cause the same to be available at all times to the member introducing the same.

(b) Numbering of House Bills shall be designated as "H.B.___." (No. following). A Joint Resolution shall be designated as "H.J.R. ___." (No. following). A House Resolution shall be designated as "H.R.___." (No. following).

(c) Whenever any resolution or bill is filed for introduction, it shall be in a House bill jacket containing 30 copies and in the form designated by the Speaker. Any resolution or bill not accompanied by the required number of copies shall be returned immediately to the introducer. The Clerk shall stamp the copies with the number stamped upon the original bill.

RULE 35. **Duplicating and Availability of Copies of Bills.** – (a) The Legislative Services Officer shall cause such bills as are introduced to be duplicated in such numbers as may be specified by the Speaker. The Legislative Services Officer shall cause one copy of each resolution and public bill for each member to be delivered to the member's committee assistant or legislative assistant who shall place it in the appropriate notebook on the member's desk. If a member so requests, a second copy shall be delivered to the member's committee assistant or legislative assistant who shall place it in the member's office. The remaining copies shall be placed in the Printed Bills Room and made available to the committees to which the bill is referred, to individual members on request, and to the general public.

(b) A public bill is a bill affecting 15 or more counties. A local bill is one affecting fewer than 15 counties. No public bill and, upon objection by a member, no local bill may be considered unless copies of the bill have been made available to the entire membership of the House.

RULE 35.1. **Assessment Reports.** – (a) Every bill or resolution proposing the establishment of an occupational or professional licensing board, as defined in Article 18A of Chapter 120 of the General Statutes, or a study for the need to establish such a board shall have attached to the jacket of the original bill or resolution at the time of its consideration on second and third readings by the House or by any standing committee or permanent subcommittee of the House an assessment report from the Legislative Committee on New Licensing Boards pursuant to Article 18A of Chapter 120 of the General Statutes. The assessment report shall not constitute any part of the expression of legislative intent proposed by the formation of a licensing board. Upon receipt of the request, the Legislative Committee on New Licensing Boards shall prepare and return the assessment report as soon as possible but not later than 60 days, reserving the right to extend this time to 90 days.

(b) Every legislative proposal introduced in the House or received in the House from the Senate, proposing the incorporation of a municipality shall have attached to the

jacket of the original bill at the time of its consideration on second or third readings by the House or by any committee of the House prior to a favorable report, a recommendation from the Joint Legislative Commission on Municipal Incorporations, established by Article 20 of Chapter 120 of the General Statutes. The recommendation of the Joint Legislative Commission on Municipal Incorporations shall be made in accordance with the provisions and criteria set forth in Article 20 of Chapter 120 of the General Statutes and shall include the findings required to be made by G.S. 120-166 through G.S. 120-170.

RULE 36. **Report by Standing Committee or Permanent Subcommittee.** – (a) **When Reports Required.** – All House bills and resolutions shall be reported from the standing committee or permanent subcommittee to which referred with such recommendations as the standing committee or permanent subcommittee may desire to make except in the case where the principal introducer requests in writing to the chair of the standing committee or permanent subcommittee that the bill not be considered.

With the written approval of the chair of the standing committee and with the recommendation of the subcommittee pursuant to Rule 32(b)(4) through (6), the chair of the permanent subcommittee may report the bill directly to the floor with that recommendation. If a permanent subcommittee recommends reporting a bill to the floor and the chair of the standing committee fails to give approval, the bill shall be deemed to have been reported to the standing committee with the same recommendation as the subcommittee would have made to the House.

(b) **Favorable Report.** – When a standing committee or permanent subcommittee reports a bill with the recommendation that it be passed, the bill shall be placed on the favorable calendar on the day and in the order designated by the Chair of the Standing Committee on Rules, Calendar, and Operations of the House, but no later than the fourth legislative day after submission of the report or Senate message under Rule 43.2 or Rule 43.3(a), unless:

(1) The bill is re-referred to the Committee on Appropriations or Committee on Finance under Rule 38 or was serially referred under Rule 32; or

(2) The bill has not yet been placed on the calendar, and the Speaker refers the bill to another committee.

In order to place a bill on the calendar for a legislative day, notice shall be given by the Chair of the Standing Committee on Rules, Calendar, and Operations of the House orally in the House or in writing to the Principal Clerk. When a committee substitute is adopted and receives a favorable report by the committee or permanent subcommittee, the standing committee or permanent subcommittee chair shall submit to the standing committee or permanent subcommittee the question of an unfavorable report on the original bill. The standing committee's or permanent subcommittee's action, if any, on the original bill shall be reported at the same time the committee substitute is reported.

(c) **Report Without Prejudice.** – When a standing committee reports a bill without prejudice, the bill shall be placed on the favorable calendar in the same manner as provided in subsection (a) of this rule.

(d) **Postponed Indefinitely.** – When a standing committee reports a bill with the recommendation that it be postponed indefinitely and no minority report accompanies it, the bill shall be placed on the unfavorable calendar.

(e) **Unfavorable Report.** – When a standing committee reports a bill with the recommendation that it not be passed and no minority report accompanies it, the bill shall be placed on the unfavorable calendar.

(f) **Minority Report.** – When a bill is reported by a standing committee with a recommendation that it not be passed or that it be postponed indefinitely but it is accompanied by a minority report signed by at least one-fourth of the members of the standing committee who were present and voting when the bill was considered in standing committee, the question before the House shall be: "The adoption of the minority report." If the minority report is adopted by majority vote, the bill shall be placed on the favorable calendar for consideration. If the minority report fails of adoption by a majority vote, the bill shall be placed on the unfavorable calendar.

RULE 36.1. **Fiscal Notes.** – (a) The Chair or Cochair of the Appropriations Committee, of the Finance Committee, or of the Standing Committee on Rules, Calendar, and Operations of the House, upon the floor of the House, may request that a fiscal analysis be made of a bill, resolution, or an amendment to a bill or resolution which is in the possession of the House and that a fiscal note be attached to the measure, which request shall be allowed when, in the opinion of the Speaker, the fiscal effects of that measure are not apparent from the language of the measure.

(b) The fiscal note shall be filed and attached to the bill or amendment within two legislative days of the request. If it is impossible to prepare a fiscal note within two legislative days, the Director of Fiscal Research shall, in writing, so advise the Speaker, the Principal Clerk, and the member introducing or proposing the measure and shall indicate the time when the fiscal note will be ready.

(c) The fiscal note shall be prepared by the Fiscal Research Division on a form approved by the Standing Committee on Rules, Calendar, and Operations of the House as to content and form and signed by the staff member or members preparing it. If no estimate in dollars is possible, the fiscal note shall indicate the reasons that no estimate is provided. The fiscal note shall not comment on the merit but may identify technical problems. The Fiscal Research Division shall make the fiscal note available to the membership of the House.

(d) A sponsor of a bill or amendment may deliver a copy of the bill or amendment to the Fiscal Research Division for the preparation of a fiscal note. The sponsor shall attach the fiscal note to the bill when filed or to the amendment when its adoption is moved.

(e) The sponsor of a bill or amendment to which a fiscal note is attached who objects to the estimates and information provided may reduce to writing the objections. These objections shall be appended to the fiscal note attached to the bill or amendment and to the copies of the fiscal note available to the membership.

(f) Subsection (a) of this rule shall not apply to the Current Operations Appropriations Bill or the Capital Improvement Appropriations Bill. This rule shall not apply to a bill or amendment requiring an actuarial note under these rules.

RULE 36.2. **Actuarial Notes.** – (a) Every bill or resolution proposing any change in the law relative to any:

(1) State, municipal, or other retirement system funded in whole or in part out of public funds; or

(2) Program of hospital, medical, disability, or related benefits provided for teachers and State employees, funded in whole or in part by State funds shall have attached to it at the time of its consideration by any standing committee or permanent subcommittee a brief explanatory statement or note which shall include a reliable estimate of the financial and actuarial effect of the proposed change to that retirement or pension system. The actuarial note shall be attached to the jacket of each proposed bill or resolution which is reported favorably by any standing committee or any permanent subcommittee, shall be separate therefrom, and shall be clearly designated as an actuarial note. A bill described in subdivision (a)(1) of this rule shall be referred to the Committee on Pensions and Retirement upon its introduction.

(b) The sponsor of the bill or resolution shall present a copy of the measure, with a request for an actuarial note, to the Fiscal Research Division, which shall prepare the actuarial note as promptly as possible but not later than two weeks after the request is made unless an extension of time is agreed to by the sponsor as being necessary in the preparation of the note. Actuarial notes shall be prepared in the order of receipt of request and shall be transmitted to the sponsor of the measure. The actuarial note of the Fiscal Research Division shall be prepared and signed by an actuary.

(c) The sponsor of the bill or resolution shall also present a copy of the measure to the actuary employed by the system or program affected by the measure. Actuarial notes shall be prepared and transmitted to the sponsor of the measure not later than two weeks after the request is received, unless an extension of time is agreed to by the sponsor as being necessary in the preparation of the note. The actuarial note shall be attached to the jacket of the measure. The provisions of this subsection may be waived by the measure's sponsor for a measure affecting local government retirement or pension plans not administered by the State or any local government program of hospital, medical, disability, or related benefits for local government employees not administered by the State.

(d) The note shall be factual and shall, if possible, provide a reliable estimate of both the immediate effect and, if determinable, the long-range fiscal and actuarial effect of the measure. If, after careful investigation, it is determined that no dollar estimate is possible, the note shall contain a statement to that effect, setting forth the reasons why no dollar estimate can be given. No comment or opinion shall be included in the actuarial note with regard to the merits of the measure for which the note is prepared. Technical and mechanical defects in the measure may be noted.

(e) When any permanent subcommittee or standing committee reports a measure to which an actuarial note is attached at the time of permanent subcommittee or standing committee consideration, with any amendment of such nature as would substantially affect the cost to or the revenues of any retirement or pension system, or program of

hospital, medical, disability, or related benefits for teachers or State employees, the chair of the permanent subcommittee or standing committee reporting the measure shall obtain from the Fiscal Research Division an actuarial note of the fiscal and actuarial effect of the proposed amendment. The actuarial note shall be attached to the jacket of the measure. An amendment to any bill or resolution shall not be in order if the amendment affects the costs to or the revenues of a State-administered retirement or pension system, or program of hospital, medical, disability, or related benefits for teachers or State employees, unless the amendment is accompanied by an actuarial note, prepared by the Fiscal Research Division, as to the actuarial effect of the amendment.

(f) The Fiscal Research Division shall make all relevant actuarial notes available to the membership of the House.

RULE 36.3. **Local Legislation Affecting State Highway System.** – A local bill affecting the State Highway System shall be referred to the Committee on Transportation.

RULE 37. **Removing Bill From Unfavorable Calendar.** – A bill may be removed from the unfavorable calendar upon motion carried by a two-thirds vote. A motion to remove a bill from the unfavorable calendar is debatable.

RULE 38. **Reports on Appropriation and Revenue Bills.** – (a) All standing committees, other than the Standing Committee on Appropriations, when favorably reporting any bill or resolution which:

(1) Carries an appropriation from the State; or

(2) Requires or will require in the future substantial additional State monies from the General Fund or Highway Fund to implement its provisions shall indicate same in the report, and said bill or resolution shall be referred to the Standing Committee on Appropriations for a further report before being acted upon by the House.

(b) All standing committees, other than the Standing Committee on Finance, when favorably reporting any bill which in any way or manner raises revenue, reduces revenue, levies a tax, authorizes the levying of a tax, an assessment, or a fee, or authorizes the issue of bonds or notes, whether public, public-local, or private, shall indicate same in the report, and said bill shall be referred to the Standing Committee on Finance for a further report before being acted upon by the House.

(c) Action on Amendment Before Re-Referral. – If any standing committee recommends adoption of an amendment or committee substitute of a bill which, under the rules of the House, must be referred to the Standing Committees on Appropriations or the Standing Committee on Finance, the amendment or committee substitute shall be considered and, if adopted, the amendment or substitute engrossed before the bill is re-referred.

RULE 39. **Recall of Bill From Standing Committee.** – (a) When a House bill has been introduced and referred to a standing committee, or when a Senate bill has been referred to a standing committee, if after 10 legislative days the standing committee has failed to act thereon, then the introducer of the House bill or some member designated by the introducer, or some House member designated by the introducer of the Senate bill, may, after three legislative days' public notice given in the House and delivered in

writing to the chair of the standing committee, on motion supported by a vote of three-fifths of the members of the House, recall the same from the standing committee to the floor of the House for consideration and such action thereon as a majority of the members present may direct.

(b) This rule shall not be temporarily suspended without one day's notice on the motion given in the House and delivered in writing to the chair of the standing committee, and to sustain that motion two-thirds of the members of the House shall be required.

RULE 39.1. **Recall of Bill From Permanent Subcommittee.** – When a House bill has been referred to a permanent subcommittee, if after 10 legislative days the subcommittee has failed to act thereon, or at any time, with the agreement of the subcommittee chair, the standing committee chair may re-refer the bill from that permanent subcommittee to another permanent subcommittee of the same standing committee provided the report of the re-referral shall be made pursuant to Rule 32.

RULE 39.2. **Re-Referral of Bills From One Standing Committee to Another Standing Committee.** – Upon consent of the sponsor of the bill, the Speaker, the chair of the standing committee from whom the bill is to be re-referred, and the chair of the standing committee to whom the bill is to be re-referred, the chair of the standing committee from whom the bill is to be re-referred or the chair of the Standing Committee on Rules, Calendar, and Operations of the House may move for a re-referral to another standing committee, and the bill shall be re-referred upon vote of the majority present during a regular session of the House.

RULE 40. **Calendars and Schedules of Business.** – The Clerk of the House shall prepare a daily schedule of business, including the Calendar of Bills and Resolutions for consideration and debate that day, in accordance with the Order of Business of the Day (Rule 5). The Clerk shall number all bills and resolutions in the order in which they are introduced. All bills and resolutions shall be taken up as they appear in each category (Rule 5(10)) in the order they were placed on the Calendar under Rule 36(b).

RULE 41. **Reading of Bills.** – (a) Every bill shall receive three readings in the House prior to its passage. The first reading and reference to standing committee of a House bill shall occur on the next legislative day following its introduction. The first reading and reference to standing committee of a Senate bill shall occur on the next legislative day following its receipt on messages from the Senate. The Speaker shall give notice at each subsequent reading whether it is the second or third reading.

(b) No bill shall be read more than once on the same day without the concurrence of two-thirds of the members present and voting; provided, no bill governed by Article II, Section 23 of the North Carolina Constitution or described in Rule 20(a)(2) herein shall be read twice on one day under any circumstance.

RULE 42. **Effect of a Defeated Bill.** – (a) Subject to the provisions of subsection (b) of this rule, after a bill has:

(1) Been tabled,
(2) Been postponed indefinitely,
(3) Failed to pass on any of its readings, or
(4) Been placed on the unfavorable calendar,

the contents of that bill or the principal provisions of its subject matter shall not be considered in any other measure originating in the Senate or originating thereafter in the House. Upon the point of order being raised and sustained by the Chair, that measure shall be laid upon the table, and shall not be taken therefrom except by a two-thirds vote of the members present and voting.

(b) No local bill shall be held by the Chair to embody the contents of or the principal provisions of the subject matter of any statewide measure which has been laid on the table, has failed to pass on any of its readings, or has been placed on the unfavorable calendar.

RULE 43. **Amendments.** – No amendment to a measure before the House shall be in order unless the amendment is germane to the measure under consideration. A House amendment deleting a previously adopted House amendment shall not be in order, except that this sentence does not apply to amendments adopted under Rule 38(c).

If the Senate adopts an amendment or committee substitute to a House bill, the House may refuse to receive the bill on account of lack of germaneness if the Senate has a similar rule.

Only one principal (first degree) amendment shall be pending at any one time. If a subsequent or substitute principal amendment shall be offered, the Speaker shall rule it out of order. However, any member desiring to offer a subsequent or substitute principal amendment in opposition to the pending amendment may inform the House by way of argument against the pending amendment that if it is defeated the member proposes to offer another principal amendment, and the member may then read and explain such proposed amendment.

Perfecting (or second degree) amendments may be offered and considered without limitation as to number, and in the event of multiple perfecting amendments, they shall be voted upon in inverse order.

RULE 43.1. **Engrossment.** – Bills and resolutions, except those making appropriations, which originate in the House and which are amended, shall be engrossed before being sent to the Senate.

RULE 43.2. **House Concurrence in Senate Amendments to House Bills.** – When the House receives a Senate amendment to a bill originating in the House, it shall be placed on the calendar in accordance with Rule 36(b).

RULE 43.3. **Committee Substitutes Adopted by the Senate to Bills Originating in the House; Procedure for Treatment of Material Amendments Thereto.** – (a) Whenever the Senate has adopted a committee substitute for a bill originating in the House and has returned the bill to the House for concurrence in that committee substitute, it shall be placed on the calendar in accordance with Rule 36(b).

(b) The Speaker shall rule whether the committee substitute is a material amendment under Article II, Section 23 of the North Carolina Constitution which reads:

"**Revenue bills.** – No law shall be enacted to raise money on the credit of the State, or to pledge the faith of the State directly or indirectly for the payment of any debt, or to impose any tax upon the people of the State, or to allow the counties, cities, or towns to do so, unless the bill for the purpose shall have been read three several times in each House of the General Assembly and passed three several readings, which readings shall

have been on three different days, and shall have been agreed to by each House respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal."

If the committee substitute was referred to standing committee, the standing committee shall:

(1) Report the bill with the recommendation either that the House do concur or that the House do not concur; and

(2) Advise the Speaker as to whether or not that committee substitute is a material amendment under Article II, Section 23 of the North Carolina Constitution.

(c) If the committee substitute for a bill is not a material amendment, the question before the House shall be concurrence.

(d) If the committee substitute for a bill is a material amendment, the receiving of that bill on messages shall constitute first reading, and the question before the House shall be concurrence on second reading. If the motion is passed, the question then shall be concurrence on third reading on the next legislative day.

(e) No committee substitute adopted by the Senate for a bill originating in the House may be amended by the House.

RULE 44. **Conference Standing Committees.** – (a) Whenever the House shall decline or refuse to concur in amendments put by the Senate to a bill originating in the House, or shall refuse to concur in a substitute adopted by the Senate for a bill originating in the House, or whenever the Senate shall decline or refuse to concur in amendments put by the House to a bill originating in the Senate, or shall refuse to concur in a substitute adopted by the House for a bill originating in the Senate, a conference committee may be appointed by the Speaker upon the Speaker's own motion and shall be appointed upon request by the principal sponsor of the original bill, the chair of the House standing committee which reported the bill, or the sponsor of the amendment in which the Senate refused to concur; and the bill under consideration shall thereupon go to and be considered by the joint conferees on the part of the House and Senate. In appointing members to conference committees, the Speaker shall appoint no less than a majority of members who generally supported the House position as determined by the Speaker.

(b) Only such matters as are in difference between the two houses shall be considered by the conferees, and the conference report shall deal only with such matters. The conference report may be made by a majority of the House members of such conference committee and shall not be amended.

(c) If the conferees fail to agree or if either house fails to adopt the report of its conferees, new conferees may be appointed.

(d) No vote shall be taken on adoption of a conference report until the next legislative day following the report.

RULE 44.1. **Transmittal of Bills to Senate.** – Unless ordered by the Speaker or two-thirds vote of the members present and voting, no bill shall be sent from the House on the day of its passage, except on the last day of the session.

VII. Legislative Officers and Employees

RULE 45. **Elected Officers.** – (a) The House shall elect its Speaker from among its membership.

(b) The House may elect at least one but not more than two of its members Speaker Pro Tempore who shall perform such duties as the Speaker may assign.

(c) The House shall elect a Principal Clerk, who shall continue in office until another is elected. The Speaker shall appoint a Reading Clerk and a Sergeant-at-Arms, who shall serve at the Speaker's pleasure. The Principal Clerk, Reading Clerk, and Sergeant-at-Arms shall have and perform duties and responsibilities, not inconsistent with these rules, as the Speaker may assign. Unless directed otherwise by the Speaker on behalf of the House, the Principal Clerk or an employee designated by the Principal Clerk shall receive House bills not approved by the Governor. In addition, the Sergeant-at-Arms may assign the Reading Clerk additional duties, to be performed while the House is not in its daily session.

RULE 46. **Assistants to Principal Clerk and Sergeant-at-Arms.** – The Principal Clerk and the Sergeant-at-Arms may appoint, with the approval of the Speaker, such assistants as may be necessary to the efficient discharge of the duties of their respective offices.

RULE 47. **Speaker's Staff; Chaplain; and Pages.** – (a) The Speaker may appoint one or more staff members to the Speaker, a Chaplain of the House, and pages to wait upon the sessions of the House.

(b) When the House is not in session, the pages shall be under the supervision of the Supervisor of Pages.

(c) The Speaker, at the request of a member, may appoint honorary pages.

RULE 48. **Member's Staff.** – (a) Each standing committee and permanent subcommittee shall have a committee assistant. The committee assistant to a standing committee or permanent subcommittee shall serve as staff to the chair of the standing committee or permanent subcommittee.

(b) Each member shall be assigned a legislative assistant, unless the member has a committee assistant to serve as legislative assistant.

(c) The selection and retention of committee assistants, legislative assistants, and office assistants shall be the sole prerogative of the individual member or members. Such staff shall file initial applications for employment with the Principal Clerk and shall receive compensation as prescribed by the Legislative Services Commission. The employment period of such staff shall commence not earlier than the convening date of the General Assembly and shall terminate not later than the final adjournment or recess of the General Assembly unless employment for an extended period is approved by the Speaker. The committee assistants, legislative assistants, and office assistants shall adhere to such uniform rules and regulations not inconsistent with these rules regarding hours and other conditions of employment as the Legislative Services Commission shall fix by appropriate regulations.

RULE 49. **Compensation of Legislative Assistants.** – No clerk, committee assistant, legislative assistant, office assistant, or other person employed or appointed under Rules 46, 47, and 48 hereof shall receive during such employment, appointment, or service any compensation from any department of the State government, and there

shall not be voted, paid, or awarded any additional pay, bonus, or gratuity to any of them; but they shall receive only the pay now provided by law for such duties and services.

VIII. Privileges of the Hall

RULE 50. **Admittance to Floor.** – No person except members, officers, and employees of the General Assembly who have been issued identification tags as provided by this rule, and former members of the General Assembly who are not registered under the provisions of Article 9 of Chapter 120 of the General Statutes, shall be allowed on the floor of the House during its session, unless permitted by the Speaker or otherwise provided by law. Employees of the General Assembly shall wear identification tags, approved by the Legislative Services Officer, when on the floor of the House.

RULE 51. **Admittance of Press.** – Reporters wishing to take down debates may be admitted by the Speaker, who shall assign such places to them on the floor or elsewhere, to effect this object, as shall not interfere with the convenience of the House. Reporters admitted to the floor of the House shall observe the same requirements of attire for members contained in Rule 12(h).

RULE 52. **Extending Courtesies.** – Courtesies of the floor, galleries, or lobby shall be extended at the discretion of the Speaker and only by the Speaker. Requests by members to extend these courtesies shall be typewritten and delivered to the Speaker. No member shall orally ask the Speaker to extend these courtesies during the daily session.

RULE 53. **Order in House Chamber, Galleries, and Lobby.** – In case of any disturbance or disorderly conduct in the House Chamber, galleries, or lobby, the Speaker or other presiding officer is empowered to order the same to be cleared to the extent they deem necessary.

IX. General Rules

RULE 54. **Attendance of Members.** – No member or officer of the House shall be absent from the service of the House without leave, unless from sickness or disability.

RULE 55. **Documents to Be Signed by the Speaker.** – All acts, addresses, and resolutions and all warrants and subpoenas issued by order of the House shall be signed by the Speaker or other presiding officer.

RULE 56. **Printing or Reproducing Materials.** – There shall be no printing or reproducing of paper(s) that are not legislative in essence except upon approval of the Speaker.

RULE 57. **Placement or Circulation of Materials.** – Persons other than members of the House shall not place or cause to be placed any materials on members' desks in the House Chamber without obtaining approval of the Speaker. Any material placed on members' desks in the House Chamber, or circulated to House members anywhere in the Legislative Building or the Legislative Office Building, shall bear the name of the originator.

RULE 58. **Rules, Rescission, and Alteration.** – (a) These rules shall not be permanently rescinded or altered except by House simple resolution passed by a two-thirds vote of the members present and voting. The introducer of the resolution

must on the floor of the House give notice of intent to introduce the resolution on the legislative day preceding its introduction.

(b) Except as otherwise provided herein, the House upon two-thirds vote of the members present and voting may temporarily suspend any rule.

RULE 59. **Cosponsorship of Bills and Resolutions.** – (a) Any member wishing to cosponsor a bill or resolution which has been introduced may do so by appearing in the office of the Principal Clerk for such purpose within one-half hour following the adjournment of the session during which such bill or resolution was first read and referred.

(b) Members wishing to jointly sponsor legislation should indicate such to the drafter at the time the bill is requested or upon filing the bill with the Principal Clerk's office. The names of the members who are the primary sponsors shall be listed in the order requested by them, followed by the words (Primary Sponsors); and the remaining names of members cosponsoring shall follow. No more than four members may be listed as primary sponsors.

(c) No member shall permit anyone, other than that member's committee assistant, legislative assistant, office assistant, or another member, to have possession of and solicit for bill or resolution cosponsorship, the jacket of a bill or resolution.

RULE 60. **Correcting of Typographical Errors.** – The Legislative Services Officer may correct typographical errors appearing in House bills or resolutions provided that such corrections are made before ratification and do not conflict with any actions or rules of the Senate and provided further that such correction be approved by the Chair of the Standing Committee on Rules, Calendar, and Operations of the House, the Speaker, or other presiding officer.

RULE 61. **Assignment of Seats.** – After initial assignment of seats, a member shall continue to occupy the seat to which initially assigned until assigned a permanent seat; once assigned a permanent seat, the member shall occupy it for the entire biennial session. In event of vacancy, that member's successor will occupy the seat of the member replaced for the remainder of the biennial session.

RULE 61.1. **Office Assignments.** – The Chair of the Standing Committee on Rules, Calendar, and Operations of the House shall assign to each member an office space. When available, chairs of standing committees and permanent subcommittees shall be assigned an office adjacent to the room in which the standing committee or permanent subcommittee generally meets if the Chair so desires. The Speaker shall be assigned an office of his or her choice.

RULE 61.2. **Convening and Assigning Seats in the New House.** – (a) The Principal Clerk of the previous House of Representatives shall convene the House of Representatives at 12:00 noon on the date established by law for the convening of each regular session and preside over the body until the members elect a Speaker. In the case of a vacancy, inability, or refusal to so serve, the duty shall devolve upon the Sergeant-at-Arms of the prior House, and in the case of a vacancy in that office, or inability or refusal to so serve, the duty shall devolve upon the Reading Clerk of the prior House.

(b) It shall be the duty of the Chair of the Standing Committee on Rules, Calendar, and Operations of the House of the prior House to assign temporary seats to the members of the House of Representatives in its Chamber. In the case of the inability or refusal to serve of the Chair of the Standing Committee on Rules, Calendar, and Operations of the House, the Speaker of the prior House of Representatives shall appoint a person to assign seats to members of the House of Representatives in its Chamber. In the event that the party that had a majority of members in the prior House will no longer have a majority of members in the new House, then the duty assigned in this subsection to the Chair of the Committee of the prior House shall instead be the duty of the person nominated as Speaker by the majority party caucus for the new House, or some member-elect designated by the Speaker-nominee. In the event no party will have a majority, then the duty assigned in this subsection to the Chair of the Committee of the prior House shall instead be the joint duty of one person chosen each by the caucuses of the two parties having the greatest numbers of members.

RULE 62. **Matters Not Covered in These Rules.** – Except as herein set out, the rules of Mason's Manual of Legislative Procedure shall govern the operation of the House.

SECTION 2. This resolution is effective upon adoption.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.R. 280 A HOUSE RESOLUTION ADOPTING THE PERMANENT RULES OF THE HOUSE OF REPRESENTATIVES FOR THE 2003 REGULAR SESSIONS.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 656

Committee Substitute Favorable 4/7/03

Short Title: Amend Trust Administration Act. (Public)

Sponsors:

Referred to:

March 25, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE TRUST ADMINISTRATION ACT AND TO MAKE RELATED CHANGES TO THE LAW GOVERNING ACCOUNTINGS IN TESTAMENTARY TRUSTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 36A-23.1(a) reads as rewritten:

"(a) The clerks of superior court of this State have original jurisdiction over all proceedings initiated by interested persons concerning the internal affairs of trusts except proceedings ~~to modify or terminate trusts.~~ governed by Article 11A of this Chapter. Except as provided in subdivision (3) of this subsection, the clerk's jurisdiction is exclusive. Proceedings that may be maintained under this subsection are those concerning the administration and distribution of trusts, the declaration of rights, and the determination of other matters involving trustees and trust beneficiaries, to the extent that those matters are not otherwise provided for in the governing instrument. These include proceedings:

(1) To appoint or remove a trustee;

(1a) To permit a trustee to resign or renounce; however, unless the trustee is required to account to the clerk, when the governing instrument names or provides a procedure to name a successor trustee, and the successor trustee is willing to serve, no trustee shall be required to initiate a proceeding to resign or renounce as trustee;

(2) To review trustees' fees pursuant to ~~G.S. 32-50~~ Article 5 of Chapter 32 of the General Statutes and review and settle interim or final accounts; and

(3) To ascertain beneficiaries, to determine any question arising in the administration or distribution of any trust, including questions of construction of trust instruments, and to determine the existence or nonexistence of trusts created other than by will and the existence or nonexistence of any immunity, power, privilege, duty, or right. The

clerk, on the clerk's own motion, may determine that a proceeding to determine an issue listed in this subdivision shall be originally heard by a superior court judge."

SECTION 2. G.S. 36A-24.1(b) reads as rewritten:

"(b) If the trustee is not required to account to the clerk, then unless the terms of the governing instrument provide otherwise, venue for proceedings under G.S. 36A-23.1 involving trusts ~~is in~~ is:

(1) In the case of an inter vivos trust, in any county of this State in which the trust has its principal place of administration or where any beneficiary ~~resides.~~ resides; or

(2) In the case of a testamentary trust, in any county of this State in which the trust has its principal place of administration, where any beneficiary resides, or in which the testator's estate was administered."

SECTION 3. G.S. 36A-26.1 reads as rewritten:

"**§ 36A-26.1. Trust proceedings; necessary parties.**

Proceedings under G.S. 36A-23.1 are initiated by filing a petition or complaint in the office of the clerk of superior court. Upon the filing of the petition, the clerk shall docket the cause as an estate matter. All ~~known beneficiaries, trustees, or cotrustees~~ trustees and interested persons not joined as petitioners shall be joined as respondents. The clerk shall issue the summons for the respondents. The clerk may order ~~notification of~~ that additional persons be joined as respondents and shall issue the summons for the additional persons. ~~An order is valid as to all persons who are given notice of the proceeding even if all interested persons are not notified. The beneficiaries, creditors, or any other persons interested in the trust estate have the right to~~ The summons shall notify the respondents to appear and answer the petition ~~and to offer evidence against granting the petition. The clerk shall then proceed to hear~~ within 10 days after its service upon the respondents. The summons shall comply with the requirements set forth in G.S. 1-394 for a special proceeding summons except that the clerk shall indicate on the summons by appropriate words that the summons is issued in an estate matter and not in a special proceeding or in a civil action. The clerk shall set the matter for hearing after the period for respondents to answer the petition has expired and shall direct the petitioners to provide notice of the hearing to respondents. At the hearing, petitioners and respondents may offer evidence for and against granting the petition, and the clerk shall decide and determine the matter as provided ~~for in G.S. 1-301.3.~~ in G.S. 1-301.3. An order entered by the clerk is valid as to all persons upon whom a summons is served."

SECTION 4. G.S. 36A-29 reads as rewritten:

"**§ 36A-29. ~~Final accounting before resignation.~~ Accounting to the clerk.**

(a) No trustee, including a trustee appointed by the clerk, shall be required to account to the clerk of superior court unless the governing instrument directs that the trustee shall be required to account to the clerk or unless the trustee is otherwise required by law to account to the clerk.

(b) If the trustee is required to account to the clerk of superior court, then unless the terms of the governing instrument provide otherwise, no trustee shall be permitted to

resign as trustee until a final account of the trust estate is filed with the clerk, and until the court shall be satisfied that the account is true and correct."

SECTION 5. G.S. 36A-31 reads as rewritten:

"**§ 36A-31. When bond required.**

A trustee ~~need not~~ shall provide bond to secure performance of the trustee's duties ~~unless required by the~~ if:

(1) The terms of the governing ~~instrument, reasonably requested by a beneficiary, or found by the clerk to be necessary~~ instrument require the trustee to provide bond;

(2) A beneficiary requests the trustee to provide bond and the clerk finds the request to be reasonable; or

(3) The clerk finds that it is necessary for the trustee to provide bond in order to protect the interests of beneficiaries who are not able to protect themselves and whose interests otherwise are not adequately represented.

However, in no event shall bond be required of a trustee, including a trustee appointed by the clerk, if the governing instrument directs otherwise. On petition of the trustee or other interested person, the clerk may excuse a requirement of bond, reduce the amount of the bond, release the surety, or permit the substitution of another bond with the same or different sureties. ~~If the governing instrument is silent as to the requirement of a bond and the clerk finds that no bond is necessary, or if the clerk excuses or reduces the bond requirement, the clerk's decision must be approved by a superior court judge unless all beneficiaries have been notified of the decision.~~ If bond is required, it shall be in a sum double the value of the personal property to come into the trustee's hands when bond is executed by a personal surety, and in an amount not less than one and one-fourth times the value of all personal property of the trust estate when the bond is secured by a suretyship bond executed by a corporate surety company authorized by the Commissioner of Insurance to do business in this State, provided that the clerk of superior court, when the value of the personal property exceeds one hundred thousand dollars ($100,000), may accept bond in an amount equal to the value of the personal property plus ten percent (10%) thereof, conditioned upon the faithful performance of the trustee's duties and for the payment to the persons entitled to receive all moneys, assets, or other things of value which may come into the trustee's hands. All bonds executed under the provisions of this Article shall be filed with the clerk."

SECTION 6. G.S. 36A-32 reads as rewritten:

"**§ 36A-32. Rights and duties devolve on successor.**

A successor ~~trustee~~ trustee, including a successor trustee appointed by the clerk, shall succeed to all the rights, powers, and privileges, and shall be subject to all the duties, liabilities, and responsibilities that were imposed upon the original trustee unless a contrary intent appears from the governing ~~instrument~~ instrument or unless the order appointing the successor trustee provides otherwise."

SECTION 7. G.S. 36A-107 reads as rewritten:

"**§ 36A-107. Trustees in wills to qualify and file inventories and accounts.**

~~Trustees~~In any will creating a testamentary trust ~~appointed in any will~~ admitted to probate in this ~~State, into whose hands assets come under the provisions of the will,~~ State that directs that the trustee shall be required to account to the clerk, the trustee shall first qualify under the laws applicable to executors, and shall file in the office of the clerk of the county where the will is probated inventories of the assets ~~which~~ that come into ~~his~~ the trustee's hands and annual and final accounts ~~thereof,~~of the trust ~~such~~ that are the same as are required of executors and administrators. The power of the clerk to enforce the filing and ~~his~~the clerk's duties ~~in respect to auditing and approving~~ to audit and approve the trustee's inventories and accounts shall be the same as ~~in such cases.~~ the clerk's powers and duties with respect to the inventories and accounts of executors and administrators. This section shall not apply to the extent that any will makes a different provision. No trustee, including a trustee appointed by the clerk, shall be required to account to the clerk unless the subject will directs that the trustee shall be required to account to the clerk or unless otherwise required by law."

SECTION 8. Sections 4 and 7 of this act are effective retroactively to January 1, 1978, and apply to all trusts in existence on or after that date for which no accounting has been filed and no proceeding to compel an accounting is instituted prior to January 1, 2004; for all other trusts, Sections 4 and 7 become effective January 1, 2004. The remainder of this act becomes effective January 1, 2004, and applies to all trusts created before or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 656

Committee Substitute Favorable 4/7/03

PROPOSED COMMITTEE SUBSTITUTE H656-CSSW-27 [v.1]

4/28/2003 3:48:22 PM

Short Title: Amend Trust Administration Act. (Public)

Sponsors:

Referred to:

March 25, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE TRUST ADMINISTRATION ACT AND TO MAKE RELATED CHANGES TO THE LAW GOVERNING ACCOUNTINGS IN TESTAMENTARY TRUSTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 36A-23.1(a) reads as rewritten:

"(a) The clerks of superior court of this State have original jurisdiction over all proceedings initiated by interested persons concerning the internal affairs of trusts except proceedings ~~to modify or terminate trusts.~~ governed by Article 11A of this Chapter. Except as provided in subdivision (3) of this subsection, the clerk's jurisdiction is exclusive. Proceedings that may be maintained under this subsection are those concerning the administration and distribution of trusts, the declaration of rights, and the determination of other matters involving trustees and trust beneficiaries, to the extent that those matters are not otherwise provided for in the governing instrument. These include proceedings:

(1) To appoint or remove a trustee;

(1a) To permit a trustee to resign or renounce; however, unless the trustee is required to account to the clerk, when the governing instrument names or provides a procedure to name a successor trustee, and the successor trustee is willing to serve, no trustee shall be required to initiate a proceeding to resign or renounce as trustee;

(2) To review trustees' fees pursuant to ~~G.S. 32-50~~ Article 5 of Chapter 32 of the General Statutes and review and settle interim or final accounts; and

(3) To ascertain beneficiaries, to determine any question arising in the administration or distribution of any trust, including questions of construction of trust instruments, and to determine the existence or

nonexistence of trusts created other than by will and the existence or nonexistence of any immunity, power, privilege, duty, or right. The clerk, on the clerk's own motion, may determine that a proceeding to determine an issue listed in this subdivision shall be originally heard by a superior court judge."

SECTION 2. G.S. 36A-24.1(b) reads as rewritten:

"(b) If the trustee is not required to account to the clerk, then unless the terms of the governing instrument provide otherwise, venue for proceedings under G.S. 36A-23.1 involving trusts ~~is in~~ is:

(1) In the case of an inter vivos trust, in any county of this State in which the trust has its principal place of administration or where any beneficiary ~~resides.~~ resides; or

(2) In the case of a testamentary trust, in any county of this State in which the trust has its principal place of administration, where any beneficiary resides, or in which the testator's estate was administered."

SECTION 3. G.S. 36A-26.1 reads as rewritten:

"**§ 36A-26.1. Trust proceedings; necessary parties.**

Proceedings under G.S. 36A-23.1 are initiated by filing a petition or complaint in the office of the clerk of superior court. Upon the filing of the petition, the clerk shall docket the cause as an estate matter. All ~~known beneficiaries, trustees, or cotrustees~~ trustees and interested persons not joined as petitioners shall be joined as respondents. The clerk shall issue the summons for the respondents. The clerk may order ~~notification of~~ that additional persons be joined as respondents and shall issue the summons for the additional persons. ~~An order is valid as to all persons who are given notice of the proceeding even if all interested persons are not notified. The beneficiaries, creditors, or any other persons interested in the trust estate have the right to~~ The summons shall notify the respondents to appear and answer the petition ~~and to offer evidence against granting the petition. The clerk shall then proceed to hear~~ within 10 days after its service upon the respondents. The summons shall comply with the requirements set forth in G.S. 1-394 for a special proceeding summons except that the clerk shall indicate on the summons by appropriate words that the summons is issued in an estate matter and not in a special proceeding or in a civil action. The clerk shall set the matter for hearing after the period for respondents to answer the petition has expired and shall direct the petitioners to provide notice of the hearing to respondents. At the hearing, petitioners and respondents may offer evidence for and against granting the petition, and the clerk shall decide and determine the matter as provided ~~for in G.S. 1-301.3.~~ in G.S. 1-301.3. An order entered by the clerk is valid as to all persons upon whom a summons is served."

SECTION 4. G.S. 36A-29 reads as rewritten:

"**§ 36A-29. ~~Final accounting before resignation.~~ Accounting to the clerk.**

(a) No trustee, including a trustee appointed by the clerk, shall be required to account to the clerk of superior court unless the governing instrument directs that the trustee shall be required to account to the clerk or unless the trustee is otherwise required by law to account to the clerk.

(b) If the trustee is required to account to the clerk of superior court, then unless the terms of the governing instrument provide otherwise, no trustee shall be permitted to resign as trustee until a final account of the trust estate is filed with the clerk, and until the court shall be satisfied that the account is true and correct."

SECTION 5. G.S. 36A-31 reads as rewritten:

"§ 36A-31. When bond required.

A trustee ~~need not~~ shall provide bond to secure performance of the trustee's duties ~~unless required by the~~ if:

(1) The terms of the governing ~~instrument, reasonably requested by a beneficiary, or found by the clerk to be necessary~~ instrument require the trustee to provide bond;

(2) A beneficiary requests the trustee to provide bond and the clerk finds the request to be reasonable; or

(3) The clerk finds that it is necessary for the trustee to provide bond in order to protect the interests of beneficiaries who are not able to protect themselves and whose interests otherwise are not adequately represented.

However, in no event shall bond be required of a trustee, including a trustee appointed by the clerk, if the governing instrument directs otherwise. On petition of the trustee or other interested person, the clerk may excuse a requirement of bond, reduce the amount of the bond, release the surety, or permit the substitution of another bond with the same or different sureties. ~~If the governing instrument is silent as to the requirement of a bond and the clerk finds that no bond is necessary, or if the clerk excuses or reduces the bond requirement, the clerk's decision must be approved by a superior court judge unless all beneficiaries have been notified of the decision.~~ If bond is required, it shall be in a sum double the value of the personal property to come into the trustee's hands when bond is executed by a personal surety, and in an amount not less than one and one-fourth times the value of all personal property of the trust estate when the bond is secured by a suretyship bond executed by a corporate surety company authorized by the Commissioner of Insurance to do business in this State, provided that the clerk of superior court, when the value of the personal property exceeds one hundred thousand dollars ($100,000), may accept bond in an amount equal to the value of the personal property plus ten percent (10%) thereof, conditioned upon the faithful performance of the trustee's duties and for the payment to the persons entitled to receive all moneys, assets, or other things of value which may come into the trustee's hands. All bonds executed under the provisions of this Article shall be filed with the clerk."

SECTION 6. G.S. 36A-32 reads as rewritten:

"§ 36A-32. Rights and duties devolve on successor.

A successor ~~trustee~~ trustee, including a successor trustee appointed by the clerk, shall succeed to all the rights, powers, and privileges, and shall be subject to all the duties, liabilities, and responsibilities that were imposed upon the original trustee unless a contrary intent appears from the governing ~~instrument~~ instrument or unless the order appointing the successor trustee provides otherwise."

SECTION 7. G.S. 36A-107 reads as rewritten:

"**§ 36A-107. Trustees in wills to qualify and file inventories and accounts.**

~~Trustees~~In any will creating a testamentary trust ~~appointed in any will~~ admitted to probate in this ~~State, into whose hands assets come under the provisions of the will,~~ State that directs that the trustee shall be required to account to the clerk, the trustee shall first qualify under the laws applicable to executors, and shall file in the office of the clerk of the county where the will is probated inventories of the assets ~~which~~ that come into ~~his~~ the trustee's hands and annual and final accounts ~~thereof,~~of the trust ~~such~~ that are the same as are required of executors and administrators. The power of the clerk to enforce the filing and ~~his~~the clerk's duties ~~in respect to auditing and approving~~ to audit and approve the trustee's inventories and accounts shall be the same as ~~in such cases.~~ the clerk's powers and duties with respect to the inventories and accounts of executors and administrators. This section shall not apply to the extent that any will makes a different provision. No trustee, including a trustee appointed by the clerk, shall be required to account to the clerk unless the subject will directs that the trustee shall be required to account to the clerk or unless otherwise required by law."

SECTION 8. Sections 4, 5 and 7 of this act apply to testamentary trusts created by decedents dying on or after January 1, 2004 and inter vivos trusts created on or after January 1, 2004. The remainder of this act becomes effective January 1, 2004, and applies to all trusts created before or after that date.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
H.B. 656 A BILL TO BE ENTITLED AN ACT TO AMEND THE TRUST ADMINISTRATION ACT AND TO MAKE RELATED CHANGES TO THE LAW GOVERNING ACCOUNTINGS IN TESTAMENTARY TRUSTS.

☐ 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 the committee substitute bill (# 2), ☐ ~~which changes the title~~, unfavorable as to ~~(the original bill)~~ (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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 807

Committee Substitute Favorable 4/23/03

Short Title: Elective Share Amendments. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY CERTAIN PROVISIONS OF THE LAW ESTABLISHING THE ELECTIVE SHARE OF A DECEDENT'S SURVIVING SPOUSE AND TO REPEAL THE RIGHT OF A SURVIVING SPOUSE TO ELECT A LIFE INTEREST IN LIEU OF AN INTESTATE SHARE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 30-3.1 reads as rewritten:

"**§ 30-3.1. Right of elective share.**

(a) Elective Share. – The surviving spouse of a decedent who dies domiciled in this State has a right to claim an "elective share", which means an amount equal to (i) the applicable share of the Total Net Assets, as defined in ~~G.S. 30-3.2(c),~~G.S. 30-3.2(4), less (ii) the value of Property Passing to Surviving Spouse, as defined in G.S. 30-3.3(a). The applicable share of the Total Net Assets is as follows:

(1) If the decedent is not survived by any lineal descendants, one-half of the Total Net Assets.

(2) If the decedent is survived by one child, or lineal descendants of one deceased child, one-half of the Total Net Assets.

(3) If the decedent is survived by two or more children, or by one or more children and the lineal descendants of one or more deceased children, or by the lineal descendants of two or more deceased children, one-third of the Total Net Assets.

(b) Reduction of Applicable Share. – In those cases in which the surviving spouse is a second or successive spouse, and the decedent has one or more lineal descendants surviving by a prior marriage but there are no lineal descendants surviving by the surviving spouse, the applicable share as determined in subsection (a) of this section shall be reduced by one-half.

(c) Death Taxes. – Death taxes shall be taken into account as a claim against the estate in determining Total Net Assets only to the extent that ~~such taxes are increased because~~the assets received by the surviving spouse do not qualify for the federal estate

tax marital deduction pursuant to section 2056 of the Code or similar provisions under the laws of any other applicable taxing jurisdiction. The amount of such claims shall equal the difference between the amount of such death taxes as finally determined and the amount such death taxes would have been if all assets received by the surviving spouse had qualified for the federal estate tax marital deduction pursuant to section 2056 of the Code and similar provisions under the laws of any other applicable taxing jurisdictions."

SECTION 2. G.S. 30-3.2 reads as rewritten:

"**§ 30-3.2. Definitions.**

The following definitions apply in this Article:

(1) "Code" means the Internal Revenue Code in effect at the time of the decedent's death.

(2) "Death taxes" means any estate, inheritance, succession, and similar taxes imposed by any taxing authority, reduced by any applicable credits against those taxes.

(3) "Nonadverse trustee" ~~means a trustee who would be deemed nonadverse under section 672 of the Code.~~ means:

a. Any person who does not possess a substantial beneficial interest in the trust that would be adversely affected by the exercise or nonexercise of the power that the individual trustee possesses respecting the trust;

b. Any person subject to a power of removal by the surviving spouse with or without cause; or

c. Any company authorized to engage in trust business under the laws of this State, or that otherwise meets the requirements to engage in trust business under the laws of this State.

(4) "Total Net Assets" means, after the payment or provision for payment of the decedent's funeral expenses, year's allowances to persons other than to the surviving spouse, debts, claims other than an equitable distribution of property awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent, and administration expenses, the sum of the following:

a. All property to which the decedent had legal and equitable title immediately prior to death;

b. All property received by the decedent's personal representative by reason of the decedent's death, other than wrongful death proceeds;

c. One-half of the value of any property held by the decedent and the surviving spouse as tenants by the entirety, or as joint tenants with rights of survivorship;

d. The entire value of any interest in property held by the decedent and another person, other than the surviving spouse, as joint tenants with right of survivorship, except to the extent that contribution can be proven by clear and convincing evidence;

e. The value of any property which would be included in the taxable estate of the decedent pursuant to sections 2033, 2035, 2036, 2037, 2038, 2039, or 2040 of the Code.

f. Any ~~donative transfers~~gifts of property made by the decedent to donees other than the surviving spouse within six months of the decedent's death, excluding:

1. Any gifts within the annual exclusion provisions of section 2503 of the Code;
2. Any gifts to which the surviving spouse consented. A signing of a deed, or income or gift tax return reporting such gift shall be considered consent; and
3. Any gifts made prior to marriage;

g. Any proceeds of any individual retirement account, pension or profit-sharing plan, or any private or governmental retirement plan or annuity of which the decedent controlled the designation of beneficiary, excluding any benefits under the federal social security system;

h. Any other Property Passing to Surviving Spouse under G.S. 30-3.3; and

i. In case of overlapping application of the same property under more than one provision, the property shall be included only once under the provision yielding the greatest value."

SECTION 3. G.S. 30-3.3(a) reads as rewritten:

"**§ 30-3.3. Property Passing to Surviving Spouse.**

(a) Property Passing to Surviving Spouse. – For purposes of this Article, "Property Passing to Surviving Spouse" means the sum of the following:

(1) One-half of the value of any interest in property held by the decedent and the surviving spouse as tenants by the entirety or as joint tenants with rights of survivorship;

(2) The value of any interest in property (outright or in trust, including any interest subject to a general power of appointment held by the surviving spouse, as defined in section 2041 of the Code) devised by the decedent to the surviving spouse, or which passes to the surviving spouse by intestacy, or by beneficiary designation, or by exercise of or in default of the exercise of the decedent's testamentary general or limited power of appointment, or by operation of law or otherwise by reason of the decedent's death, excluding any benefits under the federal social security system;

(3) Any year's allowance awarded to the surviving spouse;

(4) The value of any property renounced by the surviving spouse;

(5) The value of the surviving spouse's interest, outright or in trust, in any life insurance proceeds on the life of the decedent;

(6) The value of any interest in property, outright or in trust, transferred from the decedent to the surviving spouse during the lifetime of

decedent for which (i) a gift tax return is timely filed reporting such gift, or (ii) the surviving spouse signs a statement acknowledging such a gift. For purposes of this subdivision, any gift to the surviving spouse by the decedent of the decedent's interest in any property held by the decedent and the surviving spouse as tenants by the entirety or as joint tenants with right of survivorship shall be valued at one-half of the entire value of that interest in property at the time the gift is made;

(7) ~~The~~ Notwithstanding any other provision of law related to valuing a partial interest in property, the entire fair market value of any property held in trust for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime, ~~where the trust requires a Nonadverse Trustee to utilize the principal and income of the trust for the support and maintenance of the surviving spouse; and~~if the terms of the trust meet the following requirements:

a. During the lifetime of the surviving spouse, the trust is controlled by one or more Nonadverse Trustees;

b. The trustee is required to distribute to or for the benefit of the surviving spouse either (i) the entire net income of the trust at least annually; or (ii) the income of the trust in such amounts and at such times as the trustee, in its discretion, determines necessary for the health, maintenance, and support of the surviving spouse;

c. The trustee is required to distribute to or for the benefit of the surviving spouse out of the principal of the trust such amounts and at such times as the trustee, in its discretion, determines necessary for the health, maintenance, and support of the surviving spouse; and

In exercising discretion, the trustee may be authorized or required to take into consideration all other income, assets, and other means of support as are available to the surviving spouse; and

(8) The net value of the marital estate awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent."

SECTION 4. G.S. 30-3.4 reads as rewritten:

"**§ 30-3.4. Procedure for determining the elective share.**

(a) Exercisable Only During Lifetime. – The right of the surviving spouse to file a claim for an elective share must be exercised during the lifetime of the surviving spouse, by the surviving spouse, the surviving spouse's agent under a power of attorney, or the guardian of the surviving spouse's estate. If a surviving spouse dies before the claim for an elective share has been settled, the surviving spouse's personal representative shall succeed to the surviving spouse's rights to an elective share.

(b) Time Limitations. – A claim for an elective share must be made within six months after the issuance of letters testamentary or letters of administration in connection with the will or intestate proceeding with respect to which the surviving spouse claims the elective share by (i) filing a petition with the clerk of superior court of

the county in which the primary administration of the decedent's estate lies, and (ii) mailing or delivering a copy of that petition to the personal representative of the decedent's estate. A surviving spouse's incapacity shall not toll the six-month period of limitations.

(c) Time for Hearing. – Unless waived by the personal representative and the surviving spouse, the clerk shall set the matter for hearing no earlier than two months and no later than six months after the filing of the petition. However, the clerk may extend the time of hearing as the clerk sees fit. The surviving spouse shall give notice of the hearing to the personal representative, and to any person described in G.S. 30-3.5 who may be required to contribute toward the satisfaction of the elective share.

(d) Preparation of Tax Form. – In every case in which a petition to determine an elective share has been filed, and within two months of the filing of the petition, the personal representative shall prepare and submit to the clerk a proposed Form 706, federal estate tax return, for the estate, regardless of whether that form is required to be filed with the Internal Revenue Service. The clerk may extend the time for submission of the proposed Form 706 as the clerk sees fit.

(e) Valuation. – The valuation of interests in property for purposes of G.S. 30-3.2 and G.S. 30-3.3 shall be determined as follows:

(1) Basic principles. – Each interest shall be valued at its fair market value, reduced by all liens, claims, or encumbrances against the interest. For interests passing at the decedent's death, valuation shall be as of the date of death, and for interests transferred during the decedent's lifetime, valuation shall be as of the date of transfer.

(2) Valuation of partial and contingent interests in property. – The valuation of interests in property, outright or in trust, which are limited to commence or terminate upon the death of one or more persons, upon the expiration of a period of time, or upon the occurrence of one or more contingencies, shall be determined by computations based upon the mortuary and annuity tables set forth in G.S. 8-46 and G.S. 8-47, and upon the basis of six percent (6%) of the gross value of the underlying property in which those interests are limited. However, in valuing interests passing to the surviving spouse, the following special rules apply:

a. ~~To the extent that the interest is dependent upon the exercise of discretion by a fiduciary, the interest shall have no value unless the spouse is serving as that fiduciary and the power to distribute the trust property constitutes a general power of appointment held by the spouse, as defined in section 2041 of the Code or the fiduciary is a Nonadverse Trustee required to utilize the income and principal for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime;~~An interest described in G.S. 30-3.3(a)(7) that shall be valued as if the underlying property or interest passed outright to the surviving spouse unencumbered by any trust;

b. To the extent that the interest is dependent upon the occurrence of any contingency that is not subject to the control of the surviving spouse and that is not subject to valuation by reference to the mortuary and annuity tables set forth in G.S. 8-46 and G.S. 8-47, the contingency will be conclusively presumed to result in the lowest possible value passing to the surviving spouse. However, a life estate or income interest that will terminate only upon the earlier of the surviving spouse's death or remarriage will be valued without regard to the possibility of termination upon remarriage; and

c. To the extent that the valuation of an interest is dependent upon the life expectancy of the surviving spouse, that life expectancy shall be conclusively presumed to be no less than 10 years, regardless of the actual attained age of the surviving spouse at the decedent's death.

(3) Determination of fair market value. – The fair market value of each asset comprising Total Net Assets shall be determined as follows:

a. Probate assets and assets passing to spouse. – The value of each probate asset and Property Passing to Surviving Spouse, other than assets held in trust, shall be established by the good faith agreement of the surviving spouse and the personal representative, unless either (i) the surviving spouse is the personal representative, or (ii) the clerk determines that the personal representative may not be able to represent the estate adversely to the surviving spouse.

b. Trust assets. – The value of each trust asset shall be established by good faith agreement of the surviving spouse and the trustee, unless either (i) the surviving spouse is the trustee, or (ii) the clerk determines that the trustee may not be able to represent the trust adversely to the surviving spouse.

c. Other assets. – The value of any other asset shall be established by the good faith agreement of the surviving spouse and each person described in G.S. 30-3.5 who may be required to contribute toward the satisfaction of the elective share because of that person's interest in the asset, unless the clerk determines that valuation under sub-subdivision d. of this subdivision is more appropriate.

d. Use of disinterested persons. – If the value of any asset is not established by agreement, the clerk shall appoint one or more qualified and disinterested persons to determine a value of each asset. That determination of the value of an asset shall be final for the exclusive purposes of this Article.

(f) Findings and Conclusions. – After notice and hearing, the clerk shall determine whether or not the surviving spouse is entitled to an elective share, and if so,

the clerk shall then determine the elective share and shall order the personal representative to transfer that amount to the surviving spouse. The clerk's order shall recite specific findings of fact and conclusions of law in arriving at the decedent's Total Net Assets, Property Passing to Surviving Spouse, and the elective share.

(g) Appeals. – Any party in interest may appeal from the decision of the clerk to the superior court. If an appeal is taken from the decision of the clerk, that appeal shall have the effect of staying the judgment and order of the clerk until the cause is heard and determined by the superior court upon the appeal taken. Upon an appeal taken from the clerk to the superior court, the judge may review the findings of fact by the clerk and may find the facts or take other evidence, but the facts found by the judge shall be final and conclusive upon any appeal to the Appellate Division."

SECTION 5. G.S. 30-3.6 is amended by adding a new subsection to read:

"(c) A written waiver executed prior to January 1, 2001, that would have been effective to waive a spouse's right to dissent in estates of decedents dying on or before December 31, 2000, under Article 1 of Chapter 30 of the General Statutes, is effective to waive that spouse's right of elective share under this Article for estates of decedent's dying on or after January 1, 2001."

SECTION 6. Section 5 of this act is effective when it becomes law. The remainder of this act becomes effective January 1, 2004, and applies to estates of decedents dying on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 807

Committee Substitute Favorable 4/23/03

PROPOSED COMMITTEE SUBSTITUTE H807-CSSW-23 [v.1]

4/28/2003 2:04:06 PM

Short Title: Elective Share Amendments. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY CERTAIN PROVISIONS OF THE LAW ESTABLISHING THE ELECTIVE SHARE OF A DECEDENT'S SURVIVING SPOUSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 30-3.1 reads as rewritten:

"**§ 30-3.1. Right of elective share.**

(a) Elective Share. – The surviving spouse of a decedent who dies domiciled in this State has a right to claim an "elective share", which means an amount equal to (i) the applicable share of the Total Net Assets, as defined in ~~G.S. 30-3.2(c),~~G.S. 30-3.2(4), less (ii) the value of Property Passing to Surviving Spouse, as defined in G.S. 30-3.3(a). The applicable share of the Total Net Assets is as follows:

(1) If the decedent is not survived by any lineal descendants, one-half of the Total Net Assets.

(2) If the decedent is survived by one child, or lineal descendants of one deceased child, one-half of the Total Net Assets.

(3) If the decedent is survived by two or more children, or by one or more children and the lineal descendants of one or more deceased children, or by the lineal descendants of two or more deceased children, one-third of the Total Net Assets.

(b) Reduction of Applicable Share. – In those cases in which the surviving spouse is a second or successive spouse, and the decedent has one or more lineal descendants surviving by a prior marriage but there are no lineal descendants surviving by the surviving spouse, the applicable share as determined in subsection (a) of this section shall be reduced by one-half.

(c) Death Taxes. – Death taxes shall be taken into account as a claim against the estate in determining Total Net Assets only to the extent that ~~such taxes are increased because~~the assets received by the surviving spouse do not qualify for the federal estate

tax marital deduction pursuant to section 2056 of the Code or similar provisions under the laws of any other applicable taxing jurisdiction. The amount of such claims shall equal the difference between the amount of such death taxes as finally determined and the amount such death taxes would have been if all assets received by the surviving spouse had qualified for the federal estate tax marital deduction pursuant to section 2056 of the Code and similar provisions under the laws of any other applicable taxing jurisdictions."

SECTION 2. G.S. 30-3.2 reads as rewritten:

"**§ 30-3.2. Definitions.**

The following definitions apply in this Article:

(1) "Code" means the Internal Revenue Code in effect at the time of the decedent's death.

(2) "Death taxes" means any estate, inheritance, succession, and similar taxes imposed by any taxing authority, reduced by any applicable credits against those taxes.

(3) "Nonadverse trustee" ~~means a trustee who would be deemed nonadverse under section 672 of the Code.~~ means:

a. Any person who does not possess a substantial beneficial interest in the trust that would be adversely affected by the exercise or nonexercise of the power that the individual trustee possesses respecting the trust;

b. Any person subject to a power of removal by the surviving spouse with or without cause; or

c. Any company authorized to engage in trust business under the laws of this State, or that otherwise meets the requirements to engage in trust business under the laws of this State.

(4) "Total Net Assets" means, after the payment or provision for payment of the decedent's funeral expenses, year's allowances to persons other than to the surviving spouse, debts, claims other than an equitable distribution of property awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent, and administration expenses, the sum of the following:

a. All property to which the decedent had legal and equitable title immediately prior to death;

b. All property received by the decedent's personal representative by reason of the decedent's death, other than wrongful death proceeds;

c. One-half of the value of any property held by the decedent and the surviving spouse as tenants by the entirety, or as joint tenants with rights of survivorship;

d. The entire value of any interest in property held by the decedent and another person, other than the surviving spouse, as joint tenants with right of survivorship, except to the extent that contribution can be proven by clear and convincing evidence;

e. The value of any property which would be included in the taxable estate of the decedent pursuant to sections 2033, 2035, 2036, 2037, 2038, 2039, or 2040 of the Code.

f. Any ~~donative transfers~~gifts of property made by the decedent to donees other than the surviving spouse within six months of the decedent's death, excluding:

1. Any gifts within the annual exclusion provisions of section 2503 of the Code;
2. Any gifts to which the surviving spouse consented. A signing of a deed, or income or gift tax return reporting such gift shall be considered consent; and
3. Any gifts made prior to marriage;

g. Any proceeds of any individual retirement account, pension or profit-sharing plan, or any private or governmental retirement plan or annuity of which the decedent controlled the designation of beneficiary, excluding any benefits under the federal social security system;

h. Any other Property Passing to Surviving Spouse under G.S. 30-3.3; and

i. In case of overlapping application of the same property under more than one provision, the property shall be included only once under the provision yielding the greatest value."

SECTION 3. G.S. 30-3.3(a) reads as rewritten:

"**§ 30-3.3. Property Passing to Surviving Spouse.**

(a) Property Passing to Surviving Spouse. – For purposes of this Article, "Property Passing to Surviving Spouse" means the sum of the following:

(1) One-half of the value of any interest in property held by the decedent and the surviving spouse as tenants by the entirety or as joint tenants with rights of survivorship;

(2) The value of any interest in property (outright or in trust, including any interest subject to a general power of appointment held by the surviving spouse, as defined in section 2041 of the Code) devised by the decedent to the surviving spouse, or which passes to the surviving spouse by intestacy, or by beneficiary designation, or by exercise of or in default of the exercise of the decedent's testamentary general or limited power of appointment, or by operation of law or otherwise by reason of the decedent's death, excluding any benefits under the federal social security system;

(3) Any year's allowance awarded to the surviving spouse;

(4) The value of any property renounced by the surviving spouse;

(5) The value of the surviving spouse's interest, outright or in trust, in any life insurance proceeds on the life of the decedent;

(6) The value of any interest in property, outright or in trust, transferred from the decedent to the surviving spouse during the lifetime of

decedent for which (i) a gift tax return is timely filed reporting such gift, or (ii) the surviving spouse signs a statement acknowledging such a gift. For purposes of this subdivision, any gift to the surviving spouse by the decedent of the decedent's interest in any property held by the decedent and the surviving spouse as tenants by the entirety or as joint tenants with right of survivorship shall be valued at one-half of the entire value of that interest in property at the time the gift is made;

(7) ~~The~~ Notwithstanding any other provision of law related to valuing a partial interest in property, the entire fair market value of any property held in trust for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime, ~~where the trust requires a Nonadverse Trustee to utilize the principal and income of the trust for the support and maintenance of the surviving spouse; and~~if the terms of the trust meet the following requirements:

a. During the lifetime of the surviving spouse, the trust is controlled by one or more Nonadverse Trustees;

b. The trustee is required to distribute to or for the benefit of the surviving spouse either (i) the entire net income of the trust at least annually; or (ii) the income of the trust in such amounts and at such times as the trustee, in its discretion, determines necessary for the health, maintenance, and support of the surviving spouse;

c. The trustee is required to distribute to or for the benefit of the surviving spouse out of the principal of the trust such amounts and at such times as the trustee, in its discretion, determines necessary for the health, maintenance, and support of the surviving spouse; and

In exercising discretion, the trustee may be authorized or required to take into consideration all other income, assets, and other means of support as are available to the surviving spouse; and

(8) The net value of the marital estate awarded to the surviving spouse pursuant to G.S. 50-20 subsequent to the death of the decedent."

SECTION 4. G.S. 30-3.4 reads as rewritten:

"**§ 30-3.4. Procedure for determining the elective share.**

(a) Exercisable Only During Lifetime. – The right of the surviving spouse to file a claim for an elective share must be exercised during the lifetime of the surviving spouse, by the surviving spouse, the surviving spouse's agent under a power of attorney, or the guardian of the surviving spouse's estate. If a surviving spouse dies before the claim for an elective share has been settled, the surviving spouse's personal representative shall succeed to the surviving spouse's rights to an elective share.

(b) Time Limitations. – A claim for an elective share must be made within six months after the issuance of letters testamentary or letters of administration in connection with the will or intestate proceeding with respect to which the surviving spouse claims the elective share by (i) filing a petition with the clerk of superior court of

the county in which the primary administration of the decedent's estate lies, and (ii) mailing or delivering a copy of that petition to the personal representative of the decedent's estate. A surviving spouse's incapacity shall not toll the six-month period of limitations.

(c) Time for Hearing. – Unless waived by the personal representative and the surviving spouse, the clerk shall set the matter for hearing no earlier than two months and no later than six months after the filing of the petition. However, the clerk may extend the time of hearing as the clerk sees fit. The surviving spouse shall give notice of the hearing to the personal representative, and to any person described in G.S. 30-3.5 who may be required to contribute toward the satisfaction of the elective share.

(d) Preparation of Tax Form. – In every case in which a petition to determine an elective share has been filed, and within two months of the filing of the petition, the personal representative shall prepare and submit to the clerk a proposed Form 706, federal estate tax return, for the estate, regardless of whether that form is required to be filed with the Internal Revenue Service. The clerk may extend the time for submission of the proposed Form 706 as the clerk sees fit.

(e) Valuation. – The valuation of interests in property for purposes of G.S. 30-3.2 and G.S. 30-3.3 shall be determined as follows:

(1) Basic principles. – Each interest shall be valued at its fair market value, reduced by all liens, claims, or encumbrances against the interest. For interests passing at the decedent's death, valuation shall be as of the date of death, and for interests transferred during the decedent's lifetime, valuation shall be as of the date of transfer.

(2) Valuation of partial and contingent interests in property. – The valuation of interests in property, outright or in trust, which are limited to commence or terminate upon the death of one or more persons, upon the expiration of a period of time, or upon the occurrence of one or more contingencies, shall be determined by computations based upon the mortuary and annuity tables set forth in G.S. 8-46 and G.S. 8-47, and upon the basis of six percent (6%) of the gross value of the underlying property in which those interests are limited. However, in valuing interests passing to the surviving spouse, the following special rules apply:

a. ~~To the extent that the interest is dependent upon the exercise of discretion by a fiduciary, the interest shall have no value unless the spouse is serving as that fiduciary and the power to distribute the trust property constitutes a general power of appointment held by the spouse, as defined in section 2041 of the Code or the fiduciary is a Nonadverse Trustee required to utilize the income and principal for the exclusive benefit of the surviving spouse during the surviving spouse's lifetime;~~An interest described in G.S. 30-3.3(a)(7) that shall be valued as if the underlying property or interest passed outright to the surviving spouse unencumbered by any trust;

b. To the extent that the interest is dependent upon the occurrence of any contingency that is not subject to the control of the surviving spouse and that is not subject to valuation by reference to the mortuary and annuity tables set forth in G.S. 8-46 and G.S. 8-47, the contingency will be conclusively presumed to result in the lowest possible value passing to the surviving spouse. However, a life estate or income interest that will terminate only upon the earlier of the surviving spouse's death or remarriage will be valued without regard to the possibility of termination upon remarriage; and

c. To the extent that the valuation of an interest is dependent upon the life expectancy of the surviving spouse, that life expectancy shall be conclusively presumed to be no less than 10 years, regardless of the actual attained age of the surviving spouse at the decedent's death.

(3) Determination of fair market value. – The fair market value of each asset comprising Total Net Assets shall be determined as follows:

a. Probate assets and assets passing to spouse. – The value of each probate asset and Property Passing to Surviving Spouse, other than assets held in trust, shall be established by the good faith agreement of the surviving spouse and the personal representative, unless either (i) the surviving spouse is the personal representative, or (ii) the clerk determines that the personal representative may not be able to represent the estate adversely to the surviving spouse.

b. Trust assets. – The value of each trust asset shall be established by good faith agreement of the surviving spouse and the trustee, unless either (i) the surviving spouse is the trustee, or (ii) the clerk determines that the trustee may not be able to represent the trust adversely to the surviving spouse.

c. Other assets. – The value of any other asset shall be established by the good faith agreement of the surviving spouse and each person described in G.S. 30-3.5 who may be required to contribute toward the satisfaction of the elective share because of that person's interest in the asset, unless the clerk determines that valuation under sub-subdivision d. of this subdivision is more appropriate.

d. Use of disinterested persons. – If the value of any asset is not established by agreement, the clerk shall appoint one or more qualified and disinterested persons to determine a value of each asset. That determination of the value of an asset shall be final for the exclusive purposes of this Article.

(f) Findings and Conclusions. – After notice and hearing, the clerk shall determine whether or not the surviving spouse is entitled to an elective share, and if so,

the clerk shall then determine the elective share and shall order the personal representative to transfer that amount to the surviving spouse. The clerk's order shall recite specific findings of fact and conclusions of law in arriving at the decedent's Total Net Assets, Property Passing to Surviving Spouse, and the elective share.

(g) Appeals. – Any party in interest may appeal from the decision of the clerk to the superior court. If an appeal is taken from the decision of the clerk, that appeal shall have the effect of staying the judgment and order of the clerk until the cause is heard and determined by the superior court upon the appeal taken. Upon an appeal taken from the clerk to the superior court, the judge may review the findings of fact by the clerk and may find the facts or take other evidence, but the facts found by the judge shall be final and conclusive upon any appeal to the Appellate Division."

SECTION 5. G.S. 30-3.6 is amended by adding a new subsection to read:

"(c) A written waiver executed prior to January 1, 2001, that would have been effective to waive a spouse's right to dissent in estates of decedents dying on or before December 31, 2000, under Article 1 of Chapter 30 of the General Statutes, is effective to waive that spouse's right of elective share under this Article for estates of decedent's dying on or after January 1, 2001."

SECTION 6. Section 5 of this act is effective when it becomes law. The remainder of this act becomes effective January 1, 2004, and applies to estates of decedents dying on or after that date.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
H.B. 807 A BILL TO BE ENTITLED AN ACT TO CLARIFY CERTAIN PROVISIONS OF THE LAW ESTABLISHING THE ELECTIVE SHARE OF A DECEDENT'S SURVIVING SPOUSE AND TO REPEAL THE RIGHT OF A SURVIVING SPOUSE TO ELECT A LIFE INTEREST IN LIEU OF AN INTESTATE SHARE.

☐ 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 the committee substitute bill (# 2), ☒ which changes the title, unfavorable as to ~~(the original bill)~~ (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.

☐ 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)

03/19/03

HOUSE BILL 1093

Short Title:	Technical Amendments/Insurance Guaranty Assoc.	(Public)
Sponsors:	Representative Culpepper.	
Referred to:	Rules, Calendar, and Operations of the House.	

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE NORTH CAROLINA INSURANCE GUARANTY ASSOCIATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-48-20 reads as rewritten:

"**§ 58-48-20. Definitions.**

As used in this Article:

(1) "Account" means any one of the three accounts created by G.S. 58-48-25.

(1a) "Affiliate" means a person who directly, or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with an insolvent insurer on December 31 of the year next preceding the date the insurer becomes an insolvent insurer.

(2) "Association" means the North Carolina Insurance Guaranty Association created under G.S. 58-48-25.

(2a) "Claimant" means any insured making a first party claim or any person instituting a liability claim; provided that no person who is an affiliate of the insolvent insurer may be a claimant.

(3) Repealed by Session Laws 1991, c. 720, s. 6.

(3a) "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by ~~contract~~ contract, other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the voting securities of any

other person. This presumption may be rebutted by a showing that control does not exist in fact.

(4) "Covered claim" means an unpaid claim, including one of unearned premiums, which is in excess of fifty dollars ($50.00) and arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this Article applies as issued by an insurer, if such insurer becomes an insolvent insurer after the effective date of this Article and (i) the claimant or insured is a resident of this State at the time of the insured event; or (ii) the property from which the claim arises is permanently located in this State. "Covered claim" shall not include any amount awarded (i) as punitive or exemplary damages; (ii) sought as a return of premium under any retrospective rating plan; or (iii) due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation or contribution recoveries or otherwise. "Covered claim" also shall not include fines or penalties, including attorneys fees, imposed against an insolvent insurer or its insured or claims of any claimant whose net worth exceeds fifty million dollars ($50,000,000) on December 31 of the year preceding the date the insurer becomes insolvent.

(5) "Insolvent insurer" means (i) an insurer licensed and authorized to transact insurance in this State either at the time the policy was issued or when the insured event occurred and (ii) against whom an order of liquidation with a finding of insolvency has been entered after the effective date of this Article by a court of competent jurisdiction in the insurer's state of domicile or of this State under the provisions of Article 30 of this Chapter, and which order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order.

(6) "Member insurer" means any person who (i) writes any kind of insurance to which this Article applies under G.S. 58-48-10, including the exchange of reciprocal or interinsurance contracts, and (ii) is licensed and authorized to transact insurance in this State.

(7) "Net direct written premiums" means direct gross premiums written in this State on insurance policies to which this Article applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. "Net direct written premiums" does not include premiums on contracts between insurers or reinsurers.

(7a) "Ocean marine insurance" includes (i) marine insurance as defined in G.S. 58-7-15(20)a., except for inland marine, (ii) marine protection and indemnity insurance as defined in G.S. 58-7-15(21), and (iii) any other form of insurance, regardless of the name, label, or marketing designation of the insurance policy, which insures against maritime perils or risks and other related perils or risks, which are usually insured by traditional marine insurance such as hull and machinery,

marine builders' risks, and marine protection and indemnity. The perils and risks insured against include loss, damage, or expense, or legal liability of the insured for loss, damage, or expense, arising out of, or incident to, ownership, operation, chartering, maintenance, use, repair, or construction of any vessel, craft, or instrumentality in use in ocean or inland waterways, including liability of the insured for personal injury, illness, death, or for loss or damage to the property of the insured or another person. "Ocean marine insurance" does not include insurance on vessels or vehicles under five tons gross weight.

(8) "Person" means any individual, corporation, partnership, association or voluntary organization.

(9) "Policyholder" means the person to whom an insurance policy to which this Article applies was issued by an insurer which has become an insolvent insurer.

(10) "Resident" means:

a. An individual domiciled in this State;

b. An individual formerly domiciled in this State at the time the applicable policy was issued or renewed and the term of the policy had not expired at the time of the insured event, and who at the time of the insured event had complied with the laws of the current domicile necessary to allow maintenance in force and effect of the applicable policy; or

c. In the case of a corporation or other entity that is not a natural person, a corporation or entity whose principal place of business is located in this State at the time of the insured event."

SECTION 2. G.S. 58-48-50(a1) reads as rewritten:

"(a1) The Association shall have the right to recover from the following persons the amount of any "covered claim" paid and any and all expenses incurred, including attorneys' fees and costs of defense, ~~on behalf of such person~~ in connection with any claim against the person or the person's affiliate pursuant to this Article:

(1) Any insured whose net worth on December 31 of the year next preceding the date the insurer becomes insolvent exceeds fifty million dollars ($50,000,000) and whose liability obligations to other persons are satisfied in whole or in part by payments under this Article; or

(2) Any person who is an affiliate of the insolvent insurer and whose liability obligations to other persons are satisfied in whole or in part by payments made under this Article."

SECTION 3. G.S. 58-48-55(a) reads as rewritten:

"(a) Any person having a right to a defense or a claim against an insurer under any provision in an insurance policy other than a policy of an insolvent insurer which is also a covered claim, shall be required to exhaust first his rights under such policy. Any amount payable on a covered claim under this Article shall be reduced by the amount of any recovery under ~~such~~ that insurance policy. For purposes of this section, a claim under an insurance policy shall include a claim under or covered by any kind of

insurance, whether it is a first-party or a third-party claim, and whether it is a policy covering the policyholder or another person liable to the claimant, and shall include, without limitation, policies of accident and health insurance, workers' compensation insurance, medical expense coverage, and all other coverage except for policies of an insolvent insurer."

SECTION 4. G.S. 58-48-85 reads as rewritten:

"**§ 58-48-85. Stay of proceedings; reopening of default judgments.**

All proceedings in which the insolvent insurer is a party or is obligated to defend a party in any ~~court~~ court or before any administrative agency or the North Carolina Industrial Commission ~~in this State~~ shall be stayed automatically for 120 days and such additional time thereafter as may be determined by the court from the date the insolvency is determined or any ancillary proceedings are initiated in this State, whichever is later, to permit proper defense by the Association of all pending causes of action. Any party to any proceeding which is stayed pursuant to this section shall have the right, upon application and notice, to seek a vacation or modification of such stay. Any covered claims arising from any judgment under any decision, verdict or finding based on the default of the insolvent insurer or its failure to defend an insured, shall, upon application and notice by the Association be vacated and set aside by the same court in which such judgment, order, decision, verdict, or finding is entered and the Association either on its own behalf or on behalf of any insured or an insolvent insurer, shall be permitted to defend against such claim on the merits. Any party who has obtained any such judgment or order shall have the right, upon application and notice, to have the judgment or order restored if within 90 days following the entry of the judgment or order the Association has not notified such party and the court that it intends to defend the matter on the merits."

SECTION 5. This act becomes effective October 1, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1093 A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL AMENDMENTS TO THE NORTH CAROLINA INSURANCE GUARANTY ASSOCIATION 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 278

Short Title:	Speaker's Appointments -2.	(Public)
Sponsors:	Representative Culpepper.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices 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. Appointments made by this act become effective July 1, 2003.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 278
PROPOSED COMMITTEE SUBSTITUTE H278-CSSW-29 [v.2]

4/29/2003 8:44:20 AM

Short Title: Bd. of Chiropratic Examiners/Examination. (Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW REGARDING EXAMINATIONS FOR LICENSURE TO PRACTICE CHIROPRACTIC.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-143 reads as rewritten:

"**§ 90-143. Definitions of chiropractic; examinations; educational requirements.**

(a) "Chiropractic" is herein defined to be the science of adjusting the cause of disease by realigning the spine, releasing pressure on nerves radiating from the spine to all parts of the body, and allowing the nerves to carry their full quota of health current (nerve energy) from the brain to all parts of the body.

(b) It shall be the duty of the North Carolina State Board of Chiropractic Examiners (hereinafter referred to as "Board") to examine for licensure to practice chiropractic in this State any applicant who is or will become, within 60 days of examination, a graduate of a four-year chiropractic college that is either accredited by the Council on Chiropractic Education or deemed by the Board to be the equivalent of such a college and who furnishes to the Board, in the manner prescribed by the Board, all of the following:

(1) Satisfactory evidence of good moral character.

(2) Proof that the applicant has received a baccalaureate degree from a college or university accredited by a regional accreditation body recognized by the United States Department of Education.

(3) A transcript confirming that the applicant has received at least 4,200 hours of accredited chiropractic education. The Board shall not count any hours earned at an institution that was not accredited by the Council on Chiropractic Education or was not, as determined by the Board, the equivalent of such an institution at the time the hours were earned.

The examination shall include~~, but not be limited to,~~ the following studies: neurology, chemistry, pathology, anatomy, histology, physiology, embryology, dermatology, diagnosis, microscopy, gynecology, hygiene, eye, ear, nose and throat, orthopody, diagnostic radiology, North Carolina jurisprudence, palpation, nerve tracing, chiropractic philosophy, theory, teaching and practice of chiropractic, and any other related studies as the Board may consider necessary to determine an applicant's fitness to practice. The Board may include as part of the examination any examination developed and administered by the National Board of Chiropractic Examiners or its successor organization that the Board considers appropriate, and the examination may be administered by a national testing service. The Board shall set the passing scores for all parts of the examination.

(c) The Board shall not issue a license to any applicant until the applicant exhibits a diploma or other proof that the Doctor of Chiropractic degree has been conferred.

(d) The Board may grant a license to an applicant if the applicant's scores on all parts of the examination ~~given by the National Board of Chiropractic Examiners~~ required by the Board equal or exceed passing scores ~~on the Board's examination~~ set by the Board, and the applicant satisfies all other requirements for licensure as provided in this Article."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 278 A BILL TO BE ENTITLED AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

☐ 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 the committee substitute bill, ☒ which changes the title, unfavorable as to the original bill.

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

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

RULES — 29 APR 03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tim Minton	NC Home Building Assoc.
Lisa Martin	NC Home Builders Assn.
Jim Stapleton	NC Coastal Federation
Jim Chavis	Comm. Colleges
Hugh Lee	Comm. Colleges
Earl Booth	Comm. Colleges
Camille Stell	KCLH
[illegible]	NCCC
SAM WATTS	NC Coastal Federation
Doug Howey	NCPMA
Gary Harris	NCPMA
Rick Zechini	NC Assoc. of REALTORS
Bob Slocum	NC Forestry Assn.
Jeff Mory	Town of Valdese
Leslie Bryson	NCCBF
FRAN Robertson	NCRMA.
Sandra Long	Martin Marietta
[illegible]	NCDOT / Ferry Div.
Henry Torres	Attorney Raleigh
Reed Fountain	
Michelle Frazier	NC Bar Assn
Barbara Conley	MFSS
Stacy Flannery	NCHCFA
Bonnie Hahn	Amer. Fire Sprinkler Assoc.
Lee-Ann Coe	NC Psychiatric Assoc
Cindy Miller	N.C. Conservation Network
Tracy Harrison	CRC

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Amy Jo Horne	NCMS
Boyd Devane	NC DWQ
Elizabeth Kountis	NC DWQ
Brian Burley	Contract
Steve Walker	Conservation Council
John McMillan	Gov office
Amy Dobson	NC Sierra Watch.
BILL Brooks	NCFPC
Mary Teague	MWA
Ray Ennis	NCIGA
Joe Ennis	MWA
Sherri Dubois	Charlotte Observer
Coleen H. Sullins	NC DENR
Ran Barsness	NCDENR
Robin Smith	DENR
VANCE KINLAW	NC BD. OF CHIROPRACTIC EXAMINERS
[illegible]	[illegible]
Trip Van Noppen	So. Env. Law Center
[illegible]	NC Enviro Def.
Mason Abell	Rep. Luebke's Intern

PAGE AND SERGEANT-AT-ARMS REGISTRATION SHEET

HOUSE TRANSPORTATION — WEDNESDAY, APRIL 29, 2003
Date

PAGES AND SERGEANTS-AT-ARMS:
PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK. THANK YOU.

NAME	COUNTY AND SPONSOR (FOR PAGES ONLY)
Precious Clements	Wake - Rep. Benard Allen

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

HOUSE MEMBERS' CONFERENCE ROOM
LEGISLATIVE OFFICE BUILDING
11:50 A.M.
May 1, 2003

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

COMMITTEE SUBSTITUTE FOR HB 339-LIFE AND HEALTH OMNIBUS-AB

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

May 1, 2003

The Committee on Rules, Calendar and Operations of the House met on May 1, 2003 in the House Members' Conference Room at 11:50 a.m. The following members were present: Representative Culpepper, Chairman; Hackney, Vice Chairman; Brubaker; Church, Culp; Gormon; Hill, Howard, Justus, LaRoque, McComas, Miner, Setzer and Sherrill.

The following bill was considered:

COMMITTEE SUBSTITUTE FOR HB 339 - AN ACT TO CONFORM NORTH CAROLINA'S THIRD PARTY ADMINISTRATOR ARTICLE TO REVISIONS TO THE NAIC MODEL THIRD PARTY ADMINISTRATOR STATUTE; REQUIRE GROUP ANNUITY INSURERS TO ISSUE INDIVIDUAL CERTIFICATES OF COVERAGE TO EACH ANNUITANT; REORGANIZE ARTICLE 60 OF CHAPTER 58 OF THE GENERAL STATUTES AND AMEND CURRENT DISCLOSURE REQUIREMENTS FOR SOLICITATION OF LIFE INSURANCE PRODUCTS AND ANNUITIES; REQUIRE INSURERS TO NOTIFY EMPLOYEES OF THE EXISTENCE OF EMPLOYER-OWNED LIFE INSURANCE POLICIES WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF COVERAGE BE ACTUARIALLY SOUND AND THAT ASSOCIATIONS BE RATED AS A SINGLE GROUP WHEN THE COVERAGE PROVIDED IS NOT EMPLOYER-BASED; LIMIT AN INDIVIDUAL ACCIDENT AND HEALTH INSURER'S USE OF AN INDIVIDUAL'S OWN CLAIMS' EXPERIENCE TO DEVELOP THE INDIVIDUAL'S RENEWAL RATE; EXEMPT A SOLE; REQUIRE THAT ASSOCIATION PREMIUM RATES FOR ACCIDENT AND HEALTH INSURANCE PROPRIETOR FROM THE FULL-TIME BASIS OR THIRTY-HOUR WORKWEEK COMMITTEE SUBSTITUTE FOR HOUSE BILL 339-AN ACT TO CONFORM NORTH CAROLINA'S THIRD PARTY ADMINISTRATOR ARTICLE TO REVISIONS TO THE NAIC MODEL THIRD PARTY ADMINISTRATOR STATUTE; REQUIRE GROUP ANNUITY INSURERS TO ISSUE INDIVIDUAL CERTIFICATES OF COVERAGE TO EACH ANNUITANT; REORGANIZE ARTICLE 60 OF CHAPTER 58 OF THE GENERAL STATUTES AND AMEND CURRENT DISCLOSURE REQUIREMENTS FOR SOLICITATION OF LIFE INSURANCE PRODUCTS AND ANNUITIES; REQUIRE INSURERS TO NOTIFY EMPLOYEES OF THE EXISTENCE OF EMPLOYER-OWNED LIFE INSURANCE POLICIES WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF OVERAGE; REQUIRE THAT ASSOCIATION PREMIUM RATES FOR ACCIDENT AND HEALTH INSURANCE BE ACTUARIALLY SOUND AND THAT ASSOCIATIONS BE RATED AS A SINGLE GROUP WHEN THE COVERAGE PROVIDED REQUIREMENTS TO BE ELIGIBLE FOR LARGE GROUP HEALTH COVERAGE LIKE THE PROPRIETOR'S FULL-TIME EMPLOYEES; CORRECT AN INADVERTENT CROSS-REFERENCE IN ORDER TO REAPPLY

NEWBORN COVERAGE TO A MORE COMPREHENSIVE GROUP OF INSURERS; TECHNICALLY CORRECT AN OMISSION REGARDING PROVISIONS GOVERNING PREEXISTING CONDITIONS FOR LIMITED HEALTH, SUPPLEMENTAL HEALTH, AND SPECIFIED DISEASE POLICIES; DECREASE THE TOTAL NUMBER OF MEMBERS THAT SERVE ON THE SMALL EMPLOYER REINSURANCE POOL BOARD FROM NINE TO SIX; ALLOW PERSONS RETROACTIVELY ENROLLED IN MEDICARE PART B THE SAME SIX-MONTH OPEN ANNUITY CONTRACT AS A CLAIMANT; MANDATE HEALTH BENEFIT COVERAGE FOR DESIGNATED TRAVEL EXPENSES WHEN THE REQUIRED DISTANCE TRAVELED THRESHOLD IS MET; TO REQUIRE RATE METHODOLOGY UNDER MEDICARE SUPPLEMENTAL INSURANCE POLICIES TO BE BASED ON ISSUE AGE AND TO MAKE OTHER CHANGES TO THE LAW PERTAINING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES; AND MAKE TECHNICAL CORRECTIONS TO THE CREDIT INSURANCE LAWS.

Representative Wright, sponsor, was recognized and asked that the committee recommend that the bill be reported without prejudice so that it could be calendared before crossover. Representative Brubaker made the motion, and it passed.

The meeting adjourned at 11:55 a.m.

Bill Culpepper

Representative Bill Culpepper, Chairman

Dorothy C. Crocker

Dorothy C. Crocker, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **3**

HOUSE BILL 339

Committee Substitute Favorable 4/24/03
Committee Substitute #2 Favorable 4/30/03

Short Title: Life and Health Insurance Omnibus.-AB (Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO CONFORM NORTH CAROLINA'S THIRD PARTY ADMINISTRATOR ARTICLE TO REVISIONS TO THE NAIC MODEL THIRD PARTY ADMINISTRATOR STATUTE; REQUIRE GROUP ANNUITY INSURERS TO ISSUE INDIVIDUAL CERTIFICATES OF COVERAGE TO EACH ANNUITANT; REORGANIZE ARTICLE 60 OF CHAPTER 58 OF THE GENERAL STATUTES AND AMEND CURRENT DISCLOSURE REQUIREMENTS FOR SOLICITATION OF LIFE INSURANCE PRODUCTS AND ANNUITIES; REQUIRE INSURERS TO NOTIFY EMPLOYEES OF THE EXISTENCE OF EMPLOYER-OWNED LIFE INSURANCE POLICIES WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF COVERAGE; REQUIRE THAT ASSOCIATION PREMIUM RATES FOR ACCIDENT AND HEALTH INSURANCE BE ACTUARIALLY SOUND AND THAT ASSOCIATIONS BE RATED AS A SINGLE GROUP WHEN THE COVERAGE PROVIDED IS NOT EMPLOYER-BASED; LIMIT AN INDIVIDUAL ACCIDENT AND HEALTH INSURER'S USE OF AN INDIVIDUAL'S OWN CLAIMS' EXPERIENCE TO DEVELOP THE INDIVIDUAL'S RENEWAL RATE; EXEMPT A SOLE PROPRIETOR FROM THE FULL-TIME BASIS OR THIRTY-HOUR WORKWEEK REQUIREMENTS TO BE ELIGIBLE FOR LARGE GROUP HEALTH COVERAGE LIKE THE PROPRIETOR'S FULL-TIME EMPLOYEES; CORRECT AN INADVERTENT CROSS-REFERENCE IN ORDER TO REAPPLY NEWBORN COVERAGE TO A MORE COMPREHENSIVE GROUP OF INSURERS; TECHNICALLY CORRECT AN OMISSION REGARDING PROVISIONS GOVERNING PREEXISTING CONDITIONS FOR LIMITED HEALTH, SUPPLEMENTAL HEALTH, AND SPECIFIED DISEASE POLICIES; DECREASE THE TOTAL NUMBER OF MEMBERS THAT SERVE ON THE SMALL EMPLOYER REINSURANCE POOL BOARD FROM NINE TO SIX; ALLOW PERSONS RETROACTIVELY ENROLLED IN MEDICARE PART B

THE SAME SIX-MONTH OPEN ENROLLMENT PERIOD FOR MEDICARE SUPPLEMENT PLANS AS PERSONS WHO ENROLLED IN MEDICARE PART B WITHOUT A RETROACTIVE EFFECTIVE DATE OF COVERAGE; TECHNICALLY CORRECT THE REVOCATION AND SUSPENSION LAW TO INCLUDE A BENEFICIARY OF A LIFE OR ANNUITY CONTRACT AS A CLAIMANT; MANDATE HEALTH BENEFIT COVERAGE FOR DESIGNATED TRAVEL EXPENSES WHEN THE REQUIRED DISTANCE TRAVELED THRESHOLD IS MET; TO REQUIRE RATE METHODOLOGY UNDER MEDICARE SUPPLEMENTAL INSURANCE POLICIES TO BE BASED ON ISSUE AGE AND TO MAKE OTHER CHANGES TO THE LAW PERTAINING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES; AND MAKE TECHNICAL CORRECTIONS TO THE CREDIT INSURANCE LAWS.

The General Assembly of North Carolina enacts:

PART I. THIRD PARTY ADMINISTRATOR ACT REWRITE

SECTION 1. G.S. 58-56-2 is repealed.

SECTION 1.1. Article 56 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-56-3. Definitions.**

As used in this Article:

(1) "Administrator", "third party administrator", and "TPA" mean a person who directly or indirectly underwrites, collects, or charges premiums from, or adjusts or settles claims on, residents of this State in connection with life, annuity, or health coverage offered or provided by an insurer, except any of the following:

a. An employer, or a wholly owned direct or indirect subsidiary of an employer, on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of the employer.

b. A union on behalf of its members.

c. An insurer that is authorized to transact insurance in this State pursuant to Articles 1 through 67 of this Chapter.

d. An insurance producer licensed to sell life, annuity, or health coverage in this State, whose activities are limited exclusively to the sale of insurance.

e. A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors.

f. A trust and its trustees, agents, and employees acting pursuant to a trust established in conformity with 29 U.S.C. § 186.

g. A trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees and employees acting pursuant to the trust, or a custodian and the custodian's agents or employees acting pursuant to a custodian account which meets the requirements of section 401(f) of the Internal Revenue Code.

h. A credit union or a financial institution that is subject to supervision or examination by federal or State banking authorities, or a mortgage lender, to the extent it collects and remits premiums to licensed insurance producers or to limited lines producers or authorized insurers in connection with loan payments.

i. A credit card issuing company that advances for and collects insurance premiums or charges from its credit card holders who have authorized collection.

j. A person who adjusts or settles claims in the normal course of that person's practice or employment as a licensed attorney and who does not collect charges or premiums in connection with life, annuity, or health coverage.

k. An adjuster licensed by this State whose activities are limited to adjustment of claims.

l. A person licensed as a managing general agent in this State, whose activities are limited exclusively to the scope of activities conveyed under the license.

m. An administrator who is affiliated with an insurer and who only performs the contractual duties (between the administrator and the insurer) of an administrator for the direct and assumed insurance business of the affiliated insurer. The insurer is responsible for the acts of the administrator and is responsible for providing all of the administrator's books and records to the Commissioner, upon a request from the Commissioner.

(2) "Affiliate or affiliated" means an entity or person who directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified entity or person.

(3) "Commissioner" means the Commissioner of Insurance of this State.

(4) "Control" means the term as defined in G.S. 58-19-5(2).

(5) "GAAP" means United States generally accepted accounting principles consistently applied.

(6) "Home state" means the District of Columbia and any state or territory of the United States in which an administrator is incorporated or maintains its principal place of business. If neither the state in which the administrator is incorporated nor the state in which it maintains its principal place of business has adopted the NAIC Third Party Administrator Statute, or a substantially similar law governing administrators, the administrator may declare another state in which it conducts business to be its "home state".

(7) "Insurance producer" means a person who sells, solicits, or negotiates a contract of insurance as those terms are defined in this Article.

(8) "Insurer" means an insurance company subject to this Chapter, a service corporation organized under Article 65 of this Chapter, a health

maintenance organization organized under Article 67 of this Chapter, and a multiple employer welfare arrangement subject to Article 49 of this Chapter.

(9) "Negotiate" means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(10) "Nonresident administrator" means a person who is applying for licensure or is licensed in any state other than the administrator's home state.

(11) "Person" means an individual or a business entity.

(12) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(13) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(14) "Underwrites" or "underwriting" includes the acceptance of employer or individual applications for coverage of individuals in accordance with the written rules of the insurer or self-funded plan and also includes the overall planning and coordinating of a benefits program.

(15) "Uniform Application" means the current version of the NAIC Uniform Application for Third Party Administrators."

SECTION 1.2. G.S. 58-56-6 reads as rewritten:

"**§ 58-56-6. Written agreement necessary.**

(a) No TPA may act as a TPA without a written agreement between the TPA and the insurer. The written agreement shall be retained as part of the official records of both the insurer and the TPA for the duration of the agreement and for five years thereafter. The agreement shall contain all provisions required by this Article, ~~to the extent those requirements apply to the functions performed by the TPA.~~ except insofar as those requirements do not apply to the functions performed by the TPA.

(b) The agreement shall include a statement of duties that the TPA is expected to perform on behalf of the insurer and the ~~kinds of insurance the TPA is to be authorized to administer.~~lines, classes, or types of insurance for which the TPA is to be authorized to administer. The agreement shall provide for underwriting or other standards pertaining to the business underwritten by the insurer.

(c) The insurer or TPA may, with written notice, terminate the written agreement for cause as provided in the agreement. The insurer may suspend the underwriting authority of the TPA during the pendency of any dispute regarding the cause for termination of the agreement. The insurer ~~must~~ shall fulfill any lawful obligations with respect to policies affected by the agreement, regardless of any dispute between the insurer and the TPA."

SECTION 1.3. G.S. 58-56-16 reads as rewritten:

"**§ 58-56-16. Records to be kept.**

(a) Every TPA shall maintain and make available to the insurer complete books and records of all transactions performed on behalf of the insurer. The books and records shall be maintained in accordance with prudent standards of insurance record keeping and must be maintained for a period of at least five years after the date of their creation.

~~(b) The Commissioner shall have access to books and records maintained by a TPA for the purposes of examination, audit, and inspection. The Commissioner shall keep confidential any trade secrets contained in those books and records, including the identity and addresses of policyholders and certificate holders, except that the Commissioner may use the information in any judicial or administrative proceeding instituted against the TPA.~~

(c) The insurer shall own the records generated by the TPA pertaining to the insurer, but the TPA shall retain the right to continuing access to books and records to permit the TPA to fulfill all of its contractual obligations to insured parties, claimants, and the insurer.

(d) In the event the insurer and the TPA cancel their agreement, notwithstanding the provisions of subsection (a) of this section, the TPA may, by written agreement with the insurer, transfer all records to a new TPA rather than retain them for five years. In this case, the new TPA shall acknowledge, in writing, that it is responsible for retaining the records of the prior TPA as required in subsection (a) of this section.

(e) The Commissioner shall have access to books and records maintained by a TPA for the purposes of examination, audit, and inspection. Any documents, materials, or other information in the possession or control of the Commissioner that are furnished by a TPA, insurer, insurance producer, or an employee or agent thereof acting on behalf of the TPA, insurer, or insurance producer, or obtained by the Commissioner in an investigation shall be confidential by law and privileged, shall not constitute a public record as defined by G.S. 132-1, shall not be subject to subpoena, shall not be subject to discovery, and shall not be admissible in evidence in any private civil action. However, the Commissioner is authorized to use such documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties.

(f) Neither the Commissioner nor any person who receives documents, materials, or other information while acting under the authority of the Commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (e) of this section.

(g) In order to assist in the performance of the Commissioner's duties, the Commissioner:

(1) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (e) of this section, with other State, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates, or its subsidiaries, and with State, federal, and international law enforcement authorities, provided

that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information;

(2) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners, its affiliates, or its subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(3) May enter into agreements governing sharing and use of information consistent with this subsection.

(h) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (g) of this section.

(i) Nothing in this Article shall prohibit the Commissioner from releasing final, adjudicated actions including for-cause terminations that are open to public inspection pursuant to Chapter 132 of the General Statutes or to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates, or its subsidiaries."

SECTION 1.4. G.S. 58-56-51 is repealed.

SECTION 1.5. Article 56 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-56-52. Home state certificate of authority or license.**

(a) A person shall apply to be a TPA in its home state upon the Uniform Application and shall receive a certificate of authority or license from the Commissioner of its home state prior to performing any function of a TPA in this State. Each application shall be accompanied by a nonrefundable filing fee of one hundred dollars ($100.00).

(b) The Uniform Application shall include or be accompanied by the following information and documents:

(1) All basic organizational documents of the applicant, including any articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement, and other applicable documents and all amendments to those documents.

(2) The bylaws, rules, regulations, or similar documents regulating the internal affairs of the applicant.

(3) NAIC Biographical Affidavit for the individuals who are responsible for the conduct of affairs of the applicant, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee; the principal officers in the case of a corporation or the partners or members in the case of a partnership,

association, or limited liability company; any shareholders or member holding directly or indirectly ten percent (10%) or more of the voting stock, voting securities, or voting interest of the applicant; and any other person who exercises control or influence over the affairs of the applicant.

(4) Audited annual financial statements or reports for the two most recent fiscal years that prove that the applicant has a positive net worth. If the applicant has been in existence for less than two fiscal years, the Uniform Application shall include financial statements or reports, certified by an officer of the applicant and prepared in accordance with GAAP, for any completed fiscal years and for any month during the current fiscal year for which the financial statements or reports have been completed. The applicant shall also include any other information the Commissioner requires in order to review the current financial condition of the applicant. An audited financial/annual report prepared on a consolidated basis shall include a columnar consolidating or combining worksheet that shall be filed with the report and include all of the following:

a. Amounts shown on the consolidated audited financial report shall be shown on the worksheet.

b. Amounts for each entity shall be stated separately.

c. Explanations of consolidating and eliminating entries.

(5) A statement describing the business plan including information on staffing levels and activities proposed in this State and nationwide. The plan shall provide details setting forth the applicant's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, record keeping, and underwriting.

(6) Any other pertinent information required by the Commissioner.

(c) A TPA licensed or applying for licensure under this section shall make available for inspection by the Commissioner copies of all contracts with insurers or other persons utilizing the services of the TPA.

(d) A TPA licensed or applying for licensure under this section shall produce its accounts, records, and files for examination, and make its officers available to give information with respect to its affairs, as often as reasonably required by the Commissioner.

(e) The Commissioner may refuse to issue a certificate of authority or license if the Commissioner determines that the TPA, or any individual responsible for the conduct of affairs of the TPA, is not competent, trustworthy, financially responsible, or of good personal and business reputation, has had an insurance or an administrator certificate of authority or license denied or revoked for cause by any jurisdiction, or if the Commissioner determines that any of the grounds set forth in G.S. 58-56-72 exists with respect to the TPA.

(f) A certificate of authority or license issued under this section shall remain valid, unless surrendered, suspended, or revoked by the Commissioner, for so long as the TPA continues in business in this State and remains in compliance with this Article.

(g) A TPA licensed or applying for licensure under this section shall immediately notify the Commissioner of any material change in its ownership, control, or other fact or circumstance affecting its qualification for a certificate of authority or license in this State. The Commissioner shall report any such changes to the producer database maintained by the NAIC or affiliates or subsidiaries of the NAIC."

SECTION 1.6. G.S. 58-56-56 is repealed.

SECTION 1.7. Article 56 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-56-57. Registration requirement.**

A person who directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims on residents of this State in connection with life, annuity, or health coverage provided by a self-funded plan shall register with the Commissioner annually, verifying its status as herein described in a format prescribed by the Commissioner."

SECTION 1.8. Article 56 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-56-62. Annual report and filing.**

(a) Each TPA licensed under G.S. 58-56-52 shall file an annual report for the preceding calendar year with the Commissioner on or before July 1 of each year or within such extension of time as the Commissioner for good cause may grant. The annual report shall include an audited financial statement performed by an independent certified public accountant. An audited financial/annual report prepared on a consolidated basis shall include a columnar consolidating or combining worksheet that shall be filed with the report and include the information required under G.S. 58-56-52(b)(4)a. through c. The report shall be in the form and contain such matters as the Commissioner prescribes and shall be verified by at least two officers of the TPA.

(b) The annual report shall include the complete names and addresses of all insurers with which the administrator had agreements during the preceding fiscal year.

(c) At the time of filing its annual report, the administrator shall pay a nonrefundable filing fee of one hundred dollars ($100.00).

(d) The Commissioner shall review the most recently filed annual report of each administrator on or before September 1 of each year. Upon completion of its review, the Commissioner shall either:

(1) Issue a certification to the administrator that the annual report shows that the administrator has a positive net worth as evidenced by audited financial statements and is currently licensed and in good standing, or noting any deficiencies found in the annual report and financial statements; or

(2) Update any electronic database maintained by the National Association of Insurance Commissioners, or its affiliates or subsidiaries, indicating that the annual report shows that the

administrator has a positive net worth as evidenced by audited financial statements and is in compliance with existing law, or noting any deficiencies found in the annual report."

SECTION 1.9. G.S. 58-56-66 is repealed.

SECTION 1.10. Article 56 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-56-67. Nonresident administrator certificate of authority.**

(a) Unless a TPA has obtained a home state certificate of authority or license in this State under G.S. 58-56-52, any TPA who performs administrator duties in this State shall obtain a nonresident administrator certificate of authority or license in accordance with this section by filing with the Commissioner the Uniform Application accompanied by a letter of certification from the home state of the TPA. In lieu of requiring a TPA to file a letter of certification with the Uniform Application, the Commissioner may verify the nonresident administrator's home state certificate of authority or license status through an electronic database maintained by the National Association of Insurance Commissioners or its affiliates or subsidiaries.

(b) A TPA shall not be eligible for a nonresident administrator certificate of authority or license under this section if it does not hold a certificate of authority as a resident in a home state that has adopted the NAIC Third Party Administrator Statute or a substantially similar law governing TPAs.

(c) Except as provided in subsections (b) and (h) of this section, the Commissioner shall issue to the TPA a nonresident administrator certificate of authority or license promptly upon receipt of a complete application.

(d) Unless notified by the Commissioner that the Commissioner is able to verify the nonresident TPA's home state certificate of authority or license status through an electronic database maintained by the National Association of Insurance Commissioners, or its affiliates or subsidiaries, each nonresident TPA annually shall file a statement that its home state administrator certificate of authority or license remains in force and has not been revoked or suspended by its home state during the preceding year. The statement required by this subsection shall be filed by November 1 each year.

(e) At the time of filing the statement required under subsection (d) of this section or if the Commissioner has notified the nonresident administrator that the Commissioner is able to verify the nonresident administrator's home state certificate of authority or license status through an electronic database, the nonresident TPA shall pay, no later than November 1, a nonrefundable filing fee of one hundred dollars ($100.00).

(f) A TPA licensed or applying for licensure under this section shall produce its accounts, records, and files for examination, and make its officers available to give information with respect to its affairs, as often as reasonably required by the Commissioner.

(g) A nonresident TPA is not required to hold a nonresident administrator certificate of authority or license in this State if the TPA's duties in this State are limited to the administration of a group policy or plan of insurance and no more than a total of 100 persons insured for all plans reside in this State.

(h) The Commissioner may refuse to issue a nonresident administrator certificate of authority or license, or delay the issuance of a nonresident administrator certificate of authority or license, if the Commissioner determines that, due to events or information obtained subsequent to the home state's licensure of the TPA, the nonresident TPA cannot satisfy the requirements of this Article or that grounds exist for the home state's revocation or suspension of the administrator's home state certificate of authority or license. If the Commissioner refuses to issue a certificate of authority of license pursuant to this section, the Commissioner shall give written notice of its determination to the Commissioner of the home state, and the Commissioner may delay the issuance of a nonresident administrator certificate of authority to the nonresident TPA until the Commissioner determines that the administrator can satisfy the requirements of this Article and that no grounds exist for the home state's revocation or suspension of the administrator's home state certificate of authority or license."

SECTION 1.11. Article 56 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-56-72. Grounds for denial, suspension, or revocation of certificate of authority.**

(a) The certificate of authority or license of a TPA shall be denied, suspended, or revoked if the Commissioner finds that the TPA:

(1) Is in an unsound financial condition;

(2) Is using such methods or practices in the conduct of its business so as to render its further transaction of business in this State hazardous or injurious to insured persons or the public; or

(3) Has failed to pay any judgment rendered against it in this State within 60 days after the judgment has become final.

(b) The Commissioner may, after notice and opportunity for hearing, deny, suspend, or revoke the certificate of authority or license of a TPA if the Commissioner finds that the TPA:

(1) Has violated any lawful rule or order of the Commissioner or any provision of the insurance laws of this State;

(2) Has refused to be examined or to produce its accounts, records, and files for examination, or if any individual responsible for the conduct of affairs of the TPA has refused to give information with respect to its affairs or has refused to perform any other legal obligation as to an examination when required by the Commissioner, including:

a. Members of the board of directors, board of trustees, executive committee, or other governing board or committee;

b. The principal officers in the case of a corporation or the partners or members in the case of a partnership, association, or limited liability company;

c. Any shareholder or member holding directly or indirectly ten percent (10%) or more of the voting stock, voting securities, or voting interest of the TPA; and

d. Any other person who exercises control or influence over the affairs of the TPA;

(3) Has, without just cause, refused to pay proper claims or perform services arising under its contracts or has, without just cause, caused covered individuals to accept less than the amount due them or caused covered individuals to employ attorneys or bring suit against the TPA to secure full payment or settlement of such claims;

(4) Fails, at any time, to meet any qualification for which issuance of the certificate could have been refused had the failure then existed and been known to the Commissioner;

(5) Or any of the individuals responsible for the conduct of its affairs has been convicted of, or has entered a plea of guilty or nolo contendere to, a felony without regard to whether adjudication was withheld, including:

a. Members of the board of directors, board of trustees, executive committee or other governing board or committee;

b. The principal officers in the case of a corporation or the partners or members in the case of a partnership, association, or limited liability company;

c. Any shareholder or member holding directly or indirectly ten percent or more of its voting stock, voting securities, or voting interest; and

d. Any other person who exercises control or influence over its affairs;

(6) Is under suspension or revocation in another state; or

(7) Has failed to timely file its annual report pursuant to G.S. 58-56-62 if a resident administrator or its statement and filing fee, as applicable, pursuant to G.S. 58-56-67(d) and (e) if a nonresident administrator.

(c) The Commissioner may, without advance notice or hearing, immediately suspend the certificate of authority or license of a TPA if the Commissioner finds that one or more of the following circumstances exist:

(1) The TPA is insolvent or impaired.

(2) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the TPA has been commenced in any state.

(3) 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.

(d) If the Commissioner finds that one or more grounds exist for the suspension or revocation of a certificate of authority issued under this part, the Commissioner may, in lieu of suspension or revocation, impose a fine upon the TPA."

SECTION 1.12. Article 56 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-56-73. Prohibited practices.**

No person shall act as, offer to act as, or hold himself or herself out as a TPA in this State without a valid domestic or nonresident administrator certificate of authority issued by the Commissioner."

PART II. GROUP ANNUITY CONTRACTS

SECTION 2. G.S. 58-58-145 reads as rewritten:

"**§ 58-58-145. Group annuity contracts defined; ~~requirements.~~requirements; issuance of individual certificates.**

(a) Any policy or contract, except a joint, reversionary or survivorship annuity contract, whereby annuities are payable to more than one person, is a group annuity contract. The person, firm or corporation to whom or to which such contract is issued, as herein provided, is the holder of the contract. The term "annuitant" means any person to whom or which payments are made under the group annuity contract. No authorized insurer shall deliver or issue for delivery in this State any group annuity contract except upon a group of annuitants that conforms to the following: under a contract issued to an employer, or to the trustee of a fund established by an employer or two or more employers in the same industry or kind of business, the stipulated payments on which shall be paid by the holder of such contract either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the employees covered by such contract, and providing a plan of retirement annuities under a plan which permits all of the employees of such employer or of any specified class or classes thereof to become annuitants. Any such group of employees may include retired employees, and may include officers and managers as employees, and may include the employees of subsidiary or affiliated corporations of a corporation employer, and may include the individual proprietors, partners and employees of affiliated individuals and firms controlled by the holders through stock ownership, contract or otherwise.

(b) The insurer of a group annuity contract shall issue to the policyholder, within 30 days of the effective date of the group annuity contract, an individual certificate for delivery to each annuitant which:

(1) Identifies the annuity to which the annuitant is entitled.

(2) States the name of the person to whom the annuity is payable.

(3) Discloses all of the rights and obligations of the insurer, the policyholder, the annuitant, and the persons to whom the annuity is payable with respect to the group annuity contract.

G.S. 58-3-150 applies to the form of the individual certificate required by this subsection.

(c) Each group annuity contract shall include a provision that the insurer will issue to the policyholder within 30 days of the effective date of the contract, for delivery to each annuitant, an individual certificate setting forth the information described in subsection (b) of this section."

PART III. DISCLOSURES FOR ANNUITIES AND LIFE INSURANCE

SECTION 3. The title of Article 60 of Chapter 58 of the General Statutes reads as rewritten:

"Article 60.

~~Regulation of Life Insurance Solicitation.~~

Standards of Disclosure for Annuities and Life Insurance."

SECTION 3.1. Article 60 of Chapter 58 of the General Statues is amended by designating G.S. 58-60-1 through G.S. 58-60-35 as:

"Part 1. Regulation of Life Insurance Solicitation."

SECTION 3.2. G.S. 58-60-1 reads as rewritten:

"**§ 58-60-1. ~~Purpose of Article.~~Short title; purpose.**

(a) This Part may be cited as the "Life Insurance Disclosure Act".

(b) The purpose of this ~~Article~~ Part is to require insurers to deliver to purchasers of life insurance, information which will improve the buyer's ability to select the most appropriate plan of life insurance for ~~their~~ the buyer's needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and to improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance.

This ~~Article~~ Part does not prohibit an insurer ~~to use~~ from using additional material ~~which~~ that is not in violation of Articles 1 through 64 of this Chapter nor any other statute or regulation."

SECTION 3.3. G.S. 58-60-5 reads as rewritten:

"**§ 58-60-5. ~~Scope of Article;~~ Scope; exemptions.**

(a) Except as otherwise provided in this ~~Article,~~ Part, this ~~Article~~ Part applies to any solicitation, negotiation or procurement of life insurance occurring within this State. This ~~Article~~ Part applies to any issuer of a life insurance contract, including fraternal benefit societies.

(b) Unless otherwise specifically included, this ~~Article~~ Part does not apply to:

(1) ~~Annuities,~~Individual group annuity contracts.

(2) Credit life ~~insurance,~~insurance.

(3) Group life ~~insurance,~~ insurance (except for disclosures relating to preneed funeral contracts or prearrangements; these disclosure requirements shall extend to the issuance or delivery of certificates as well as to the master policy).

(4) Life insurance policies issued in connection with pension and welfare plans as defined by and that are subject to the federal Employee Retirement Income Security Act of 1974 ~~(ERISA),~~(ERISA).

(5) Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

(c) The policy summary in this ~~Article~~ Part is not required for policies that are sold subject to rules adopted by the Commissioner for life insurance illustrations."

SECTION 3.4. G.S. 58-60-10(7)k. reads as rewritten:

"k. The date on which the Policy Summary is prepared.

The Policy Summary must consist of a separate document. All information required to be disclosed must be set out in such a manner as to not minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in subparagraph e of this paragraph shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space. If the insurer makes a material revision in the terms and conditions under which it will limit its right to change any nonguaranteed factor, it shall, no later than the first policy anniversary following the revision, advise each affected policy owner residing in this State."

SECTION 3.5. Article 60 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 3. Regulation of Home Service Life Insurance Solicitation.

"**§ 58-60-40. Title and reference.**

This Part may be cited as the "Home Service Disclosure Act".

"**§ 58-60-45. Purpose.**

The purpose of this Part is to establish standards that ensure that meaningful information is provided to the purchasers of insurance policies distributed through the home service distribution system.

"**§ 58-60-50. Definitions.**

As used in this Part:

(1) "Home service distribution system" means a system in which insurance products are marketed, sold, or serviced by agents in person in the home or business of the insured, owner, or premium payor in assigned territories and may be identified as "debits". The policies are issued on a monthly or more frequent premium payment basis and agents are charged with the responsibilities of servicing the debit, which may include the collection of premium payments in the home or designated location on a monthly or more frequent basis, along with other services normally rendered.

(2) "Small face amount life insurance policy" means an insurance policy or certificate with a face amount of fifteen thousand dollars ($15,000) or less.

"**§ 58-60-55. General disclosure requirements.**

(a) In accordance with the disclosure simplification standards set forth in G.S. 58-60-80 and at the time an insurance policy is issued through the home service distribution system, the insurer shall disclose:

(1) Whether the policyholder is allowed to change the method of premium payment and any conditions for that change;

(2) Whether or not at a subsequent date a policyholder may combine multiple policies from the same insurance company, its affiliates, and its subsidiaries into one policy in order to provide like or enhanced coverage at a comparable or reduced premium to eliminate duplicate administrative costs associated with each policy and, if the option is available:

a. Whether a policyholder will be subject to underwriting when combining multiple policies into one policy; and

b. Whether a policyholder will be subject to a new contestable period, waiting periods, etc., when combining multiple policies into one policy.

(b) In accordance with the disclosure simplification standards set forth in G.S. 58-60-80, an insurer issuing a small face amount life insurance policy through the home service distribution system shall provide the current disclosure included in Appendix A of the NAIC's Home Service Disclosure Model if at any point in time over the term of the policy the cumulative premiums paid may exceed the face amount of the policy at that point in time. The required disclosure shall be provided to the policy owner or certificate holder no later than at the time the policy or certificate is delivered. The disclosure shall not be attached to the policy but may be delivered with the policy.

If, for a particular policy form, the cumulative premiums may exceed the face for some demographic or benefit combination but not for all combinations, the insurer may choose to either:

(1) Provide the disclosure only in those circumstances where the premiums may exceed the face amount; or

(2) Provide the disclosure for all demographic and benefit combinations.

Cumulative premiums shall include premiums paid for riders. However, the face amount shall not include the benefit attributable to the riders.

If an illustration has been provided that satisfies the requirements of Title 11, Chapter 4, Section .0500 of the North Carolina Administrative Code, the disclosure requirements of subsection (b) of this section are deemed to have been met.

"**§ 58-60-60. Disclosure of payment methods.**

In accordance with the disclosure simplification standards set forth in G.S. 58-60-80, at the time an insurance policy is issued through the home service distribution system, the insurer shall disclose:

(1) What premium savings may be realized by a different method or less frequent mode of premium payment.

(2) That premiums are still due and payable by the person responsible for premium payments even when an agent does not collect the premiums.

(3) The mailing address for payment of premiums to the company.

(4) That the consumer is entitled to receive a receipt for premium payments when premium payments are made in cash or in person.

"**§ 58-60-65. Evidence of payment.**

For every premium collected on a policy of life or disability insurance marketed, sold, or serviced through the home service distribution system in this State, the agent, solicitor, or broker, or any employee acting on the agent, solicitor, or broker's behalf, collecting or receiving the premium in person shall:

(1) Maintain and furnish to the policyholder a receipt indicating payment of premiums, which shall provide the payor with clearly understandable, written evidence of payment at the time the premium is collected. At a minimum it shall clearly show:

a. The name of the payor.

b. The name of insured under each policy covered by the premium.

c. The amount paid.

d. The date paid.

e. The date paid-to-status of the policy.

f. The policy number.

g. The face amount and type of policy for which the payment will be credited.

h. The signature of the agent.

i. The agent's printed name and unique identification number.

j. The name, complete address, and phone number of the insurer.

(2) Remit to the insurer's home office or applicable district office, or deposit in a fiduciary account, the premium collected on behalf of the policyholder within 10 days of receipt from the premium payor or policy owner. In the event that the insurer utilizes an accounting system based on a monthly list bill, all premiums collected shall be credited from the date of collection. The premium shall be fully applied to that particular account.

"**§ 58-60-70. Proof of policy delivery.**

If an insurance policy marketed, sold, or serviced through the home service distribution system is delivered by an agent, solicitor, or broker, or an employee acting on the agent, solicitor, or broker's behalf, a receipt shall be signed by the purchaser and the agent acknowledging delivery to the purchaser of the policy or contract and the disclosures required by this Part. The receipt shall contain the name of the purchaser, the policy or contract number, the amount of the initial premium payment, and the date the delivery was completed. A policy shall be deemed to have been received six months after the date of issuance if the insured has paid premiums pursuant to the contract. All delivery receipts required by this section shall be retained by the company for not less than three years following delivery and shall be available for inspection upon request of the Commissioner.

"**§ 58-60-75. Company duties.**

Each insurer engaged in the home service distribution system in this State shall make available to the Commissioner for review:

(1) Established written procedures to audit agencies engaged in the home service system of distribution of policies in this State; and

(2) Proof of audits conducted periodically that reasonably ensure that the premium payor's records accurately reflect the premium due date and premium paid-to-status of the policy or policies purchased.

"**§ 58-60-80. Minimum disclosure language standards.**

All disclosure forms shall comply with the readability standards in Article 38 of this Chapter. It is presumed the disclosure form in Appendix A of the NAIC's Home Service Disclosure Model Act complies with this Part."

SECTION 3.6. Article 60 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 3. Regulation of Small Face Amount Life Insurance Solicitation.

"**§ 58-60-85. Title and reference.**

This Part may be cited as the "Small Face Amount Life Insurance Disclosure Act".

"**§ 58-60-90. Purpose; intent; and scope.**

(a) The purpose of this Part is to establish standards that ensure meaningful information is provided to the purchasers of small face amount policies.

(b) This Part applies to any life insurance policy or certificate with an initial face amount of fifteen thousand dollars ($15,000) or less.

(c) This Part does not apply to:

(1) Variable life insurance.

(2) Individual and group annuity contracts.

(3) Credit life insurance.

(4) Group or individual policies of life insurance issued to members of an employer group or other permitted group where:

a. Every plan of coverage was selected by the employer or other group representative;

b. Some portion of the premium is paid by the group or through payroll deduction; and

c. Group underwriting or simplified underwriting is used.

(5) Policies and certificates where an illustration has been provided pursuant to the requirements of Title 11, Chapter 4, Section .0500 of the North Carolina Administrative Code.

"**§ 58-60-95. Disclosure requirements.**

(a) An insurer issuing a small face amount policy shall provide the current disclosure included in Appendix A of the NAIC Disclosure for Small Face Amount Life Insurance Policies Model Act if at any point in time over the term of the policy the cumulative premiums paid may exceed the face amount of the policy at that point in time. The required disclosure shall be provided to the policy owner or certificate holder no later than at the time the policy or certificate is delivered. The disclosure shall not be attached to the policy but may be delivered with the policy.

(b) If, for a particular policy form, the cumulative premiums may exceed the face amount for some demographic or benefit combination but not for all combinations, the insurer may choose to either:

(1) Provide the disclosure only in those circumstances where the premiums may exceed the face amount; or

(2) Provide the disclosure for all demographic and benefit combinations.

(c) Cumulative premiums shall include premiums paid for riders. However, the face amount shall not include the benefits attributable to the riders.

"**§ 58-60-100. Insurer duties.**

The insurer and its producers shall have a duty to provide information to policyholders or certificate holders that ask questions about the disclosure statement."

SECTION 3.7. Article 60 of Chapter 58 of the General Statutes is amended by adding a new Part to read:

"Part 4. Regulation of Annuity Solicitation.

"**§ 58-60-105. Title and reference.**

This Part may be cited as the "Annuity Disclosure Act".

"**§ 58-60-110. Purpose; intent; scope.**

(a) The purpose of this Part is to provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education. This Part specifies the minimum information that must be disclosed and the method for disclosing it in connection with the sale of annuity contracts. The goal of this Part is to ensure that purchasers of annuity contracts understand certain basic features of annuity contracts.

(b) This Part applies to all group and individual annuity contracts and certificates except:

(1) Registered or nonregistered variable annuities or other registered products.

(2) Immediate and deferred annuities that contain no nonguaranteed elements.

(3) Annuities used to fund:

a. An employee pension plan, which is covered by the Employee Retirement Income Security Act (ERISA);

b. A plan described by section 401(a), 401(k), or 403(b) of the Internal Revenue Code, where the plan, for purposes of ERISA, is established or maintained by an employer;

c. A governmental or church plan defined in section 414, or a deferred compensation plan of a state or local government or a tax exempt organization under section 457, of the Internal Revenue Code;

d. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor;

e. Structured settlement annuities;

f. Charitable gift annuities; or

g. Funding agreements.

(c) This Part shall apply to annuities used to fund a plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pre-tax or after-tax basis, and where the insurance company has been notified that plan participants may choose from among two or more fixed annuity providers and there is a

direct solicitation of an individual employee by a producer for the purchase of an annuity contract. As used in this subsection, direct solicitation shall not include any meeting held by a producer solely for the purpose of educating or enrolling employees in the plan or arrangement.

"**§ 58-60-115. Definitions.**

As used in this Part:

(1) "Annuity buyer's guide" or "buyer's guide" means the current NAIC Model Buyer's Guide to Fixed Deferred Annuities, including any appendix thereto.

(2) "Charitable gift annuity" means a transfer of cash or other property by a donor to a charitable organization in return for an annuity payable over one or two lives, under which the actuarial value of the annuity is less than the value of the cash or other property transferred and the difference in value constitutes a charitable deduction for federal tax purposes but does not include a charitable remainder trust or a charitable lead trust or other similar arrangement where the charitable organization does not issue an annuity and incur a financial obligation to guarantee annuity payments.

(3) "Contract owner" means the owner named in the annuity contract or certificate holder in the case of a group annuity contract.

(4) "Determinable elements" means elements that are derived from processes or methods that are guaranteed at issue and not subject to company discretion but where the values or amounts cannot be determined until some point after issue. These elements include the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, charges, or elements of formulas used to determine any of these. These elements may be described as guaranteed but not determined at issue. An element is considered determinable if it was calculated from underlying determinable elements only or from both determinable and guaranteed elements.

(5) "Disclosure document" means the document the contents of which are described in G.S. 58-60-125.

(6) "Funding agreement" means an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies.

(7) "Generic name" means a short title descriptive of the annuity contract being applied for or illustrated such as "single premium deferred annuity".

(8) "Guaranteed elements" means the premiums, credited interest rates, including any bonus, benefits, values, noninterest-based credits, charges, or elements of formulas used to determine any of these, that are guaranteed and determined at issue. An element is considered guaranteed if all of the underlying elements that go into its calculation are guaranteed.

(9) "Nonguaranteed elements" means the premiums, credited interest rates (including any bonus), benefits, values, noninterest-based credits, charges, or elements of formulas used to determine any of these that are subject to company discretion and are not guaranteed at issue. An element is considered nonguaranteed if any of the underlying nonguaranteed elements are used in its calculation.

(10) "Structured settlement annuity" means a "qualified funding asset" as defined in section 130(d) of the Internal Revenue Code or an annuity that would be a qualified funding asset under section 130(d) but for the fact that it is not owned by an assignee under a qualified assignment.

"**§ 58-60-120. Standards for the disclosure document and buyer's guide.**

(a) Where the application for an annuity contract is taken in a face-to-face meeting, the applicant, at or before the time of application, shall be given both the disclosure document described in G.S. 58-60-125 and a copy of the buyer's guide.

(b) Where the application for an annuity contract is taken by means other than in a face-to-face meeting, the applicant shall be sent both the disclosure document and the buyer's guide no later than five business days after the completed application is received by the insurer.

(1) With respect to an application received as a result of a direct solicitation through the mail:

a. Providing a buyer's guide in a mailing inviting prospective applicants to apply for an annuity contract shall be deemed to satisfy the requirement that the buyer's guide be provided no later than five business days after receipt of the application.

b. Providing a disclosure document in a mailing inviting a prospective applicant to apply for an annuity contract shall be deemed to satisfy the requirement that the disclosure document be provided no later than five business days after receipt of the application.

(2) With respect to an application received via the Internet:

a. Taking reasonable steps to make the buyer's guide available for viewing and printing on the insurer's web site shall be deemed to satisfy the requirement that the buyer's guide be provided no later than five business days after receipt of the application.

b. Taking reasonable steps to make the disclosure document available for viewing and printing on the insurer's web site shall be deemed to satisfy the requirement that the disclosure document be provided no later than five business days after receipt of the application.

(3) A solicitation for an annuity contract provided in other than a face-to-face meeting shall include a statement that the proposed applicant may contact the Department for a free annuity buyer's guide. In lieu of the foregoing statement, an insurer may include a statement

that the prospective applicant may contact the insurer for a free annuity buyer's guide.

(c) Where the buyer's guide and disclosure document are not provided at or before the time of application, a free look period of no less than 15 days shall be provided for the applicant to return the annuity contract without penalty. This free look shall run concurrently with any other free look provided under State law or regulation.

"**§ 58-60-125. Contents of disclosure document.**

At a minimum, all of the following information shall be included in the disclosure document required under this Part:

(1) The generic name of the contract, the company product name, if different, and form number, and the fact that it is an annuity.

(2) The insurer's name and address.

(3) A description of the contract and its benefits, emphasizing its long-term nature, including the following, if appropriate:

a. The guaranteed, nonguaranteed, and determinable elements of the contract, and their limitations, if any, and an explanation of how they operate.

b. An explanation of the initial crediting rate, specifying any bonus or introductory portion, the duration of the rate, and the fact that rates may change from time to time and are not guaranteed.

c. Periodic income options both on a guaranteed and nonguaranteed basis.

d. Any value reductions caused by withdrawals from or surrender of the contract.

e. How values in the contract can be accessed.

f. The death benefit, if available, and how it will be calculated.

g. A summary of the federal tax status of the contract and any penalties applicable on withdrawal of values from the contract.

h. The impact of any rider, such as a long-term care rider.

(4) The specific dollar amount or percentage charges and fees with an explanation of how they apply.

(5) Information about the current guaranteed rate for new contracts that contains a clear notice that the rate is subject to change.

Insurers shall define terms used in the disclosure statement in language that facilitates the understanding by a typical person within the segment of the public to which the disclosure statement is directed.

"**§ 58-60-130. Report to contract owners.**

For annuities in the payout period with changes in nonguaranteed elements and for the accumulation period of a deferred annuity, the insurer shall provide each contract owner with a report, at least annually, on the status of the contract that contains at least all of the following information:

(1) The beginning and end date of the current report period.

(2) The accumulation and cash surrender value, if any, at the end of the previous report period and at the end of the current report period.
(3) The total amounts, if any, that have been credited, charged to the contract value, or paid during the current report period.
(4) The amount of outstanding loans, if any, as of the end of the current report period."

PART IV. EMPLOYER-OWNED LIFE INSURANCE DISCLOSURE

SECTION 4. G.S. 58-58-75 reads as rewritten:

"**§ 58-58-75. Insurable interest in life and physical ability of employee or agent.**

(a) An employer, whether a partnership, joint venture, business trust, mutual association, corporation, any other form of business organization, or one or more individuals, or any religious, educational, or charitable corporation, institution or body, has an insurable interest in and the right to insure the physical ability or the life, or both the physical ability and the life, of an employee for the benefit of such employer. Any principal shall have a life insurable interest in and the right to insure the physical ability or the life, or both the physical ability and the life, of an agent for the benefit of such principal.

(b) An employee described in subsection (a) of this section shall be insured for the benefit of an employer described in subsection (a) of this section only if the employee receives written notification from the insurer of the existence of the coverage. The notice shall be provided to the employee within 30 days after the effective date of the coverage and shall include a statement that the employer may maintain the life insurance coverage on the employee even after employment is terminated.

(c) For nonkey or nonmanagerial employees, the aggregate amount of coverage shall be reasonably related to the benefits provided to the employees in the aggregate.

(d) With respect to employer-provided pension and welfare plans, the life insurance coverage purchased to finance the plans may only cover the lives of those employees and retirees who, at the time their lives were first insured under the plan, either are participants, or would be eligible to participate, upon the satisfaction of age, service, or similar eligibility criteria in the plan."

PART V. ACTUARIALLY SOUND ASSOCIATION GROUP ACCIDENT AND HEALTH PREMIUM RATES

SECTION 5. G.S. 58-51-80(1a) reads as rewritten:

"(1a) Under a policy issued to an association or to a trust or to the trustee or trustees of a fund established, created, or maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum of 500 persons and shall have been organized and maintained in good faith for purposes other than that of obtaining insurance; shall have been in active existence for at least five years; and shall have a constitution and bylaws that provide that (i) the association or associations hold regular meetings not less than annually to further purposes of the members; (ii) except for credit unions, the

association or associations collect dues or solicit contributions from members; and (iii) the members, other than associate members, have voting privileges and representation on the governing board and committees. The policy is subject to the following requirements:

a. The policy may insure members of the association or associations, employees of the association or associations, or employees of members, or one or more of the preceding or all of any class or classes for the benefit of persons other than the employee's employer.

b. The premium for the policy shall be paid from funds contributed by the association or associations, or by employer members, or by both, or from funds contributed by the covered persons or from both the covered persons and the association, associations, or employer members. The premium rates for each association policy shall be developed, and applied to the certificates thereunder, on an actuarially sound basis.

c. Repealed by Session Laws 1997-259, s. 8."

PART VI. INDIVIDUAL ACCIDENT AND HEALTH INSURANCE RENEWAL RATE LIMITATIONS

SECTION 6. G.S. 58-51-95 is amended by adding a new subsection to read:

"(g) For policies subject to this section, an individual health insurer shall not increase an individual's renewal premium for continued health insurance coverage under the terms of the individual's health insurance policy based on any health status-related factors in relation to the individual or a dependent of the individual, including:

(1) Health status.
(2) Medical condition (including both physical and mental illnesses).
(3) Claims experience.
(4) Duration from issue.
(5) Receipt of health care.
(6) Medical history.
(7) Genetic information."

PART VII. LARGE GROUP HEALTH INSURANCE SOLE PROPRIETOR EXEMPTION

SECTION 7. G.S. 58-65-60 is amended by adding a new subsection to read:

"(e3) When determining employee eligibility for a large employer, as defined in G.S. 58-68-25(10), an individual proprietor, owner, or operator shall be defined as an "employee" for the purpose of obtaining coverage under the employee group health plan and shall not be held to a minimum workweek requirement as imposed on other eligible employees."

SECTION 7.1. G.S. 58-67-85 is amended by adding a new subsection to read:

"(d1) When determining employee eligibility for a large employer, as defined in G.S. 58-68-25(1), an individual proprietor, owner, or operator shall be defined as an "employee" for the purpose of obtaining coverage under the employee group health plan and shall not be held to a minimum workweek requirement as imposed on other eligible employees."

SECTION 7.2. G.S. 58-51-80(c) reads as rewritten:

"(c) The term "employees" as used in this section shall be deemed to include, for the purposes of insurance hereunder, employees of a single employer, the officers, managers, and employees of the employer and of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners, and employees of individuals and firms of which the business is controlled by the insured employer through stock ownership, contract or otherwise. Employees shall be added to the group coverage no later than 90 days after their first day of employment. Employment shall be considered continuous and not be considered broken except for unexcused absences from work for reasons other than illness or injury. The term "employee" is defined as a nonseasonal person who works on a full-time basis, with a normal work week of 30 or more hours and who is otherwise eligible for coverage, but does not include a person who works on a part-time, temporary, or substitute basis. The term "employer" as used herein may be deemed to include the State of North Carolina, any county, municipality or corporation, or the proper officers, as such, of any unincorporated municipality or any department or subdivision of the State, county, such corporation, or municipality determined by conditions pertaining to the employment. When determining employee eligibility for a large employer, as defined in G.S. 58-68-25(10), an individual proprietor, owner, or operator shall be defined as an "employee" for the purpose of obtaining coverage under the employee group health plan and shall not be held to a minimum workweek requirement as imposed on other eligible employees."

PART VIII. NEWBORN COVERAGE REINSTATEMENT

SECTION 8. G.S. 58-51-30(b) reads as rewritten:

"(b) Every health benefit plan, as defined in ~~G.S. 58-3-167,~~ G.S. 58-51-115(a)(1), that provides benefits for any sickness, illness, or disability of any minor child or that provides benefits for any medical treatment or service furnished by a health care provider or institution to any minor child shall provide the benefits for those occurrences beginning with the moment of the child's birth if the birth occurs while the plan is in force. Every health benefit plan shall extend coverage to a newborn child without requirements for prior notification unless an additional premium charge to add the dependent is due. If an additional premium charge is due to cover the dependent, the health benefit plan shall cover the newborn child from the moment of birth if the newborn is enrolled within 30 days after the date of birth. Foster children and adopted children shall be treated the same as newborn infants and eligible for coverage on the same basis upon placement in the foster home or placement for adoption. Every health benefit plan shall extend coverage to a foster child or adopted child without requirements for prior notification unless an additional premium charge to add the foster child or adopted child is due. If an additional premium charge is due to cover the foster

child or adopted child, the health benefit plan shall cover the foster child or adopted child upon placement in the foster home or placement for adoption if the foster child or adopted child is enrolled within 30 days after the placement in the foster home or placement for adoption."

PART IX. LIMITED HEALTH, SUPPLEMENTAL HEALTH, AND SPECIFIED DISEASE POLICIES TECHNICAL CORRECTIONS

SECTION 9. G.S. 58-51-15(a)(2)b. reads as rewritten:

"b. This policy contains a provision limiting coverage for preexisting conditions. Preexisting conditions are covered under this policy _____ (insert number of months or days, not to exceed one year) after the effective date of coverage. Preexisting conditions mean "those conditions for which medical advice, diagnosis, care, or treatment was received or recommended within the one-year period immediately preceding the effective date of the person's coverage." ~~Credit~~ Except for the excepted benefits described in G.S. 58-68-25(b), credit for having satisfied some or all of the preexisting condition waiting periods under previous health benefits coverage shall be given in accordance with G.S. 58-68-30."

SECTION 9.1. G.S. 58-51-15(h) reads as rewritten:

"(h) Preexisting Condition Exclusion Clarification. – Sub-subdivision (a)(2)b. of this section does not apply ~~to:~~ to

~~(1)~~ ~~Policies~~ policies issued to eligible individuals under G.S. 58-68-60.

~~(2) Excepted benefits as described in G.S. 58-68-25(b).~~"

PART X. SMALL EMPLOYER HEALTH REINSURANCE POOL BOARD AMENDMENTS

SECTION 10. G.S. 58-50-150(b) reads as rewritten:

"(b) ~~Within 30 days after January 1, 1992, the Commissioner shall give notice to all carriers of the time and place for the initial organizational meeting, which shall take place within 90 days after the notice from the Commissioner.~~ The members shall select the initial Board, subject to the Commissioner's approval. The Board shall consist of ~~nine~~ six members. There shall be no more than two members of the Board representing any one carrier. In determining voting rights at the organizational meeting, each member shall be entitled to vote in person or by proxy. ~~The voting rights to determine initial Board membership shall be weighted based upon net group health benefit plan premium derived from this State in the previous calendar year. Thereafter, voting~~ Voting rights shall be based on net group health benefit plan premium derived from small employer business. The Board shall at all times, to the extent possible, include at least one domestic insurance company licensed to transact accident and health insurance, one HMO, one nonprofit hospital or medical service plan. ~~Six~~ Five of the members of the Board shall be small employer carriers. In approving selection of the Board, the Commissioner shall assure that all members are fairly represented."

PART XI. EQUITABLE ENROLLMENT PERIOD FOR SUPPLEMENTAL MEDICARE PLANS

SECTION 11. G.S. 58-54-45(a) reads as rewritten:

"(a) In addition to any rule adopted under this Article that is directly or indirectly related to open enrollment, an insurer shall at least make standardized Medicare Supplement Plans A, C, and J available to persons eligible for Medicare by reason of disability before age 65. This action shall be taken without regard to medical condition, claims experience, or health status. To be eligible, a person must submit an application during the six-month period beginning with the first month the person first enrolls in Medicare Part B. For those persons that are retroactively enrolled in Medicare Part B due to a retroactive eligibility decision made by the Social Security Administration, the application must be submitted within a six-month period beginning with the month in which the person receives notification of the retroactive eligibility decision."

PART XII. REVOCATION AND SUSPENSION TECHNICAL CORRECTION

SECTION 12. G.S. 58-3-100(c) reads as rewritten:

"(c) The Commissioner may impose a civil penalty under G.S. 58-2-70 if an HMO, service corporation, MEWA, or insurer fails to acknowledge a claim within 30 days after receiving written or electronic notice of the claim, but only if the notice contains sufficient information for the insurer to identify the specific coverage involved. Acknowledgement of the claim shall be one of the following:

(1) A statement made to the claimant or to the claimant's legal representative advising that the claim is being investigated.
(2) Payment of the claim.
(3) A bona fide written offer of settlement.
(4) A written denial of the claim.

A claimant includes an insured, a beneficiary of life or annuity contract, a health care provider, or a health care facility that is responsible for directly making the claim with an insurer, HMO, service corporation, or MEWA. With respect to a claim under an accident, health, or disability policy, if the acknowledgement sent to the claimant indicates that the claim remains under investigation, within 45 days after receipt by the insurer of the initial claim, the insurer shall send a claim status report to the insured and every 45 days thereafter until the claim is paid or denied. The report shall give details sufficient for the insured to understand why processing of the claim has not been completed and whether the insurer needs additional information to process the claim. If the claim acknowledgement includes information about why processing of the claim has not been completed and indicates whether additional information is needed, it may satisfy the requirement for the initial claim status report. This subsection does not apply to HMOs, service corporations, MEWAs or insurers subject to G.S. 58-3-225."

PART XIII. HEALTH BENEFIT PLAN TRAVEL EXPENSES COVERAGE

SECTION 13. Article 3 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"**§ 58-3-270. Insurance coverage for travel expenses associated with obtaining care.**

(a) As used in this section, the terms "health benefit plan" and "insurer" have the meaning as found in G.S. 58-3-167.

(b) Each health benefit plan shall provide coverage for reasonable transportation, lodging, and boarding expenses incurred by a covered person to access covered health care services when the insurer, through its referral or network contracting arrangements, requires the covered person to travel more than 250 miles from the covered person's residence to obtain those covered health care services from a network provider.

(c) The coverage specified by this section is limited to transportation, lodging and boarding expenses incurred by a covered person when required by the health plan to travel to access covered health care services as provided in subsection (b) of this section when those health care services are not also available from a network provider who is located within 250 miles of the covered person's residence.

(d) The coverage required by this section shall be subject to plan requirements including any overall health care benefit plan aggregate limitations and shall last for the duration of the health care benefit plan's coverage of the treatment subject to this section. An insurer may utilize a per diem limit for the expenses specified in subsection (c) of this section as long as the limit reflects the high-low per diem method as annually published by the Internal Revenue Service or the Domestic Per Diem Rate as published annually by the federal General Services Administration in the area where the health care services are being obtained. All travel, lodging, and boarding expenses in excess of the insurer's per diem or the health benefit plan's aggregate limits shall be the responsibility of the covered person.

(e) An insurer may require prior approval of all expenses subject to this section.

(f) The coverage required by this section shall apply only to those travel, lodging, and boarding expenses incurred by the covered person accessing covered health care services in accordance with this section. If the covered person accessing covered health care services in accordance with this section is a minor, the health benefit plan shall also cover the expenses specified in subsection (c) of this section for a parent or guardian who accompanies the minor."

PART XIV. CREDIT INSURANCE AMENDMENTS

SECTION 14. G.S. 58-57-5 is amended by adding a new subdivision to read:

"(5a) "Critical period coverage" means insurance coverage for which benefits are limited to a stated number of payments or the payments end with the expiration of the policy, whichever is less."

SECTION 14.1. G.S. 58-57-50(b) reads as rewritten:

"(b) The refund of premiums for decreasing term credit life insurance shall be equal to the premium that would be charged for the remaining term and amount of coverage in the policy. The refund of premiums for ~~decreasing term credit life insurance in transactions of 60 months duration or less and the refund of premiums for~~ single interest credit property insurance and single interest physical damage insurance shall be

equal to the amount computed by the sum of digits formula known as the "Rule of 78." ~~The refund of premiums for decreasing term credit life insurance in transactions of more than 60 months duration shall be equal to the premium that would be charged for the remaining term and amount of coverage in the policy.~~ The refund of premiums for level term credit life insurance and dual interest credit property insurance and dual interest physical damage insurance shall be equal to the pro rata unearned gross premiums."

SECTION 14.2. G.S. 58-57-55 reads as rewritten:

"**§ 58-57-55. Issuance of policies.**

All policies of credit life insurance and credit accident and health insurance shall be issued only by an insurer authorized to do business in this State and shall be issued only through holders of licenses or authorizations issued by the Commissioner. ~~All~~ With the exception of credit insurance issued in accordance with G.S. 58-57-105, all policies of credit life insurance and credit accident and health insurance shall be delivered or issued for delivery in this ~~State only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses or authorizations issued by the Commissioner.~~ State. The enrollment of debtors under a group policy issued to a creditor and authorized under this Article shall not constitute the issuance of a policy of insurance."

SECTION 14.3. G.S. 58-57-60 is amended by adding a new subsection to read:

"(d) A claim acknowledgement shall be sent to the claimant within 30 days after receiving written or electronic notice of the claim. Acknowledgement shall include the following:

(1) A statement made to the insured or the claimant advising that the claim is being investigated.
(2) Payment of the claim.
(3) A bona fide written offer of settlement.
(4) A written denial of the claim."

SECTION 14.4. G.S. 58-57-110 reads as rewritten:

"**§ 58-57-110. Credit unemployment insurance rate standards; policy provisions.**

(a) Each year the Commissioner shall prescribe a minimum incurred loss ratio standard requirement to develop a premium rate reasonable in relation to the benefits provided by credit unemployment insurance coverage. The following requirements must be met:

(1) Coverage is provided or offered, with or without underwriting, to all debtors regardless of age who are working for salary, wages, or other employment income for at least 30 hours per week and have done so for 12 consecutive months;
(2) Coverage sets forth a definition of involuntary unemployment as a loss of employment income that may include, but is not limited to, loss caused by layoff, general strike, termination of employment, or lockout;
(3) Coverage does not contain any exclusion except: debts with irregular monthly payments; voluntary forfeiture of salary, wages, or other

employment income; resignation; retirement; sickness, disease, or normal pregnancy; or loss of income due to termination as a result of willful misconduct that is a violation of some established, definite rule of conduct, a forbidden act, or willful dereliction of duty, or criminal ~~misconduct.~~misconduct;

(4) As long as there is no required time period limitation for registration, the insured may be required to register with the State unemployment office in order to qualify for benefit payments under the credit unemployment coverage. Qualification for State unemployment benefits shall not be required in order to qualify for benefit payments under the credit unemployment coverage.

(b) The Commissioner may approve other policy provisions and coverages consistent with the purposes of unemployment coverage.

(c) Joint coverage rates for credit unemployment insurance shall be one and two-thirds (1 2/3) times the approved single rate of coverage.

(d) The refund provision for credit unemployment insurance shall be equal to the pro rata unearned gross premium."

PART XV. MEDICARE SUPPLEMENTAL INSURANCE POLICY CHANGES

SECTION 15. G.S. 58-54-25(f) reads as rewritten:

"(f) No insurer shall use attained age as a structure or methodology for its Medicare supplement insurance rates. ~~rates unless the structure or methodology is fully disclosed to the applicant at the time of application or to the insured at the time of delivery if the purchase is by mail order. All types of solicitation materials shall clearly indicate that the premiums are based on attained age, which means that those premiums will increase each year. The Commissioner shall prescribe by rule the format and content of the attained age rating disclosure notice. The notice shall include:~~

~~(1) A statement that attained age rating means that rates increase as the insured ages or by the age group in which the insured is.~~

~~(2) An illustration based on actual attained age that states the dollar amount of premium increase for the insured over a period of not less than 10 policy years and that displays the life expectancy of the insured at the beginning of the period.~~

~~(3) A statement that premiums for other Medicare supplement policies that are on issue age bases do not increase as the insured ages.~~

~~(4) A statement that other Medicare supplement policies that are on issue age bases should be compared to policies on attained age bases.~~"

SECTION 15.1 G.S. 58-54-10 reads as rewritten:

"**§ 58-54-10. Standards for policy provisions.**

(a) No policy in force in this State shall contain benefits that duplicate benefits provided by Medicare.

(b) The Commissioner shall adopt rules to establish specific standards for provisions of policies. Such standards shall be in addition to and in accordance with applicable State law. No requirement of State law relating to minimum required policy

benefits, other than the minimum standards contained in this Article, applies to policies. The standards may include without limitation to: terms of renewability; initial and subsequent conditions of eligibility; nonduplication of coverage; probationary periods; benefit limitations, exceptions, and reductions; elimination periods; requirements for replacement; recurrent conditions; and definitions of terms.

(c) The Commissioner may adopt rules that specify prohibited policy provisions not otherwise specifically authorized by State law that, in the opinion of the Commissioner, are unjust, unfair, or unfairly discriminatory to any person insured or proposed for coverage under a policy.

(d) Notwithstanding any other provision of State law, a policy may not deny a claim for losses incurred more than six months from the effective date of coverage for a preexisting condition. A policy may not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six months before the effective date of coverage.

(e) Repealed by Session Laws 1991 (Regular Session, 1992), c. 815, s. 3.

(f) An insurer shall use issue age as a structure or methodology for its Medicare supplement insurance rates. An insurer shall not use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the Commissioner.

(g) Except as otherwise provided in this subsection, an insurer shall not file for approval with the Commissioner more than one policy or certificate of each type for each standard policy. An insurer may offer, with the approval of the Commissioner, up to four additional policies or certificates of the same type for the same standard policy, one for each of the following:

(1) The inclusion of new or innovative benefits.

(2) The addition of either direct response or agent marketing methods.

(3) The addition of either guaranteed issue or underwritten coverage.

(4) The offering of coverage to individuals eligible for Medicare by reason of disability.

As used in this section, "type" means an individual policy, a group policy, an individual Medicare select policy, or a group Medicare select policy.

(h) Except as otherwise provided in this subsection, an insurer shall continue to make available for purchase any policy or certificate issued on and after January 1, 2004 that has been approved by the Commissioner. A policy or certificate shall not be considered to be available for purchase unless the insurer has actively offered the policy or certificate for sale in the immediately preceding 12 month period.

(i) An insurer may discontinue the availability of a policy or certificate if the insurer provides to the Commissioner in writing its decision to discontinue at least 30 days prior to the effective date of the discontinuance. Upon providing notice to the Commissioner, the insurer shall no longer offer for sale the policy or certificate in this State. An insurer that discontinues the availability of a policy or certificate pursuant to this subsection shall not file for approval a new policy or certificate of the same type for the same standard Medicare supplement policy as the discontinued policy or certificate for a period of five years from the effective date of the discontinuance. The

period of discontinuance may be reduced if the Commissioner determines that a shorter period is appropriate. The following shall be considered a discontinuance under this subsection:

(1) The sale or transfer of the insurer's Medicare supplement business to another insurer.

(2) A change in the rating structure or methodology of the policy or certificate unless:

a. The insurer provides actuarial memorandum, in a form and manner prescribed by the Commissioner, describing the manner in which the revised rating structure or methodology and resultant rates differ from the existing rating structure or methodology and rates, and

b. The insurer does not subsequently put into effect a change of rates or rating factors that would cause a change in the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum. The Commissioner may approve a change to the differential if the Commissioner finds the change to be in the public interest."

PART XVI. EFFECT OF HEADINGS, SEVERABILITY, AND EFFECTIVE DATES

SECTION 16. 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 16.1. If any section or provision of this act is declared unconstitutional, preempted, or otherwise invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional, preempted, or otherwise invalid.

SECTION 16.2. Sections 1 through 8 and Sections 9, 9.1, 13, 14, 14.1, 14.2, 14.3, 14.4, 15, and 15.1 of this act become effective January 1, 2004, and apply to policies or certificates issued or renewed on or after that date. The remainder of this act is effective when it becomes law and applies to policies or certificates issued or renewed on or after that date.

HOUSE BILL 339:
Life and Health Omnibus-AB

BILL ANALYSIS

Committee:	House Insurance	**Introduced by:**	Rep. Wright
Date:	April 15, 2003	**Summary by:**	Linda Attarian
Version:	PCS H339-PCS80261		Committee Counsel

SUMMARY: ***House Bill 339 makes numerous substantive and technical changes to laws governing the regulation of insurance including:***

Conforms Article 56 of Chapter 58 governing third party administrators, to the National Association of Insurance Commissioners (NAIC) model act on third party administrators. SECTIONS 1.1 –1.12.

Amends G.S. 58-58-145 which defines group annuity contracts, to require the insurer of such contracts to issue individual certificates of coverage to each annuitant. SECTION 2.

Amends current disclosure requirements regarding the solicitation of life insurance products and annuities. SECTION 3-3.7.

Amends G.S. 58-58-75 which gives a principle or an employer an insurable interest in the life or physical ability of an employee or agent, to require insurers to notify employees of the existence of such policies. SECTION 4.

Amends G.S. 58-51-80 which defines group accident and health insurance, to require that association premium rates for accident and health insurance be actuarially sound and that associations be rated as a single group when the coverage provided is not employer-based. SECTION 5.

Amends G.S. 58-51-95 to limit an insurer's ability to use an individual's own claims' experience to increase the individual's renewal rates on individual health insurance policies. SECTION 6.

Amends G.S. 58-65-60 governing subscribes' contracts, to exempt a sole proprietor or owner or operator of a business from the full-time basis or the 30-hour workweek requirements to be eligible for large group health coverage like the proprietor's full-time employees. SECTIONS 7 - 7.2.

Amends G.S. 58-50-150 to shorten the membership on the Small Employer Health Reinsurance Pool Board ~~Amendments~~ from nine to six. SECTION 10.

Amends G.S. 58-54-45 governing the issuance of Medicare Supplement Plans by reason of disability, to require insurer to allow persons retroactively enrolled in Medicare Part B the same six-month open enrollment period for Medicare Supplemental Plans as person enrolled in Medicare Part B without a retroactive effective date of coverage. SECTION 11

Adds a new section to Article 3 to require health benefit plans to provide coverage for designated travel expenses when the required distance traveled threshold is met. SECTION 13

Makes other clarifying and technical changes.

The act (except for sections 10-12) becomes effective January 1, 2004. Sections 10, 11, and 12 (which include technical corrections) become effective when the act becomes law.

BILL ANALYSIS: Frank Folger, from the Department of Insurance provided the following section-by-section explanation.

PART I. THIRD PARTY ADMINISTRATOR REWRITE (Sections 1 –1.12). This part adopts the NAIC model statute, which provides reciprocity, among other benefits.

Section 1. Repeals the existing definitions section for Article 56 – Third Party Administrators-G.S. 58-56-2.

Section 1.1 enacts new G.S. 58-56-2 with revised and expanded definitions. Added terms include "insurance producer", "nonresident administrator" and "Uniform Application".

Section 1.2 makes technical clarifying changes to the wording of G.S. 58-56-6., governing the written agreement requirements.

Section 1.3 rewrites and reorganizes portions of G.S. 58-56-16 regarding Commissioner access to third party administrator (TPA) books and records and adds new subsections (e) through (i) to:

- Provide that TPA records and books in the possession or control of the Commissioner are confidential and privileged, not public record, not subject to discovery, not subject to subpoena, and inadmissible in evidence in any private civil action; and provide that immunity from testifying on the documents applies to the Commissioner and anyone receiving that material while acting under the authority of the Commissioner.
- Provide that the Commissioner can share such material with and receive such material from other state, federal and international regulatory and law enforcement agencies and the NAIC, provided it is agreed the confidentiality and privilege will be maintained; and can enter into agreements governing the sharing of such material consistent with the rules in that subsection.
- Provide that disclosure by the Commissioner does not constitute waiver of the privilege or claim of confidentiality;
- Clarify that the confidentiality and privilege requirements do not restrict the Commissioner from releasing final adjudicated action including for cause terminations.

Section 1.4. Repeals the existing TPA licensing statute.

Section 1.5. Enacts new G.S. 58-56-52. Home state certificate of authority or license. This new statute:

- Provides for licensure or issuance of a certificate of authority by a TPA's home state (as defined in G.S. 58-56-3) upon application using the Uniform Application and submission of a $100 filing fee. The Uniform Application must include or be accompanied by designated organizational documents, bylaws and internal regulatory documents, NAIC Biographical Affidavits for the officers, directors and all individuals responsible for the conduct of the affairs of the applicant, audited financial statements, a description of the business plan of the TPA, and any other pertinent information..
- Requires the TPA to provide for inspection and examination by the Commissioner all TPA contracts with insurers or others using the TPA's services and all accounts, records and files.
- Authorizes the Commissioner to refuse to issue a certificate of authority or license to a TPA upon determining that the TPA or any individual responsible for conducting the affairs of the TPA:

  - Is not competent
  - Is not trustworthy
  - Is not financially responsible
  - Is not of good personal and business reputation
  - Has had an insurance or an administrator certificate of authority or license denied or revoked for cause by any jurisdiction
  - Or upon determining that any of the grounds for denial, suspension or revocation of a certificate of authority under G.S. 58-56-72 exists.
- Provides for the perpetuity of a license or certificate of authority.
- Requires the TPA to notify the Commissioner of any material change in change of ownership, control, or other fact or circumstance affecting its qualification for a certificate of authority or license and requires the Commissioner to notify the producer database maintained by the NAIC or its affiliates or subsidiaries.

Section 1.6. Repeals the existing provision on waiver of application for license, G.S. 58-56-56.

Section 1.7. Enacts new G.S.58-56-57. Registration requirement, to require any person underwriting, collecting charges or premiums from, or adjusting or settling claims on NC residents in connection with a self-funded plan for life, health or annuity coverage to register annually with the Commissioner.

Section 1.8. Enacts new G.S. 58-56-62 to require each TPA licensed under G.S. 58-56-52 to file an annual report, including an independent CPA-audited financial report verified by at least two officers of the TPA with contents and format as prescribed by the Commissioner. The annual report must include the names and addresses of all the insurers with which the TPA has contracted in the past fiscal year and must be submitted along with an annual $100 filing fee. The Commissioner must review the annual report before September 1 of each year and either certify that, according to the annual report, the TPA has a positive net worth and is in good standing, or note any deficiencies found in the annual report; or update the aforementioned NAIC electronic database consistent with the Commissioner's review and assessment.

Section 1.9. Repeals existing G.S. 58-56-66 Grounds for suspension or revocation of license.

Section 1.10. Enacts new G.S. 58-56-67. Nonresident administrator certificate of authority, which:

- Requires any TPA performing TPA services in N.C. that does not carry a N.C. license or certificate of authority to file a Uniform Application with the Commissioner accompanied by certificate or license from the TPA's home state and that state has adopted the NAIC Third Party Administrator Statute or substantially similar laws governing TPAs in order to obtain a nonresident administrator certificate of authority for N.C.
- Requires a $100 filing fee as part of the application process.
- Subject the nonresident TPA to examination of its accounts, records, and files by the Commissioner.
- Exempts from the requirements of a nonresident certificate of authority nonresident TPAs that only perform administrator services on a group policy or plan with no more 100 insureds residing in N.C.

- Authorizes the Commissioner to refuse to issue a nonresident certificate of authority if the Commissioner determines that events or information obtained following the licensure of the TPA in its home state, the TPA cannot satisfy the requirements of Article 56 or grounds exist for the home state's suspension or revocation of the TPA's license or certificate.

Section 1.11. Enacts new G.S. 58-56-72 to require denial, suspension or revocation of certificate of authority if the Commissioner finds the TPA:

- Is financially unsound
- Is using methods or practices rendering its future transactions hazardous or injurious to insured persons or the public.
- Has failed to pay any judgment rendered against it in N.C. within 60 days after the judgment has become final.

The Commissioner, after notice and hearing, may deny, suspend, or revoke the certificate of authority or license if the Commissioner finds the TPA:

- Has violated any lawful rule or order of the Commissioner or any provision of the N.C. insurance laws.
- Or any person or entity exercising control of the TPA has refused to cooperate with examination by the Commissioner.
- Has, without cause, refused to pay proper claims or fulfill its contractual obligations.
- Fails to satisfy, at any time, the conditions upon which the license or certificate of authority was initially granted.
- Or any of the individuals responsible for the conduct of the TPA enters a plea or guilt or nolo contendere or is found guilty of a felony.
- Is under suspension or revocation in another state.
- Has failed to timely file its annual report pursuant to G.S. 58-56-62 if a resident TPA or its statement and filing fee, as applicable, if a nonresident administrator.

The Commissioner may without advance notice or hearing, immediately suspend the certificate of authority or license if the Commissioner finds that one or more of the following circumstances exist:

- The TPA is insolvent or impaired.
- A proceeding for receivership, rehabilitation or other delinquency proceeding has been instituted in any state.
- The TPA's financial condition or business practices pose an imminent threat to the public health, safety or welfare of N.C. citizens.

The Commissioner may impose a fine in lieu of suspension or revocation.

Section 1.12. Prohibits acting as a TPA in N.C. without a resident certificate of authority or a non-resident certificate of authority.

PART II. GROUP ANNUITY CONTRACTS

Section 2. Amends G.S. 58-58-145 requires group annuity insurers to issue certificates of coverage to each annuitant via the policyholder on a form approved by the Commissioner.

PART III. DISCLOSURES FOR ANNUITIES AND LIFE INSURANCE

Sections 3. through 3.7. Adopts the new NAIC models on Annuity, Home Service Life Insurance and Small Face Amount Life Insurance Disclosure and updates our current life insurance disclosure provisions in Article 60 of Chapter 58 to reflect the current NAIC Life Insurance Disclosure model act.

This Part reorganizes Article 60 to create a life insurance and annuity product disclosure article, with separate parts for each different product disclosure requirement. Each model specifically addresses disclosure requirements to assist the consumer when making a purchasing decision by requiring notice of the feature, including potentially negative aspects of each product. For example:

(1) Sellers of small face life insurance (insurance with a face amount less than $15,000) would have to disclose up front that premiums paid-in could exceed the face value of the policy, if that is a possibility at any time;

(2) Sellers of life insurance through the home service distribution system must disclose whether the policyholder is allowed to change the method of premium payment, whether the policyholder can combine multiple policies from the same company or its affiliates or subsidiaries into one policy and what the impact, if any, such a consolidation would have regarding underwriting, waiting periods, contestable periods and the like, and they would have to provide and maintain evidence of payment of premiums; and

(3) Sellers of annuities would have to provide to the applicant for an annuity a copy of the NAIC Model Guide to Fixed Deferred Annuities and a disclosure document, containing information on the insurer, specifics of the contract including its long-term nature, the specific amount of charges applicable to the contract, and information on the variability of guaranteed rates and the current guaranteed rate.

PART IV. EMPLOYER OWNED LIFE INSURANCE DISCLOSURE

Section 4. Amends G.S. 58-58-75 to require employers that purchase life insurance policies on the lives of their employees for the benefit of the employer to disclose that practice to its employees within 30 days of the effective date a provider who has appropriate expertise, and each panel reviewing a second-level grievance involving a noncertification or a clinical issue shall include of the coverage and, if applicable, that these employer-owned life insurance (sometimes referred to a COLI for "corporate-owned life insurance") polices can be maintained after the employment has terminated..

Part V. Requires association group accident and health premium rates to be actuarially sound and to rate associations as a single group when the coverage is not employer based.

This Part reorganizes Article 60 to create a life insurance and annuity product disclosure article, with separate parts for each different product disclosure requirement. Each model specifically addresses disclosure requirements to assist the consumer when making a purchasing decision by requiring notice of the potentially negative aspects of each product. For example: sellers of small

face life insurance (insurance with a face amount less than $15,000) would have to disclose that premiums paid in could exceed the face value of the policy.

Part IV. EMPLOYER-OWNED LIFE INSURANCE DISCLOSURE

Section 4. Amends G.S. 58-58-75 to require employers that purchase life insurance policies on the lives of their employees for the benefit of the employer to disclose that practice to its employees within 30 days of the effective date of the coverage and, if applicable, that these employer-owned life insurance (sometimes referred to as COLI for "corporate-owned life insurance") policies can be maintained after the employment has terminated.

Part V. ACTUARIALLY SOUND ASSOCIATION GROUP ACCIDENT AND HEALTH PREMIUM RATES

Section 5. Amends G.S. 58-51-80 to requires association group accident and health premium rates to be actuarially sound and to rate associations as a single group when the coverage is not employer based in order to prevent reunderwriting practices in which insurers are re-rating individual members in (non-employer based) associations as single one man groups each, rather than using the entire association's experience to determine renewal rates.

Part VI. INDIVIDUAL ACCIDENT AND HEALTH INSURANCE RENEWAL RATE LIMITATIONS

Section 6. Amends G.S. 58-51-95 to limits an individual accident and health insurer's ability to increase an individual's renewal rate based on the individual's health status-related factors including: health status; medical condition (including both physical and mental illnesses); claims' experience; duration from issue; receipt of health care; medical history; or genetic information.

Part VII. LARGE GROUP HEALTH INSURANCE SOLE PROPRIETOR EXEMPTION

Sections 7. -7.2. Amend G.S. 58-65-60, 58-67-85, and 58-51-80(c) to exempt, for large group health insurance (more than 50 employees), a sole proprietor or owner or operator of a business from the full-time basis or 30 hour workweek requirements in order to be eligible for the same coverage provided to the sole proprietor's employees.

Part VIII. NEWBORN COVERAGE REINSTATEMENT

Section 8. Amends 58-51-30(b) to correct an oversight in a 2001 enactment and again apply newborn coverage provisions to a more comprehensive list of insurance lines rather than just major medical insurance. Before the 2001 Session, newborn coverage requirements applied to generally all types of health insurance coverage that provided coverage to children. When changes were made in the 2001 session to expand coverage to provide for foster and adopted children, an erroneous reference was made to G.S. 58-3-167 and thus coverage requirements were inadvertently limited to apply only to major medical health coverages. This amendment would return coverage to its status before the 2001 error.

Part IX. LIMITED HEALTH, SUPPLEMENTAL HEALTH, AND SPECIFIED DISEASE POLICIES TECHNICAL CORRECTIONS

Section 9. Amends G.S. 58-51-15(a) (2)b. and 58-51-15(h) to technically correct a definitional problem regarding pre-existing conditions as applied to limited health, supplemental health, and specified disease policies. HB 760 in the 2001 Session corrected an "unintended consequence" which threatened the availability of limited health, supplement health and specified disease policies. This availability problem was caused by earlier legislation imposing portability requirements on these policies and subjecting them to the same pre-existing conditions rules as other health insurance policies. In correcting the availability problem, HB 760 created a different problem in the form of a definitional gap for "pre-existing condition" respecting these policies. This amendment technically fixes this new problem.

Part X. SMALL EMPLOYER HEALTH REINSURANCE POOL BOARD AMENDMENTS

Section 10. Shortens the membership on the Board from nine to six members as it has become difficult to find persons willing to serve on the Board.

Part XI. EQUITABLE ENROLLMENT PERIOD FOR SUPPLEMENTAL MEDICARE PLANS

Section 11. Amends G.S. 58-54-45(a) to allows persons retroactively enrolled in Part B Medicare 6 months to enroll in Medicare Supplement Plans A, C, and J after notice of the retroactive enrollment decision so they are not penalized or precluded from enrolling in those plans. This proposal would assist persons who are eligible for Medicare retroactively. These persons are always disabled under age 65 and by virtue of the retroactive enrollment miss the deadline for open enrollment for Medicare Supplement Plans. This amendment provides that in the case of retroactive enrollment, the Medicare beneficiary should be entitled to a six-month open enrollment for Medicare Supplement Plans, beginning with the month the beneficiary receives notice of the retroactive enrollment, so that the beneficiary is entitled to the same period for enrollment in supplement plans like everyone else who becomes eligible due to a disability.

Part XII. REVOCATION AND SUSPENSION TECHNICAL CORRECTION

Section 12. Amends G.S. 58-3-100(c) to technically correct the revocation and suspension law to include "beneficiary of a life or annuity contract" as a claimant to clarify said beneficiary's entitlement to the acknowledgement of a claim within 30 days of receipt.

Part XIII. HEALTH BENEFIT PLAN TRAVEL EXPENSES COVERAGE

Section 13. Creates a new G.S. 58-3-270 to mandate health benefit plan coverage for certain travel expenses associated with obtaining care when the person must travel more than 250 miles, one way, to obtain treatment. This amendment codifies a long standing Department policy that health benefit plans provide coverage for certain travel expenses for an insured, and a parent/guardian if the insured is a child, when the insurer requires the person to travel a significant distance from their home to obtain in-network care.

Part XIV. CREDIT INSURANCE AMENDMENT

Sections 14. Through 14.4. Amends G.S. 58-57-5, 58-57-50(b), 58-57-55, 58-57-60, and 58-57-110 in Article 57 (Credit Insurance) to codify Departmental policy or to clarify statutory requirements. The amendments:

(1) Define "critical period coverage" – This is a definition presently permitted by the Department.

(2) Allow credit card credit insurance to be provided through out-of-state insurance contracts (consistent with existing market conditions) - Credit card coverages are almost exclusively provided through out-of-state contracts because the large credit card companies are not located in North Carolina. This amendment will allow the continued availability of this type of insurance in North Carolina;

(3) Set an appropriate refund method for decreasing term credit life insurance;

(4) Require acknowledgement of credit insurance claims not paid within 60 days – Currently there are no provisions in the credit insurance provisions to require acknowledgement of a claim. This would bring credit insurance in uniformity with other lines regarding acknowledgement of a claim; and

(5) Allow a requirement of registration with the state unemployment office for involuntary unemployment benefits under a credit unemployment policy but prohibit the placing of a deadline for that registration or qualification for state unemployment benefits to qualify for the insurance benefits – Some Involuntary Unemployment Insurance (IUI) insurers have submitted forms that require an insured to register with the state unemployment office within 15 or 30 days of the loss of employment in order to qualify for credit involuntary unemployment benefits under the coverage. This deadline for registering would restrict payment of an otherwise valid claim. This amendment prohibits IUI insurers from imposing a deadline for registration with the state unemployment office, prohibits conditioning benefits upon qualification for state unemployment benefits but allows a requirement of registration (without deadline) with the state unemployment office in order to qualify for benefits.

PART XV. EFFECT OF HEADINGS, SEVERABILITY AND EFFECTIVE DATES

Sections 15 through 15.2. These sections contain a proviso on the naming of headings for parts, contain a severability clause, make sections 1 through 8, 9, 9.1, 13, and 14 through 14.4 effective January 1, 2004 and the remainder of the act effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **Rules, Calendar and Operations of the House**.

☒ Committee Substitute for

H.B. 339 A BILL TO BE ENTITLED AN ACT TO CONFORM NORTH CAROLINA'S THIRD PARTY ADMINISTRATOR ARTICLE TO REVISIONS TO THE NAIC MODEL THIRD PARTY ADMINISTRATOR STATUTE; REQUIRE GROUP ANNUITY INSURERS TO ISSUE INDIVIDUAL CERTIFICATES OF COVERAGE TO EACH ANNUITANT; REORGANIZE ARTICLE 60 OF CHAPTER 58 OF THE GENERAL STATUTES AND AMEND CURRENT DISCLOSURE REQUIREMENTS FOR SOLICITATION OF LIFE INSURANCE PRODUCTS AND ANNUITIES; REQUIRE INSURERS TO NOTIFY EMPLOYEES OF THE EXISTENCE OF EMPLOYER-OWNED LIFE INSURANCE POLICIES WITHIN THIRTY DAYS AFTER THE EFFECTIVE DATE OF COVERAGE; REQUIRE THAT ASSOCIATION PREMIUM RATES FOR ACCIDENT AND HEALTH INSURANCE BE ACTUARIALLY SOUND AND THAT ASSOCIATIONS BE RATED AS A SINGLE GROUP WHEN THE COVERAGE PROVIDED IS NOT EMPLOYER-BASED; LIMIT AN INDIVIDUAL ACCIDENT AND HEALTH INSURER'S USE OF AN INDIVIDUAL'S OWN CLAIMS' EXPERIENCE TO DEVELOP THE INDIVIDUAL'S RENEWAL RATE;EXEMPT A SOLE PROPRIETOR FROM THE FULL-TIME BASIS OR THIRTY-HOUR WORKWEEK REQUIREMENTS TO BE ELIGIBLE FOR LARGE GROUP HEALTH COVERAGE LIKE THE PROPRIETOR'S FULL-TIME EMPLOYEES; CORRECT AN INADVERTENT CROSS-REFERENCE IN ORDER TO REAPPLY NEWBORN COVERAGE TO A MORE COMPREHENSIVE GROUP OF INSURERS; TECHNICALLY CORRECT AN OMISSION REGARDING PROVISIONS GOVERNING PREEXISTING CONDITIONS FOR LIMITED HEALTH, SUPPLEMENTAL HEALTH, AND SPECIFIED DISEASE POLICIES; DECREASE THE TOTAL NUMBER OF MEMBERS THAT SERVE ON THE SMALL EMPLOYER REINSURANCE POOL BOARD FROM NINE TO SIX; ALLOW PERSONS RETROACTIVELY ENROLLED IN MEDICARE PART B THE SAME SIX-MONTH OPEN ENROLLMENT PERIOD FOR MEDICARE SUPPLEMENT PLANS AS PERSONS WHO ENROLLED IN MEDICARE PART B WITHOUT A RETROACTIVE EFFECTIVE DATE OF COVERAGE; TECHNICALLY CORRECT THE REVOCATION AND SUSPENSION LAW TO INCLUDE A BENEFICIARY OF A LIFE OR ANNUITY CONTRACT AS A CLAIMANT; MANDATE HEALTH BENEFIT COVERAGE FOR DESIGNATED TRAVEL EXPENSES WHEN THE REQUIRED DISTANCE TRAVELED THRESHOLD IS MET; TO REQUIRE RATE METHODOLOGY UNDER MEDICARE SUPPLEMENTAL INSURANCE POLICIES TO BE BASED ON ISSUE AGE AND TO MAKE OTHER CHANGES TO THE LAW PERTAINING TO MEDICARE SUPPLEMENTAL INSURANCE POLICIES; AND MAKE TECHNICAL CORRECTIONS TO THE CREDIT INSURANCE 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
May 7, 2003
1:00 P.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

COMMITTEE SUBSTITUTE FOR SENATE BILL 384 – AN ACT TO AMEND THE HIGHWAY TRUST FUND ACT DESCRIPTION OF THE DURHAM NORTHERN LOOP AND INTRASTATE IMPROVEMENT PROJECTS

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

MAY 7, 2003

The Committee on Rules, Calendar and Operations of the House met on May 7, 2003 at1:00 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representatives Culpepper, Chairman; Hackney, Vice Chairman; Crawford, Gorman, Justice, LaRoque, Luebke, McComas, Miller, Owens, Sherrill and Yongue.

The following bill was considered:

COMMITTEE SUBSTITUTE FOR SENATE BILL 384 – AN ACT TO AMEND THE HIGHWAY TRUST FUND ACT DESCRIPTION OF THE DURHAM NORTHERN LOOP AND INTRASTATE IMPROVEMENT PROJECTS. A proposed House committee substitute changing the title to AN ACT TO AMEND THE HIGHWAY TRUST FUND ACT DESCRIPTION OF THE DURHAM NORTHERN AND WILMINGTON URBAN LOOPS AND OTHER INTRASTATE IMPROVEMENT PROJECTS was offered, and Representative Luebke moved for its adoption. Without objection, the chairman so ordered. Representative Luebke was recognized to explain the proposed committee substitute. He spoke on the portion of the proposed committee substitute relating to the Durham bypass, and Representative McComas spoke on the portion relating to the Wilmington bypass. The chairman explained that the Senate bill had been given a favorable report by the House Committee on Transportation and was referred to the Rules Committee to hold until after crossover. Representative McComas sent forth an amendment and moved for its adoption, which motion carried. Representative Miller inquired as to whether the projects listed in the proposed committee substitute are to be constructed in the order listed or if the Department of Transportation can determine the order of construction, which would be of concern to him. Giles Perry, staff attorney, answered that priorities can be determined by mutual agreement of the Durham-Chapel Hill Carrboro Metropolitan Planning Organization and the Department of Transportation. Discussion followed, after which Representative Miller stated that inasmuch as he did not have an amendment addressing his concern prepared, he would offer one on the floor of the House. Representatives Hackney and Luebke moved that the amendment be incorporated into a new House committee substitute and that the new House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion passed.

The meeting adjourned at 1:30 p.m.

Representative Bill Culpepper, Chairman

Dorothy C. Crocker

Dorothy C. Crocker, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 384
Transportation Committee Substitute Adopted 3/27/03

Short Title: Durham Northern Loop Corridor. (Public)

Sponsors:

Referred to:

March 12, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE HIGHWAY TRUST FUND ACT DESCRIPTION OF THE DURHAM NORTHERN LOOP AND INTRASTATE IMPROVEMENT PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-180(a) reads as rewritten:

"(a) Funds allocated from the Trust Fund for urban loops may be used only for the following urban loops:

Loop	Description	Affected Counties
Asheville Western Loop	Multilane facility on new location from I-26 west of Asheville to US-19/23 north of Asheville for the purpose of connecting these roads. The funds may be used to improve existing corridors.	Buncombe
Charlotte Outer Loop	Multilane facility on new location encircling City of Charlotte	Mecklenburg
Durham Northern Loop	~~The corridor shall be identified as a part of the local long-range transportation plan as mutually adopted in 2003 by the Durham-Chapel Hill-~~	Durham, ~~Orange~~Wake

~~Carrboro metropolitan planning organization and the North Carolina Board of Transportation~~

The projects listed below are eligible for funding under this section as part of the Durham Northern Loop. The priorities for planning and constructing these projects will be established by mutual agreement of the Metropolitan Planning Organization (MPO) and the Department of Transportation through the federally mandated Transportation Improvement Program development process. The cross sections for these projects will be established by mutual agreement of the MPO and the Department of Transportation through the State and federal environmental review process.

(1) East end connector, from N.C. 147 to U.S. 70 East.

(2) U.S. 70, from Lynn Rd. to the Northern Durham Parkway.

(3) I-85, from U.S. 70 to Red Mill Rd.

(4) Northern Durham Parkway, Section B, from Old Oxford Rd. to I-85.

(5) Northern Durham Parkway, Section A, from I-85 to I-540.

(6) Northern Durham Parkway, Section C, from Old Oxford Rd. to Roxboro Rd.

	(7) Roxboro Rd. from Duke St. to Goodwin Rd.	
Greensboro Loop	Multilane facility on new location encircling City of Greensboro	Guilford
Raleigh Outer Loop	Multilane facility on new location from US-1 southwest of Cary northerly to US-64 in eastern Wake County	Wake
Wilmington Bypass	Multilane facility on new location from US-17 northeast of Wilmington to US-17 southwest of Wilmington, including the Blue Clay Road interchange	New Hanover
Winston-Salem Northbelt	Multilane facility on new location from I-40 west of Winston-Salem northerly to I-40 in eastern Forsyth County"	Forsyth

SECTION 2. G.S. 136-179 reads as rewritten:

"**§ 136-179. Projects of Intrastate System funded from Trust Fund.**

Funds allocated from the Trust Fund for the Intrastate System may be used only for the following projects of the Intrastate System:

Route	Improvements	Affected Counties
I-40	Widening	Buncombe, Haywood, Guilford, Wake, Durham
I-77	Widening	Mecklenburg
I-85	Widening	Durham, Orange, Alamance, Guilford, Cabarrus, Mecklenburg, Gaston
I-95	Widening	Halifax
US-1	Complete 4-laning from Henderson to South Carolina Line (including 6-laning of Raleigh Beltline)	Vance, Franklin, Wake, Chatham, Lee, Moore, Richmond

US-13	~~Connector~~ Connectors from I-95 to NC-87	~~Cumberland~~ Cumberland, Robeson
US-13	Complete 4-laning from Virginia Line to US-17	Gates, Hertford, Bertie
US-17	Complete 4-laning from Virginia Line to South Carolina Line (including Washington, New Bern, and Jacksonville Bypasses)	Camden, Pasquotank, Perquimans, Chowan, Bertie, Martin, Beaufort, Craven, Jones, Onslow, Pender, New Hanover, Brunswick
US-19/ US-19E	Complete 4-laning from US-23 to NC 194 in Ingalls	Madison, Yancey, Mitchell, Avery
US-19	Complete 4-laning	Cherokee, Macon, Swain
US-23	Complete 4-laning and upgrading existing 4-lanes from Tennessee Line to I-240	Madison, Buncombe
US-23-441	Complete 4-laning from US-19/US-74 to Georgia Line	Macon
US-52	Complete 4-laning from I-77 to Lexington (including new I-77 Connector)	Surry, Davidson
US-64	Complete 4-laning from Raleigh to Coast (including freeway construction from I-95 to US-17)	Edgecombe, Pitt, Martin, Washington, Tyrrell, Dare
US-64	Complete 4-laning from Lexington to Raleigh	Davidson, Randolph, Chatham, Wake

US-70	Complete 4-laning from Raleigh to Morehead City (including Clayton, Goldsboro, Kinston, Smithfield-Selma, and Havelock Bypasses predominately freeways on predominately new locations)	Wake, Johnston, Wayne, Lenoir, Craven
US-74	Complete 4-laning from Charlotte to US-17 (including multilaning of Independence Blvd. in Charlotte, and Bypasses of Monroe, Rockingham, and Hamlet)	Mecklenburg, Union, Richmond, Robeson, Columbus
US-74	Complete 4-laning from I-26 to I-85	Polk, Rutherford
US-158	Complete 4-laning from Winston-Salem to Whalebone	Forsyth, Guilford, Rockingham, Caswell, Person, Granville, Vance, Warren, Halifax, Northampton, Gates, Hertford, Pasquotank, Camden, Currituck, Dare
	New bridge over Currituck Sound	Currituck
US-221	Complete 4-laning from Linville to South Carolina	Avery, McDowell, Rutherford
US-220	Complete 4-laning from I-40 to US-1	Guilford, Randolph, Montgomery, Richmond
US-220/NC-68	Complete 4-laning from Virginia Line to I-40	Rockingham, Guilford

US-264	Complete 4-laning from US-64 to Washington (including Wilson and Greenville Bypasses) (including freeway construction from I-95 to Greenville)	Wilson, Greene, Pitt
US-321	Complete 4-laning from Boone to South Carolina Line	Caldwell, Catawba, Lincoln, Gaston
US-421	Complete 4-laning from Tennessee Line to I-40	Watauga, Wilkes, Yadkin
US-421	Complete 4-laning from Greensboro to Sanford (including Bypass of Sanford)	Chatham, Lee
NC-24	Complete 4-laning from Charlotte to Morehead City	Mecklenburg, Cabarrus, Stanly, Montgomery, Moore, Harnett, Cumberland, Sampson, Duplin, Onslow, Carteret
NC-87	Complete 4-laning from Sanford to US-74	Lee, Harnett, Cumberland, Bladen, Columbus
NC-105	Complete 4-laning from Boone to Linville	Watauga, Avery
NC-168	Complete multilaning from Virginia Line to US-158	Currituck
NC-194	Complete 4-laning from US-19E to US-221"	Avery

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 384

Transportation Committee Substitute Adopted 3/27/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S384-CSRW-38 [v.1]

4/24/2003 12:13:21 PM

Short Title: Durham Northern Loop Corridor. (Public)

Sponsors:

Referred to:

March 12, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE HIGHWAY TRUST FUND ACT DESCRIPTION OF THE DURHAM NORTHERN AND WILMINGTON URBAN LOOPS AND OTHER INTRASTATE IMPROVEMENT PROJECTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-180(a) reads as rewritten:

"(a) Funds allocated from the Trust Fund for urban loops may be used only for the following urban loops:

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Charlotte Outer Loop	Multilane facility on new location encircling City of Charlotte	Mecklenburg
Durham Northern Loop	~~The corridor shall be identified as a part of the local long-range transportation plan as~~	Durham, ~~Orange~~Wake

~~mutually adopted in 2003 by the Durham-Chapel Hill-Carrboro metropolitan planning organization and the North Carolina Board of Transportation~~

The projects listed below are eligible for funding under this section as part of the Durham Northern Loop. The priorities for planning and constructing these projects will be established by mutual agreement of the Metropolitan Planning Organization (MPO) and the Department of Transportation through the federally mandated Transportation Improvement Program development process. The cross sections for these projects will be established by mutual agreement of the MPO and the Department of Transportation through the State and federal environmental review process.

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(3) I-85, from U.S. 70 to Red Mill Rd.

(4) Northern Durham Parkway, Section B, from Old Oxford Rd. to I-85.

(5) Northern Durham Parkway, Section A, from I-85 to I-540.

	(6) Northern Durham Parkway, Section C, from Old Oxford Rd. to Roxboro Rd. (7) Roxboro Rd. from Duke St. to Goodwin Rd.	
Greensboro Loop	Multilane facility on new location encircling City of Greensboro	Guilford
Raleigh Outer Loop	Multilane facility on new location from US-1 southwest of Cary northerly to US-64 in eastern Wake County	Wake
Wilmington Bypass	Multilane facility on new location from US-17 northeast of Wilmington to ~~US-17 southwest of Wilmington,~~US 421 at the intersection of Independence Boulevard in Wilmington, including the Blue Clay Road interchange	New Hanover
Winston-Salem Northbelt	Multilane facility on new location from I-40 west of Winston-Salem northerly to I-40 in eastern Forsyth County"	Forsyth

SECTION 2. G.S. 136-179 reads as rewritten:

"**§ 136-179. Projects of Intrastate System funded from Trust Fund.**

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I-95	Widening	Halifax

US-1	Complete 4-laning from Henderson to South Carolina Line (including 6-laning of Raleigh Beltline)	Vance, Franklin, Wake, Chatham, Lee, Moore, Richmond
US-13	~~Connector~~ Connectors from I-95 to NC-87	~~Cumberland~~ Cumberland, Robeson
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US-17	Complete 4-laning from Virginia Line to South Carolina Line (including Washington, New Bern, and Jacksonville Bypasses)	Camden, Pasquotank, Perquimans, Chowan, Bertie, Martin, Beaufort, Craven, Jones, Onslow, Pender, New Hanover, Brunswick
US-19/ US-19E	Complete 4-laning from US-23 to NC 194 in Ingalls	Madison, Yancey, Mitchell, Avery
US-19	Complete 4-laning	Cherokee, Macon, Swain
US-23	Complete 4-laning and upgrading existing 4-lanes from Tennessee Line to I-240	Madison, Buncombe
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US-52	Complete 4-laning from I-77 to Lexington (including new I-77 Connector)	Surry, Davidson
US-64	Complete 4-laning from Raleigh to Coast	Edgecombe, Pitt, Martin, Washington,

	(including freeway construction from I-95 to US-17)	Tyrrell, Dare
US-64	Complete 4-laning from Lexington to Raleigh	Davidson, Randolph, Chatham, Wake
US-70	Complete 4-laning from Raleigh to Morehead City (including Clayton, Goldsboro, Kinston, Smithfield-Selma, and Havelock Bypasses predominately freeways on predominately new locations)	Wake, Johnston, Wayne, Lenoir, Craven
US-74	Complete 4-laning from Charlotte to US-17 (including multilaning of Independence Blvd. in Charlotte, and Bypasses of Monroe, Rockingham, and Hamlet)	Mecklenburg, Union, Richmond, Robeson, Columbus
US-74	Complete 4-laning from I-26 to I-85	Polk, Rutherford
US-158	Complete 4-laning from Winston-Salem to Whalebone	Forsyth, Guilford, Rockingham, Caswell, Person, Granville, Vance, Warren, Halifax, Northampton, Gates, Hertford, Pasquotank, Camden, Currituck, Dare
	New bridge over Currituck Sound	Currituck
US-221	Complete 4-laning from Linville to South Carolina	Avery, McDowell, Rutherford

US-220	Complete 4-laning from I-40 to US-1	Guilford, Randolph, Montgomery, Richmond
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US-264	Complete 4-laning from US-64 to Washington (including Wilson and Greenville Bypasses) (including freeway construction from I-95 to Greenville)	Wilson, Greene, Pitt
US-321	Complete 4-laning from Boone to South Carolina Line	Caldwell, Catawba, Lincoln, Gaston
US-421	Complete 4-laning from Tennessee Line to I-40	Watauga, Wilkes, Yadkin
US-421	Complete 4-laning from Greensboro to Sanford (including Bypass of Sanford)	Chatham, Lee
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NC-87	Complete 4-laning from Sanford to US-74	Lee, Harnett, Cumberland, Bladen, Columbus
NC-105	Complete 4-laning from Boone to Linville	Watauga, Avery
NC-168	Complete multilaning from Virginia Line to US-158	Currituck

NC-194	Complete 4-laning from US-19E to US-221"	Avery

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

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 5/7/03

S. B. No. 384 Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

(Rep.) McComas
Sen.)

moves to amend the bill on page 3, line 5 19-20

( ) WHICH CHANGES THE TITLE

by rewriting the lines to read:

"in southern".

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 384 A BILL TO BE ENTITLED AN ACT TO AMEND THE HIGHWAY TRUST FUND ACT DESCRIPTION OF THE DURHAM NORTHERN LOOP AND INTRASTATE IMPROVEMENT PROJECTS.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Name of Committee: Rules

Date: 5/7/03

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Duke Chen	Intern
Beau Mills	NC Metro Coalition
BRUCE THOMPSON	PARKER POE
Carol Lauer	EGHS
Julie Allyn	NC Statewatch
Chuck Ayre	Dorothy's
DENIS VENTRIGLIA	NC CITIZEN

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
MAY 14, 2003
1:05 P.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE BILL 215 – AN ACT RELATING TO THE COUNTY OF MADISON

HOUSE JOINT RESOLUTION 693 – A JOINT RESOLUTION COMMENDING THE ATLANTIC COAST CONFERENCE ON ITS 50TH ANNIVERSARY AND HONORING THE MEMORY OF FORMER COMMISSIONERS JAMES H. WEAVER AND ROBERT C. JAMES

HOUSE BILL 1094 – AN ACT AUTHORIZING LOCAL BOARDS OF HEALTH TO ADOPT RULES CONCERNING ANIMAL OPERATIONS

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR
AND OPERATIONS OF THE HOUSE

May 14, 2003

The Committee on Rules, Calendar and Operations of the House met on May 14, 2003 at 1:05 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representative Culpepper, Chairman; Brubaker, Church, Crawford, Hill, Howard, Justus, Luebke, Miller, Owens, Setzer, Sherrill and Yongue.

HOUSE BILL 215 – AN ACT RELATING TO THE COUNTY OF MADISON. A proposed committee substitute changing the title to AN ACT TO APPROPRIATE FUNDS TO MADISON COUNTY TO RENOVATE A BUILDING TO HOUSE AN ADULT DAY CARE PROGRAM WAS OFFERED, and Representative Luebke moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Representative Rapp, sponsor, was recognized to explain the bill. He stated that the proposed committee substitute appropriates $60,000.00 to renovate an existing building which will provide day care for disabled elderly citizens. Representative Luebke made a motion that the proposed committee substitute be given a favorable report, unfavorable to the original bill, and that the bill be re-referred to the Committee on Appropriations. The motion passed.

HOUSE JOINT RESOLUTION 693 – A JOINT RESOLUTION COMMENDING THE ATLANTIC COAST CONFERENCE ON ITS 50TH ANNIVERSARY AND HONORING THE MEMORY OF FORMER COMMISSIONERS JAMES H. WEAVER AND ROBERT C. JAMES. A proposed committee substitute was offered and Representative Brubaker, sponsor, moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Representative Brubaker was recognized to explain the resolution. He stated that the resolution was self-explanatory, and Representative Church moved that the proposed committee substitute be given a favorable report, unfavorable to the original joint resolution, which motion passed.

HOUSE BILL 1094 – AN ACT AUTHORIZING LOCAL BOARDS OF HEALTH TO ADOPT RULES CONCERNING ANIMAL OPERATIONS. A proposed committee substitute changing the title to AN ACT AUTHORIZING LOCAL BOARDS OF HEALTH TO ADOPT RULES was offered, and Representative Church moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Representative Justice, sponsor, was recognized to explain the proposed committee substitute. She stated that it further clarifies the existing law of the authority of local public health departments, such as plans for the closure of hog farms. It has nothing to do with the structure of lagoons or where they are to be located. Following discussion, Representative Justus moved that the proposed committee substitute be given a favorable report, unfavorable to the original bill, and that the bill be re-referred to the Committee on Health. The motion carried.

The meeting adjourned at 1:15 p.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 215

Short Title:	Madison County Local Act-2.	(Local)
Sponsors:	Representative Rapp.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 5, 2003

A BILL TO BE ENTITLED

AN ACT RELATING TO THE COUNTY OF MADISON.

The General Assembly of North Carolina enacts:

SECTION 1. This act relates to Madison County only.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 215
PROPOSED COMMITTEE SUBSTITUTE H215-PCS50275-LG-14

Short Title: Madison County Adult Day Care Funds. (Public)

Sponsors:

Referred to:

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO MADISON COUNTY TO RENOVATE A BUILDING TO HOUSE AN ADULT DAY CARE PROGRAM.

Whereas, adults over 65 years of age account for 16% of the population of Madison County, with 1 out of 4 living in poverty; and

Whereas, many of the County's elderly citizens are disabled and require caregivers 24 hours a day; and

Whereas, the establishment of an adult day care program in the County would eliminate the need for caregivers who work outside the home to transport their family members to other counties for care and perhaps prevent premature nursing home care of these family members; and

Whereas, the County needs State funds to renovate an existing building which will be used to house an adult day care program; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the General Fund to Madison County the sum of sixty thousand dollars ($60,000) for the 2003-2004 fiscal year to renovate a building to house an adult day care program, which will enhance the lives of the County's elderly citizens.

SECTION 2. This act becomes effective July 1, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 215 A BILL TO BE ENTITLED AN ACT RELATING TO THE COUNTY OF MADISON,

☐ 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 the committee substitute bill, ☒ which changes the title, unfavorable as to the original 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE JOINT RESOLUTION 693

Sponsors:	Representatives Brubaker; Dockham, Goodwin, and K. Williams.
Referred to:	Rules, Calendar, and Operations of the House.

March 27, 2003

A JOINT RESOLUTION COMMENDING THE ATLANTIC COAST CONFERENCE ON ITS 50TH ANNIVERSARY AND HONORING THE MEMORY OF FORMER COMMISSIONERS JAMES H. WEAVER AND ROBERT C. JAMES.

Whereas, the Atlantic Coast Conference (ACC) was founded on May 8, 1953; and

Whereas, the original members of the ACC were Clemson University, Duke University, North Carolina State University, Wake Forest University, the University of Maryland, the University of North Carolina at Chapel Hill, and the University of South Carolina; and

Whereas, the University of Virginia joined the ACC in December of 1953, Georgia Tech in April of 1978, and Florida State University in July of 1991; and

Whereas, the University of South Carolina withdrew from the conference in June of 1971, the only school ever to do so in ACC history; and

Whereas, the ACC is one of the strongest conferences in the nation, having captured 82 national championships, including 40 in men's competitions and 42 in women's competitions; and

Whereas, many of the ACC's student-athletes have become All-Americans, Olympians, professional athletes, and coaches; and

Whereas, some of the ACC's top 50 male and female athletes include Michael Jordan, Tom Burleson, Arnold Palmer, David Thompson, Shane Battier, David Duval, Mia Hamm, Marion Jones, Andrea Stinson, and Julie Shea; and

Whereas, many of the ACC's student-athletes have also been outstanding in their classrooms and their academic communities as caring volunteers and role models; and

Whereas, the success of the ACC is a fitting testimonial and memorial to the administrators of the conference, including former commissioners James H. Weaver and Robert C. James; and

Whereas, James H. Weaver, a former football coach and athletic director at Wake Forest University, served as the ACC's first full-time commissioner from July 1, 1954, to July 11, 1970; and

Whereas, Robert C. James, an outstanding athlete at the University of Maryland and former commissioner of the Mid-American Conference, served as the ACC's commissioner from March 1, 1971, to May 12, 1987; and

Whereas, for 50 years, the ACC has provided thrilling sports entertainment to countless students, alumni, and fans; and

Whereas, with North Carolina being home to four of the nine ACC universities, it is with great pride that the General Assembly congratulates the ACC on its 50th anniversary; Now, therefore,

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

SECTION 1. The General Assembly commends the Atlantic Coast Conference on its 50th anniversary and expresses the appreciation of the citizens of this State to the athletes, coaching staffs, and commissioners, past and present, for their dedication to the athletic programs of the ACC.

SECTION 2. The General Assembly encourages the citizens of this State to join them in celebrating May 8, 2003, as Atlantic Coast Conference Day.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to John Swofford, Commissioner of the Atlantic Coast Conference.

SECTION 4. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE JOINT RESOLUTION 693
PROPOSED COMMITTEE SUBSTITUTE H693-CSRW-46 [v.4]

5/14/2003 12:18:17 PM

Sponsors:

Referred to:

March 27, 2003

A JOINT RESOLUTION COMMENDING THE ATLANTIC COAST CONFERENCE ON ITS 50TH ANNIVERSARY AND HONORING THE MEMORY OF FORMER COMMISSIONERS JAMES H. WEAVER AND ROBERT C. JAMES.

Whereas, the Atlantic Coast Conference (ACC) was founded on May 8, 1953; and

Whereas, the original members of the ACC were Clemson University, Duke University, North Carolina State University, Wake Forest University, the University of Maryland, the University of North Carolina at Chapel Hill, and the University of South Carolina; and

Whereas, the University of Virginia joined the ACC in December of 1953, Georgia Tech joined in April of 1978, and Florida State University joined in July of 1991; and

Whereas, the University of South Carolina withdrew from the conference in June of 1971, the only school ever to do so in ACC history; and

Whereas, the ACC is one of the strongest conferences in the nation, having won 82 national championships, including 40 in men's competitions and 42 in women's competitions; and

Whereas, many of the ACC's student-athletes have become All-Americans, Olympians, professional athletes, and coaches; and

Whereas, some of the ACC's top 50 male and female athletes include Michael Jordan, Tom Burleson, Arnold Palmer, David Thompson, Shane Battier, David Duval, Mia Hamm, Marion Jones, Andrea Stinson, and Julie Shea; and

Whereas, many of the ACC's student-athletes have also been outstanding in their classrooms and in their academic communities as caring volunteers and role models; and

Whereas, the success of the ACC is a fitting testimonial and memorial to the administrators of the conference, including former commissioners James H. Weaver and Robert C. James; and

Whereas, James H. Weaver, a former football coach and athletic director at Wake Forest University, served as the ACC's first full-time commissioner from July 1, 1954, to July 11, 1970; and

Whereas, Robert C. James, an outstanding athlete at the University of Maryland and former commissioner of the Mid-American Conference, served as the ACC's commissioner from March 1, 1971, to May 12, 1987; and

Whereas, for 50 years, the ACC has provided thrilling sports entertainment to countless students, alumni, and fans; and

Whereas, North Carolina is the proud home to four of the nine ACC member universities, Now, therefore,

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

SECTION 1. The General Assembly honors the memory of former ACC commissioners James H. Weaver and Robert C. James, congratulates and commends the Atlantic Coast Conference on its 50th anniversary, May 8, 2003, and expresses the appreciation of the citizens of this State to the athletes, coaching staffs, and commissioners, past and present, for their dedication to the athletic programs of the ACC.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to John Swofford, Commissioner of the Atlantic Coast Conference.

SECTION 3. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 693 A JOINT RESOLUTION COMMENDING THE ATLANTIC COAST CONFERENCE ON ITS 50TH ANNIVERSARY AND HONORING THE MEMORY OF FORMER COMMISSIONERS JAMES H. WEAVER AND ROBERT C. JAMES.

☐ 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 the committee substitute joint resolution, unfavorable as to the original joint resolution.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1094

Short Title:	Local Health Departments.	(Public)
Sponsors:	Representatives Justice; Carney and Jones.	
Referred to:	Rules, Calendar, and Operations of the House.	

April 10, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING LOCAL BOARDS OF HEALTH TO ADOPT RULES CONCERNING ANIMAL OPERATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1094
PROPOSED COMMITTEE SUBSTITUTE H1094-PCS45133-LNf-19

Short Title: Local Health Departments. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING LOCAL BOARDS OF HEALTH TO ADOPT RULES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-39 reads as rewritten:

"**§ 130A-39. Powers and duties of a local board of health.**

(a) A local board of health shall have the responsibility to protect and promote the public health. The board shall have the authority to adopt rules necessary for that purpose.

(b) A local board of health may adopt a more stringent rule in an area regulated by the Commission for Health Services or the Environmental Management Commission where, in the opinion of the local board of health, a more stringent rule is required to protect the public health; otherwise, the rules of the Commission for Health Services or the rules of the Environmental Management Commission shall prevail over local board of health rules. However, a local board of health may not adopt a rule concerning the grading, operating, and permitting of food and lodging facilities as listed in Part 6 of Article 8 of this Chapter and as defined in G.S. 130A-247(1), and a local board of health may adopt rules concerning wastewater collection, treatment and disposal systems which are not designed to discharge effluent to the land surface or surface waters only in accordance with G.S. 130A-335(c). A local board of health may adopt rules governing animal operations, as defined by G.S. 143-215.10B.

(b1) For purposes of subsection (b) of this section, a showing by a local board of health that a more stringent rule is required to protect the public health may be based on published scientific studies, testimony from experts in health-related professions, or documentation of gaps in State regulatory programs that may threaten public health. These studies and testimony must be related to the general subject matter of the rule but need not be based on county-specific considerations.

(c) The rules of a local board of health shall apply to all municipalities within the local board's jurisdiction.

(d) Not less than 10 days before the adoption, amendment or repeal of any local board of health rule, the proposed rule shall be made available at the office of each county clerk within the board's jurisdiction, and a notice shall be published in a newspaper having general circulation within the area of the board's jurisdiction. The notice shall contain a statement of the substance of the proposed rule or a description of the subjects and issues involved, the proposed effective date of the rule and a statement that copies of the proposed rule are available at the local health department. A local board of health rule shall become effective upon adoption unless a later effective date is specified in the rule.

(e) Copies of all rules shall be filed with the secretary of the local board of health.

(f) A local board of health may, in its rules, adopt by reference any code, standard, rule or regulation which has been adopted by any agency of this State, another state, any agency of the United States or by a generally recognized association. Copies of any material adopted by reference shall be filed with the rules.

(g) A local board of health may impose a fee for services to be rendered by a local health department, except where the imposition of a fee is prohibited by statute or where an employee of the local health department is performing the services as an agent of the State. Notwithstanding any other provisions of law, a local board of health may impose cost-related fees for services performed pursuant to Article 11 of this Chapter, "Wastewater Systems," for services performed pursuant to Part 10, Article 8 of this Chapter, "Public Swimming Pools", and for services performed pursuant to Part 11, Article 8 of this Chapter, "Tattooing". Fees shall be based upon a plan recommended by the local health director and approved by the local board of health and the appropriate county board or boards of commissioners. The fees collected under the authority of this subsection are to be deposited to the account of the local health department so that they may be expended for public health purposes in accordance with the provisions of the Local Government Budget and Fiscal Control Act."

SECTION 2. G.S. 130A-39(g) reads as rewritten:

"(g) A local board of health may impose a fee for services to be rendered by a local health department, except where the imposition of a fee is prohibited by statute or where an employee of the local health department is performing the services as an agent of the State. Notwithstanding any other provisions of law, a local board of health may impose cost-related fees for services performed pursuant to Article 11 of this Chapter, "Wastewater Systems," for services performed pursuant to Part 10, Article 8 of this Chapter, "Public Swimming Pools", ~~and~~ for services performed pursuant to Part 11, Article 8 of this Chapter, ~~"Tattooing".~~ "Tattooing", and for health inspections of animal waste management systems, as defined in G.S. 143-215.10B. Fees shall be based upon a plan recommended by the local health director and approved by the local board of health and the appropriate county board or boards of commissioners. The fees collected under the authority of this subsection are to be deposited to the account of the local health department so that they may be expended for public health purposes in accordance with the provisions of the Local Government Budget and Fiscal Control Act."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1094 A BILL TO BE ENTITLED AN ACT AUTHORIZING LOCAL BOARDS OF HEALTH TO ADOPT RULES CONCERNING ANIMAL OPERATIONS.

☐ 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 the committee substitute bill, ☒ which changes the title, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Committee on Health

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

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules — 5/14/03

Name of Committee — Welcome — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
KAY TRapp	Rep. 118th District
MARK SCHREIBER	WILM. STAR-NEWS
Carolyn Justice	Rep DIST 16
Chad Essick	Edmisten + Webb
Elizabeth Dalton	Bone & Associates
Julie Allen	NC Statewatch
Paige Jamsen	Planned Parenthood
Brian Lewis	Planned Parenthood
Kim Hibbard	NCLM
Molly Diggins	NC Sierra Club

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
May 27, 2003
3:10 P.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

COMMITTEE SUBSTITUTE FOR SENATE BILL 840 – AN ACT TO ADOPT FOLKMOOT USA AS NORTH CAROLINA'S OFFICIAL INTERNATIONAL FESTIVAL

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

May 27, 2003

The Committee on Rules, Calendar and Operations of the House met on May 27, 2003 at 3:10 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representative Culpepper, Chairman; Gorman, Hill, Justice, LaRoque, Luebke, McComas, Miller and Setzer.

The following bill was considered:

COMMITTEE SUBSTITUTE FOR SENATE BILL 840 – AN ACT TO ADOPT FOLKMOOT USA AS NORTH CAROLINA'S OFFICIAL INTERNATIONAL FESTIVAL. A proposed House committee substitute changing the title to AN ACT TO ADOPT FOLKMOOT USA AS NORTH CAROLINA'S OFFICIAL INTERNATIONAL FESTIVAL AND ADOPTING THE CAROLINA LILY AS THE OFFICIAL WILDFLOWER OF NORTH CAROLINA WAS OFFERED, and Representative Gorman moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. He stated that House Bill 47 introduced by Representative Baker adopting the Carolina lily as the official wildflower of North Carolina was given a favorable report by the House State Government Committee and sent to the Senate on April 9, 2003. Inasmuch as no action has been taken by the Senate on that bill, it was decided that the language of that would be added to this bill. Representative Gorman made a motion that the House committee substitute be given a favorable report, unfavorable as to the Senate committee substitute. The motion carried.

The meeting adjourned at 3:12 p.m.

Bill Culpepper

Representative Bill Culpepper,
Chairman

Dorothy C. Crocker

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 840

Rules and Operations of the Senate Committee Substitute Adopted 4/30/03

Short Title: NC's Official International Festival. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ADOPT FOLKMOOT USA AS NORTH CAROLINA'S OFFICIAL INTERNATIONAL FESTIVAL.

Whereas, Folkmoot USA is an annual international festival held in Western North Carolina by North Carolina International Folk Festival, Inc., to promote the cultural exchange of traditional dance and music; and

Whereas, the name "Folkmoot" is an old English word meaning "meeting of the people"; and

Whereas, the first Folkmoot festival was held in 1984 and has grown to one of the largest folk festivals of its kind; and

Whereas, most of Folkmoot's worldwide participants are not professional dancers and musicians, but ordinary people who are proud of their culture and enjoy sharing it with others; and

Whereas, these diverse, international performers wear native costumes, play unique instruments, and perform authentic folk dances; and

Whereas, over the years, 190 folk groups representing 95 countries have participated in Folkmoot; and

Whereas, Folkmoot has been named a "Top 20 Event in the Southeast" by the Southeast Tourism Society for 16 years, a 2003 "Top 100 Event in America" by the North American Bus Association, and one of North Carolina's "Most Outstanding Festivals"; and

Whereas, Folkmoot's 70,000 annual visitors come from more than 40 states and from more than half of North Carolina's cities and towns; and

Whereas, Folkmoot creates a positive economic impact of almost four million dollars in the State; and

Whereas, Folkmoot is a great cultural resource that provides entertainment and education and promotes tourism in North Carolina; and

Whereas, adopting Folkmoot USA as North Carolina's official international festival will enhance the exchange of international culture and increase tourism in North Carolina; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 145 of the General Statutes is amended by adding a new section to read:

"**§ 145-19. State International Festival.**

Folkmoot USA is adopted as the official international festival of the State of North Carolina."

SECTION 2. The title of Chapter 145 reads as rewritten:

"**Chapter 145.**

State ~~Flower, Bird, Tree, Shell, Mammal, Fish, Insect, Stone, Reptile and Rock, Beverage, Historical Boat, Language, Dog, Military Academy, Tartan, Watermelon Festival,~~ Symbols and Other Official Adoptions."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 840

Rules and Operations of the Senate Committee Substitute Adopted 4/30/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S840-CSRW-50 [v.2]

5/27/2003 2:43:46 PM

Short Title: NC's Official International Festival. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ADOPT FOLKMOOT USA AS NORTH CAROLINA'S OFFICIAL INTERNATIONAL FESTIVAL AND ADOPTING THE CAROLINA LILY AS THE OFFICIAL WILDFLOWER OF NORTH CAROLINA.

Whereas, Folkmoot USA is an annual international festival held in Western North Carolina by North Carolina International Folk Festival, Inc., to promote the cultural exchange of traditional dance and music; and

Whereas, the name "Folkmoot" is an old English word meaning "meeting of the people"; and

Whereas, the first Folkmoot festival was held in 1984 and has grown to one of the largest folk festivals of its kind; and

Whereas, most of Folkmoot's worldwide participants are not professional dancers and musicians, but ordinary people who are proud of their culture and enjoy sharing it with others; and

Whereas, these diverse, international performers wear native costumes, play unique instruments, and perform authentic folk dances; and

Whereas, over the years, 190 folk groups representing 95 countries have participated in Folkmoot; and

Whereas, Folkmoot has been named a "Top 20 Event in the Southeast" by the Southeast Tourism Society for 16 years, a 2003 "Top 100 Event in America" by the North American Bus Association, and one of North Carolina's "Most Outstanding Festivals"; and

Whereas, Folkmoot's 70,000 annual visitors come from more than 40 states and from more than half of North Carolina's cities and towns; and

Whereas, Folkmoot creates a positive economic impact of almost four million dollars in the State; and

Whereas, Folkmoot is a great cultural resource that provides entertainment and education and promotes tourism in North Carolina; and

Whereas, adopting Folkmoot USA as North Carolina's official international festival will enhance the exchange of international culture and increase tourism in North Carolina; and

Whereas, North Carolina is blessed with an abundance of wildflowers from the mountains to the coast; and

Whereas, the Carolina Lily is a scarce and beautiful flower that is found throughout North Carolina in upland pine-oak woods and pocosins; and

Whereas, the Carolina Lily (Lilium michauxii) is one of many plants named for the distinguished French botanist Andre Michaux who traveled widely in the southeastern United States; and

Whereas, Andre Michaux (1747-1802), a genuine hero of science and exploration, referred to the North Carolina mountains as "the great botanical laboratory and paradise of North America"; and

Whereas, the Carolina Lily, sometimes referred to as Michaux's Lily, bears up to six reddish-yellow, spotted flowers with petals that bend backwards; and

Whereas, each nodding flower grows to about three inches in diameter; and

Whereas, this magnificent flower bears the name of our great State; and

Whereas, the State of North Carolina does not have an official wildflower;

Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 145 of the General Statutes is amended by adding a new section to read:

"**§ 145-19. State International Festival.**

Folkmoot USA is adopted as the official international festival of the State of North Carolina."

SECTION 2. The title of Chapter 145 reads as rewritten:

"**Chapter 145.**

State ~~Flower, Bird, Tree, Shell, Mammal, Fish, Insect, Stone, Reptile and Rock, Beverage, Historical Boat, Language, Dog, Military Academy, Tartan, Watermelon Festival,~~ Symbols and Other Official Adoptions."

SECTION 3. Chapter 145 of the General Statutes is amended by adding a new section to read:

"**§ 145-20. State wildflower.**

The Carolina Lily (Lilium michauxii) is adopted as the official wildflower of the State of North Carolina."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 840 A BILL TO BE ENTITLED AN ACT TO ADOPT FOLKMOOT USA AS NORTH CAROLINA'S OFFICIAL INTERNATIONAL FESTIVAL.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules — Name of Committee

5.27.03 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Brian Lewis	Planned Parenthood Health Sys.
Michelle Frazier	NC Bar Ass'n
Amy Dardin	"
[signature]	WCSR
[signature]	WCSR

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
June 2, 2003
7:00 P.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

SENATE JOINT RESOLUTION 366 – A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE GENERAL ASSEMBLY TO ACT ON A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS BY THE GOVERNOR OF NEW MEMBERS TO THE STATE BOARD OF EDUCATION

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR
AND OPERATIONS OF THE HOUSE

June 2, 2003

The Committee on Rules, Calendar and Operations of the House met on June 2, 2003 at 7:00 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representative Culpepper, Chairman; Hackney, Vice Chairman; Church, Hill, Howard, Justus Miller, Owens and Yongue.

The following bill was considered:

SENATE JOINT RESOLUTION 366 – A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE GENERAL ASSEMBLY TO ACT ON A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS BY THE GOVERNOR OF NEW MEMBERS TO THE STATE BOARD OF EDUCATION. The chairman explained that the resolution was received from the Senate and referred to the Rules Committee on April 29, 2003 and should be moved along inasmuch as a joint session is scheduled for June 3, 2003 for its consideration. Representative Howard made a motion to give the resolution a favorable report, which motion carried.

The meeting adjourned at 7:02 p.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE JOINT RESOLUTION 366

Education/Higher Education Committee Substitute Adopted 4/23/03

Sponsors:

Referred to:

March 11, 2003

A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE GENERAL ASSEMBLY TO ACT ON A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS BY THE GOVERNOR OF NEW MEMBERS TO THE STATE BOARD OF EDUCATION.

Whereas, under the provisions of the Constitution of North Carolina and G.S. 115C-10, appointments by the Governor to membership on the State Board of Education are subject to confirmation by the General Assembly in joint session; and

Whereas, vacancies have occurred on the State Board of Education; and

Whereas, the Governor will transmit to the presiding officers of the Senate and the House of Representatives the names of his appointees to fill the terms of membership on the State Board of Education which expire March 31, 2011; Now, therefore,

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

SECTION 1. Upon the call of the President Pro Tempore of the Senate and the Speaker of the House of Representatives, the General Assembly shall meet in joint session to act on a joint resolution providing for confirmation of the appointments by the Governor of new members to the State Board of Education.

SECTION 2. This resolution is effective upon ratification.

SENATE JOINT RESOLUTION 365: Providing for Confirmation of the Governor's Appointments to the State Board of Education

BILL ANALYSIS

Committee: Senate Education
Date: May 21, 2003
Version: Second Edition

Introduced by: Senators Lucas, Garwood, and Metcalf
Summary by: Shirley Iorio
Committee Staff

SUMMARY: ***Senate Joint Resolution 365 provides for confirmation of the appointments by the Governor of Robert Tom Speed, Kathy A. Taft, and John A. Tate, III to the State Board of Education.***

CURRENT LAW: Section 4(1) of Article IX of the NC Constitution says that the State Board of Education shall consist of the Lieutenant Governor, the Treasurer, and eleven members appointed by the Governor. This section directs the Governor to appoint 11 members to the State Board of Education for overlapping terms of eight years. Eight members represent the eight educational districts set out in G.S. 115C-65 and three members are at-large. These appointments are subject to confirmation by the General Assembly in joint session. G.S. 115C-10 requires the Governor to submit the names of his appointees to the presiding officers of each chamber on or before the 60th legislative day, and the General Assembly, pursuant to joint resolution, to meet in joint session to consider the appointments.

BACKGROUND: This year, there are three members whose terms expired March 31, 2003:

1. Ronald Deal, 7th Education District, which includes Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Davie, Iredell, Rowan, Surry, Watauga, Wilkes, and Yadkin Counties.
2. Kathy Taft, 1st Education District, which includes Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Martin, Pasquotank, Perquimans, Pitt, Tyrrell, and Washington Counties.
3. John Tate, Member-at-Large, who was appointed in January 2003 to fill the unexpired term of Zoe Locklear.

Appointments are made for eight years, and there is no limit on the number of terms an individual may serve. The following individuals are ineligible for appointments to the State Board:

- Public school employees[1] paid from State or local funds and their spouses;
- Employees of the Department of Public Instruction and their spouses; and
- Individuals who already hold two appointive offices in State or local government or who hold one elective[2] and one appointive State or local office.

BILL ANALYSIS: The Governor has appointed and reappointed the following people to the North Carolina State Board of Education and has submitted their names for confirmation by the North Carolina General Assembly:

[1] Not more than one public school employee may serve as an appointed member of the Board.
[2] The term 'elective' means filled by an election of the people.

- Mr. Robert Tom Speed represents Education Region 7 and will fill the seat currently held by Mr. Ronald Deal – New Appointment
- Ms. Kathy A. Taft represents Education Region 1 and has served since April 1995 – Reappointment
- Mr. John A. Tate, III fills an At-Large Seat and has served since January 2003 - Reappointment

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.J.R. 366 A JOINT RESOLUTION PROVIDING FOR A JOINT SESSION OF THE GENERAL ASSEMBLY TO ACT ON A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENTS BY THE GOVERNOR OF NEW MEMBERS TO THE STATE BOARD OF EDUCATION.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules — 06/02/03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Katherine Joyce	NCASA
Amy Dobson	NC State Watch
John McHugh	GOV OFFICE

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
June 3, 2003
1:00 P.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE BILL 154 – AN ACT TO APPROPRIATE FUNDS TO PERFORM DNA ANALYSIS ON UNTESTED SEXUAL ASSAULT KITS LOCATED IN LAW ENFORCEMENT DEPARTMENTS ACROSS NORTH CAROLINA AND TO PROVIDE THE STATE BUREAU OF INVESTIGATION CRIME LABORATORY SUFFICIENT FUNDS TO PERFORM DNA ANALYSIS OF EVIDENCE TO ASSIST LAW ENFORCEMENT AND PROSECUTORS IN CONVICTING CRIMINALS

HOUSE BILL 232 – AN ACT TO INCORPORATE THE TOWN OF MILLS RIVER

HOUSE BILL 805 – AN ACT TO EFFECTIVELY RECRUIT AND RETAIN TEACHERS FOR THE NORTH CAROLINA PUBLIC SCHOOLS

HOUSE JOINT RESOLUTION 1328 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF REVERENDS ADOLPHEUS NUSSMAN AND GOTTFRIED ARENDS ON THE 200TH ANNIVERSARY OF THE NORTH CAROLINA SYNOD OF THE EVANGELICAL LUTHERAN CHURCH IN AMERICA

HOUSE COMMITTEE SUBSTITUTE TO SENATE BILL 706 – AN ACT TO ALLOW UNC-WILMINGTON TO ADD BLEACHERS TO AN EXISTING SOFTBALL FIELD WITHOUT HAVING TO CONSTRUCT ADDITIONAL PLUMBING FACILITIES

COMMITTEE SUBSTITUTE FOR SENATE BILL 494 – AN ACT TO ALLOW THE TOWN OF CARRBORO TO REQUIRE SPRINKLERS IN BARS, CLUBS, AND OTHER SIMILAR PLACES OF PUBLIC ASSEMBLY THAT HAVE

GATHERINGS OF MORE THAN ONE HUNDRED PEOPLE AND SELL ALCOHOLIC BEVERAGES

SENATE BILL 437 – AN ACT AUTHORIZING THE LICENSING BOARD OF GENERAL CONTRACTORS TO ESTABLISH TEMPORARY RULES THAT ALLOW A LICENSEE TO BID AND CONTRACT DIRECTLY WITH THE OWNER OF A PUBLIC BUILDING PROJECT IN CERTAIN CIRCUMSTANCES

SENATE BILL 819 – AN ACT REGARDING THE USE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

June 3, 2003

The Committee on Rules, Calendar and Operations of the House met on June 3, 2003 at 1:00 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representatives Culpepper, Chairman; Hackney, Vice Chairman; Crawford, Gorman, Hill, Howard, Justus, LaRoque, Luebke, McComas, Miller, Miner, Owens, Setzer, Sherrill and Yongue.

The following bills were considered:

HOUSE BILL 154 – AN ACT TO APPROPRIATE FUNDS TO PERFORM DNA ANALYSIS ON UNTESTED SEXUAL ASSAULT KITS LOCATED IN LAW ENFORCEMENT DEPARTMENTS ACROSS NORTH CAROLINA AND TO PROVIDE THE STATE BUREAU OF INVESTIGATION CRIME LABORATORY SUFFICIENT FUNDS TO PERFORM DNA ANALYSIS OF EVIDENCE TO ASSIST LAW ENFORCEMENT AND PROSECUTORS IN CONVICTING CRIMINALS. A proposed committee substitute changing the title to AN ACT TO APPROPRIATE FUNDS TO PERFORM DNA ANALYSIS ON UNTESTED SEXUAL ASSAULT KITS LOCATED IN LAW ENFORCEMENT DEPARTMENTS ACROSS NORTH CAROLINA, TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS FOR A STATE BUREAU OF INVESTIGATION LABORATORY ADDITION FOR RAPE KIT DNA TESTING AND OTHER FORENSIC PURPOSES, AND TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE was offered, and Representative Yongue moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered and stated that the bill would need to be re-referred to the Finance Committee. Representative Ross was recognized to explain the proposed committee substitute. She stated that Section 1 provides for the appropriation for rape kits and Section 2 puts the financing mechanism into place for the FBI Crime Lab. The chairman recommended that the committee consider reporting the proposed committee substitute without prejudice, unfavorable to the original bill, with recommendation that the bill be re-referred to the Committee on Finance. Representative Setzer so moved, and the motion carried.

HOUSE BILL 232 – A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF MILLS RIVER. A proposed committee substitute was offered, and Representative Justus moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Representative Justus, sponsor, was recognized to present the proposed committee substitute. The committee substitute establishes town boundaries and governing body. She stated that the only opposition is from a town of less than 5000 population who wants a boundary agreement and there is only one boundary agreement in North Carolina. The chairman again remarked that the proposed committee substitute would not be handled substantively by the committee and recommended that it be reported without prejudice, unfavorable to the original bill, and

be re-referred to the Committee on Finance. Representative Gorman so moved, and the motion carried.

HOUSE BILL 805 – AN ACT TO EFFECTIVELY RECRUIT AND RETAIN TEACHERS FOR THE NORTH CAROLINA PUBLIC SCHOOLS. A proposed committee substitute was offered, and Representative Crawford moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. The chairman again recommended that the committee only deal with the bill procedurally and move it on to a substantive committee. Representative Yongue, one of the primary sponsors, was recognized. He stated that North Carolina institutions are graduating about 3000 potential teachers each year and of these a little over 2000 actually end up teaching. He stated that on October 2, 2002 there were 737 classrooms without teachers, and 10,000 to 12,000 teachers are needed each year to take care of the teacher turnover. The bill addresses areas that provide initiatives to attract qualified out-of-state teachers. Representative Owens moved that the proposed committee substitute be reported without prejudice, unfavorable to the original bill, and that it be re-referred to the Subcommittee on Preschool Elementary and Secondary Education. The motion carried.

HOUSE JOINT RESOLUTION 1328 - A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF REVERENDS ADOLPHEUS NUSSMAN AND GOTTFRIED ARENDS ON THE 200TH ANNIVERSARY OF THE NORTH CAROLINA SYNOD OF THE EVANGELICAL LUTHERAN CHURCH IN AMERICA. Representative Coates, sponsor, was recognized. She stated that this is the second oldest synod in the United States. The German Lutheran Church sent Reverends Nussman and Arends to North Carolina in 1773. Since then the Lutheran Synod in North Carolina has grown from four pastors and fourteen congregations to 455 leaders and 241 congregations with 88,653 members. Representative Luebke made a motion that the resolution be given a favorable report. The motion passed.

HOUSE COMMITTEE SUBSTITUTE TO SENATE BILL 706 – AN ACT TO ALLOW UNC-WILMINGTON TO ADD BLEACHERS TO AN EXISTING SOFTBALL FIELD WITHOUT HAVING TO CONSTRUCT ADDITIONAL PLUMBING FACILITIES. Another proposed House committee substitute was offered, and Representative Miner moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Senator Ballantine, sponsor, was recognized to explain the bill. He stated that the bill would allow the university to construct two bleachers at the softball complex without having to build a bathroom facility. There is a basketball arena and men's softball field, each with adequate plumbing facilities, adjacent to the softball field, and it is not considered necessary for additional facilities to be constructed. Representative Setzer moved that House proposed committee substitute #2 be given a favorable report, unfavorable to House committee substitute #1. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 494 – AN ACT TO ALLOW THE TOWN OF CARRBORO TO REQUIRE SPRINKLERS IN BARS, CLUBS, AND OTHER SIMILAR PLACES OF PUBLIC ASSEMBLY THAT HAVE GATHERINGS

OF MORE THAN ONE HUNDRED PEOPLE AND SELL ALCOHOLIC BEVERAGES. A proposed House committee substitute changing the title to AN ACT TO ALLOW THE TOWN OF CARRBORO TO REQUIRE SPRINKLERS IN BARS, CLUBS, AND OTHER SIMILAR PLACES OF PUBLIC ASSEMBLY THAT HAVE GATHERINGS OF MORE THAN ONE HUNDRED PEOPLE AND SELL ALCOHOLIC BEVERAGES AND TO AUTHORIZE THE TOWN OF CHAPEL HILL TO POSTPONE FOR EIGHTEEN MONTHS THE APPROVAL OF SPECIAL USE PERMITS AND SITE PLANS PROPOSED ON SITES RESERVED AS SCHOOL SITES ON THE TOWN'S ADOPTED COMPREHENSIVE LAND USE PLAN was offered, and Representative Hackney moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Senator Kinnaird, sponsor of the original bill, was recognized. The bill arose from a tragic fire in New Jersey where many people were killed in a nightclub. Section 1 of the bill would require sprinklers in places of public assembly in the Town of Carrboro that serve alcoholic beverages to more than 100 people. Section 2 of the bill was added at the request of Representative Hackney and authorizes the adoption of an ordinance to provide for the reservation of school sites in accordance with approved comprehensive land-use plans. The section only applies to the Town of Chapel Hill. Representative Hackney moved that the proposed House committee substitute be given a favorable report, unfavorable to the Senate Committee substitute. The motion carried.

SENATE BILL 437 – AN ACT AUTHORIZING THE LICENSING BOARD OF GENERAL CONTRACTORS TO ESTABLISH TEMPORARY RULES THAT ALLOW A LICENSEE TO BID AND CONTRACT DIRECTLY WITH THE OWNER OF A PUBLIC BUILDING PROJECT IN CERTAIN CIRCUMSTANCES. A proposed House committee substitute changing the title to AN ACT TO ALLOW A PLUMBING AND HEATING CONTRACTOR OR AN ELECTRICAL CONTRACTOR LICENSED UNDER CHAPTER 87 OF THE GENERAL STATES TO BID AND CONTRACT DIRECTLY WITH THE OWNER OF A PUBLIC BUILDING PROJECT IN CERTAIN CIRCUMSTANCES was offered, and Representative Owens moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Giles Perry, staff attorney, explained that the bill would allow plumbing and heating contractors and electrical contractors to directly bid on public building projects and not be required to have a general contractor involved in the situations described in the bill. Mr. Henry Jones, representing the North Carolina Association of Plumbing, Heating, Cooling Contractors, supported the bill. Representative Hill made a motion that the proposed House committee substitute be given a favorable report, unfavorable to the original bill. The motion passed.

SENATE BILL 819 –AN ACT REGARDING THE USE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT. A proposed House committee substitute was offered, and Representative Miner moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. The chairman stated that the committee would not vote on the bill at this meeting. Representative Ross who has an interest in the bill was recognized to speak. She stated that the bill concerns the sale of properties on Blount Street and was originally presented in the 2001 session.

The House at that time directed a study be done by the Capital Area Planning Commission and the State Property Office to adopt a master plan that would take care of the interest of the State, the interest of the state employees and to preserve the historic quality and character of Blount Street. There is specific language in the proposed committee substitute that the historic covenants must be maintained and sets up a special historic committee that will oversee the disposition of the properties. It also requires a review of the master plan before any properties are sold. There is specific language as to how the proceeds from any sale of the properties would be used. The chairman again commented that there be no vote taken at this meeting.

The meeting adjourned at 1:45 p.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

HOUSE BILL 154*

Short Title:	DNA Analysis/Sex Assault Kits.	(Public)
Sponsors:	Representatives Ross, Weiss, Sutton, Wright (Primary Sponsors); Alexander, B. Allen, L. Allen, Barnhart, Bell, Bonner, Bordsen, Carney, Dickson, Farmer-Butterfield, Glazier, Hackney, Haire, Hall, Hill, Hilton, Holliman, Hunter, C. Johnson, Jones, Justice, Kiser, Lucas, McAllister, Michaux, Miller, Nye, Parmon, Pate, Setzer, Stam, Starnes, Tolson, Wainwright, C. Wilson, Womble, and Yongue.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 3, 2003

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO PERFORM DNA ANALYSIS ON UNTESTED SEXUAL ASSAULT KITS LOCATED IN LAW ENFORCEMENT DEPARTMENTS ACROSS NORTH CAROLINA AND TO PROVIDE THE STATE BUREAU OF INVESTIGATION CRIME LABORATORY SUFFICIENT FUNDS TO PERFORM DNA ANALYSIS OF EVIDENCE TO ASSIST LAW ENFORCEMENT AND PROSECUTORS IN CONVICTING CRIMINALS.

The General Assembly of North Carolina enacts:

SECTION 1. This act becomes effective July 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

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HOUSE BILL 154*
PROPOSED COMMITTEE SUBSTITUTE H154-PCS70327-LCx-39

Short Title: DNA Analysis/Sex Assault Kits. (Public)

Sponsors:

Referred to:

March 3, 2003

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO PERFORM DNA ANALYSIS ON UNTESTED SEXUAL ASSAULT KITS LOCATED IN LAW ENFORCEMENT DEPARTMENTS ACROSS NORTH CAROLINA, TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS FOR A STATE BUREAU OF INVESTIGATION LABORATORY ADDITION FOR RAPE KIT DNA TESTING AND OTHER FORENSIC PURPOSES, AND TO PROVIDE A STATUTORY FRAMEWORK FOR THE FINANCING OF CAPITAL FACILITIES BY THE STATE.

The General Assembly of North Carolina enacts:

PART 1. RAPE KIT APPROPRIATION

SECTION 1. There is appropriated from the General Fund to the Department of Justice the sum of one hundred two thousand three hundred forty-four dollars ($102,344) for the 2003-2004 fiscal year and the sum of two hundred sixty-nine thousand one hundred forty-four dollars ($269,144) for the 2004-2005 fiscal year to help support staff positions, training, and supplies needed to process rape kits.

PART 2. RAPE KIT TESTING LAB

SECTION 2. In accordance with G.S. 142-83, as enacted by this act, this Part authorizes the issuance or incurrence of up to three million six hundred thousand dollars ($3,600,000) of financing contract indebtedness to be used for the addition of a wing to the State Bureau of Investigation's crime laboratory that will provide laboratory facilities for rape kit testing and other forensic purposes. The State, with the prior approval of the State Treasurer and Council of State as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to execute and deliver one or more financing contracts in a maximum aggregate principal amount of three million six hundred thousand dollars ($3,600,000) in order to provide funds to the State to be used, together with any other available funds, to pay the cost of the project.

PART 3. STATE CAPITAL FACILITIES FINANCE

SECTION 3.1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 9.

"State Capital Facilities Finance Act.

"**§ 142-80. Short title.**

This Article may be cited as the State Capital Facilities Finance Act.

"**§ 142-81. Findings and purpose.**

The General Assembly finds as follows:

(1) There is a continuing need for capital facilities for the State, many of which will continue to be provided on a "pay-as-you-go" basis by direct appropriations.

(2) The State will also continue to provide capital facilities through the issuance of general obligation bonds.

(3) There is a need, however, for the use of alternative financing methods, such as authorized in this Article, to facilitate the providing of capital facilities when circumstances and conditions warrant the providing of capital facilities through financing methods in addition to direct appropriations and the issuance of general obligation bonds.

(4) The use of these alternative financing methods as authorized in this Article will provide financing flexibility to the State and permit the State to take advantage of changing financial and economic environments.

"**§ 142-82. Definitions.**

The following definitions apply in this Article:

(1) Bonded indebtedness. – Limited obligation bonds and bond anticipation notes, including refunding bonds and notes, authorized to be issued under this Article.

(2) Bonds or notes. – Limited obligation bonds and notes authorized to be issued under this Article.

(3) Capital facility. – Any one or more of the following:

a. Any one or more buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, and the acquisition of equipment, machinery, and furnishings in connection with these items.

b. Additions, extensions, enlargements, renovations, and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping.

c. Land or an interest in land.

d. Other infrastructure.

e. Furniture, fixtures, equipment, vehicles, machinery, and similar items.

(4) Certificates of participation. – Certificates or other instruments delivered by a special corporation evidencing the assignment of

proportionate undivided interests in rights to receive payments pursuant to a financing contract.

(5) Certificates of participation indebtedness. – Financing contract indebtedness incurred by the State under a plan of finance in which a special corporation obtains funds to pay the cost of a capital facility to be financed through the delivery by the special corporation of certificates of participation.

(6) Cost. – Any of the following in financing the cost of capital facilities as authorized by this Article:

a. The cost of constructing, reconstructing, renovating, repairing, enlarging, acquiring, and improving capital facilities, including the acquisition of land, rights-of-way, easements, franchises, equipment, machinery, furnishings, and other interests in real or personal property acquired or used in connection with a capital facility.

b. The cost of engineering, architectural, and other consulting services.

c. The cost of providing personnel to ensure effective management of capital facilities.

d. Finance charges, reserves for debt service, and other types of reserves required pursuant to the terms of any special indebtedness or related documents, interest before and during construction or acquisition of a capital facility and, if considered advisable by the State Treasurer, for a period not exceeding two years after the estimated date of completion of construction or acquisition.

e. Administrative expenses and charges.

f. The cost of bond insurance, investment contracts, credit enhancement facilities and liquidity facilities, interest rate swap agreements or other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of special indebtedness.

g. The cost of reimbursing the State, a State agency, or a special corporation for any payments made for any cost described in this subdivision.

h. Any other costs and expenses necessary or incidental to the purposes of this Article.

(7) Credit facility. – An agreement that:

a. Is entered into by 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; and

b. Provides 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 with respect to any special indebtedness 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 the agreement.

(8) Department of Administration. – The North Carolina Department of Administration created by Article 36 of Chapter 143 of the General Statutes, or if the Department is abolished or otherwise divested of its functions under this Article, the public body succeeding it in its principal functions or upon which are conferred by law the rights, powers, and duties given by this Article to the Department.

(9) Financing contract. – A contract entered into pursuant to this Article to finance capital facilities and constituting a lease-purchase contract, installment purchase contract, or other similar type installment financing contract. The term does not include, however, a contract that meets any one of the following conditions:

a. It constitutes an operating lease under generally accepted accounting principals.

b. It provides for the payment under the contract over its full term, including periods that may be added to the original term through the exercise of options to renew or extend, of an aggregate principal amount of not in excess of five thousand dollars ($5,000) or any greater amount that may be established by the Council of State, if the Council of State determines (i) the aggregate amount to be paid under these contracts will not have a significant impact on the State budgetary process or the economy of the State and (ii) the change will lessen the administrative burden on the State.

c. It is executed and provides for the making of all payments under the contract, including payment to be made during any period that may be added to the original term through the exercise of options to renew or extend, in the same fiscal year.

(10) Financing contract indebtedness. – Indebtedness incurred pursuant to a financing contract, including certificates of participation indebtedness.

(11) Fiscal period. – A fiscal biennium or a fiscal year of the fiscal biennium.

(12) Fiscal year. – The fiscal year of the State beginning on July 1 of one calendar year and ending on June 30 of the next calendar year.

(13) Limited obligation bond. – A limited obligation bond issued pursuant to G.S. 142-88 and payable and secured as provided in G.S. 142-89.

(14) Par formula. – A provision or formula adopted by the State to provide for the adjustment, from time to time, of the interest rate or rates borne or provided for by any special indebtedness, including any of the following:

a. A provision providing for an adjustment so that the purchase price of special indebtedness in the open market would be as close to par as possible.

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

c. Any provision that the State Treasurer determines is consistent with this Article and will not materially and adversely affect the financial position of the State and the marketing of special indebtedness at a reasonable interest cost to the State.

(15) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.

(16) Special corporation. – Either of the following:

a. A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.

b. A private corporation or other entity issuing certificates of participation pursuant to this Article.

(17) Special indebtedness. – Financing contract indebtedness and bonded indebtedness issued or incurred pursuant to this Article.

(18) State. – The State of North Carolina, including any State agency.

(19) State agency. – Any agency, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include counties, municipal corporations, political subdivisions, local boards of education, or other local public bodies.

(20) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"**§ 142-83. Authorization of special indebtedness; General Assembly approval.**

The State may incur or issue special indebtedness subject to the terms and conditions provided in this Article for the purpose of financing the cost of capital facilities that meet one of the following conditions:

(1) The General Assembly has enacted legislation describing the capital facility and authorizing its financing by the incurrence or issuance of special indebtedness up to a specific maximum amount.

(2) The General Assembly has enacted legislation authorizing the incurrence or issuance of special indebtedness up to a specific maximum amount for a specific category of capital facilities, and the capital facility meets all of the conditions set in that legislation.

"**§ 142-84. Procedure for incurrence or issuance of special indebtedness.**

(a) Notice and Certificate. – Whenever the State or a State agency intends to use special indebtedness to finance capital facilities, it shall notify the Department of Administration. If the Department of Administration intends for the State to use special indebtedness to finance the capital facilities, it shall provide written notice to the Treasurer advising the Treasurer of its intent. The Treasurer may require a preliminary conference with the Department of Administration to consider the proposed financing.

After the filing of the notice and after any preliminary conference, the State Treasurer shall consult with the Office of State Budget and Management as to the revenues expected by that Office to be available to pay all sums to come due on the special indebtedness during its term. If, after consulting with the Office of State Budget and Management, the State Treasurer determines by written certificate that it may be desirable to use special indebtedness to finance the capital facilities, the Department of Administration shall request the Council of State to give its preliminary approval of the use of special indebtedness to finance the capital facilities. The Department of Administration must promptly file copies of the notice and certificate required by this subsection with the Governor and the Council of State.

(b) Preliminary Approval. – The Council of State, upon receipt of the notice and certificate required by subsection (a) of this section, shall adopt a resolution granting or denying preliminary approval of the financing. A resolution granting preliminary approval may include any other terms, conditions, and restrictions the Council of State considers appropriate and not inconsistent with the provisions of this Article.

(c) Final Approval. – Before any special indebtedness may be incurred or issued pursuant to this Article, the Council of State must authorize the indebtedness by resolution, either as part of or separate from the resolution required by subsection (b) of this section. The resolution must do all of the following:

(1) Authorize the providing of a particular capital facility or, in general terms, the types or classifications of capital facilities to be provided.

(2) Set the aggregate principal amount or maximum principal amount of the special indebtedness authorized.

(3) Set the maturity or maximum maturity of the special indebtedness authorized.

(4) Set the rate, rates, or maximum rate of interest, which may be fixed or vary over a period of time, of the special indebtedness authorized.

(5) Include any other conditions or matters not inconsistent with the provisions of this Article in the discretion of the Council of State, which may include the adoption or approvals as may be authorized in G.S. 142-88 and G.S. 142-89.

(d) Oversight by Treasurer. – No special indebtedness shall be incurred or issued without the prior written approval of the State Treasurer as provided in this subsection,

which is in addition to the certificate given by the State Treasurer pursuant to subsection (a) of this section. In determining whether to approve the proposed financing, the State Treasurer may consider any factors the State Treasurer considers relevant in order to find and determine all of the following:

(1) The amounts to become due under the special indebtedness, including the interest component or rate, are adequate and not excessive for the purpose proposed.

(2) The increase, if any, in State revenues, including taxes, necessary to pay the sums to become due under the special indebtedness is not excessive.

(3) The special indebtedness can be incurred or issued on terms desirable to the State.

(e) Designation of Facilities. – If the Council of State authorized in general terms the types or classifications of capital facilities to be financed, then the particular capital facilities and the principal amount of special indebtedness to be incurred or issued for each particular capital facility shall be determined by the Department of Administration after considering any factors it considers relevant in order to determine that the particular capital facility to be provided is desirable for the efficient operation of the State and its agencies and is in the best interests of the State.

(f) Type of Debt and Security. – In the absence of a determination by the Council of State, the State Treasurer, after consultation with the Department of Administration, shall determine the specific security offered and whether the special indebtedness to be issued or incurred shall be financing contract indebtedness, certificates of participation indebtedness, bonded indebtedness, or some combination of these.

(g) Administration. – The State Treasurer, after consultation with the Department of Administration, shall develop appropriate documents for use under this Article. The State Treasurer shall employ and designate the financial consultants, fiduciaries and other agents, underwriters, and bond attorneys to be associated with the incurrence or issuance of special indebtedness pursuant to this Article.

(h) Report to Joint Legislative Commission. – After all the requirements for approval and oversight provided in this section have been met, and at least five days before the issuance or incurrence of the special indebtedness, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations. This report must include the details of the proposed special indebtedness, including the capital facilities to be financed by the indebtedness, the amount of the proposed indebtedness, the type of indebtedness to be issued or incurred, and any other information required by the Commission.

"**§ 142-85. Security; other requirements.**

(a) Security. – In order to secure (i) lease or installment payments to be made to the lessor, seller, or other person advancing moneys or providing financing under a financing contract, (ii) payment of the principal of and interest on bonded indebtedness, or (iii) payment obligations of the State to the provider of bond insurance, a credit

facility, a liquidity facility, or a derivative agreement, special indebtedness may create any combination of the following:

(1) A lien on or security interest in one or more, all, or any part of the capital facilities to be financed by the special indebtedness.

(2) If the special indebtedness is to finance construction of improvements on real property, a lien on or security interest in all or any part of the land on which the improvements are to be located.

(3) If the special indebtedness is to finance renovations or improvements to existing facilities or the installation of fixtures in existing facilities, a lien on or security interest in one or more, all, or any part of the facilities.

(b) Value of Security; Multiple Liens. – The estimated value of the property subject to the lien or security interest need not bear any particular relationship to the principal amount of the special indebtedness or other obligation it secures. This Article does not limit the right of the State to grant multiple liens or security interests in a capital facility or other property to the extent not otherwise limited by the terms of any special indebtedness.

(c) Governor's Budget. – Documentation relating to any special indebtedness may include provisions requesting the Governor to submit in the Governor's budget proposal or any amendments or supplements to the budget proposed appropriations necessary to make the payments required by the special indebtedness.

(d) Source of Repayment. – The payment of amounts payable by the State under special indebtedness or any related documents during any fiscal period shall be limited to funds appropriated for that purpose by the General Assembly in its discretion.

(e) No Deficiency Judgment or Pledge. – No deficiency judgment may be rendered against the State in any action for breach of any obligation under special indebtedness or any related documents. The taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under special indebtedness or any related documents. In the event that the General Assembly does not appropriate sums sufficient to make payments required under any special indebtedness or any related documents, the net proceeds received from the sale or other disposition of the property subject to the lien or security interest shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation relating to the lien or security interest. These net proceeds are appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under any special indebtedness or any related documents shall be paid to the State Treasurer for deposit to the General Fund.

(f) Nonsubstitution Clause. – A financing contract, issue of bonded indebtedness, or other related document shall not contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any capital facility.

(g) Protection of Lender. – Special indebtedness may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or

providing financing under a financing contract, the owners of bonded indebtedness, or others to whom the State is obligated under special indebtedness or any related documents as may be reasonable and proper and not in violation of law. These provisions may include covenants setting forth the duties of the State in respect of any of the following:

(1) The purposes to which the proceeds of special indebtedness may be applied.

(2) The disposition and application of the revenues of the State, including taxes.

(3) Insuring, maintaining, and other duties with respect to the capital facilities financed.

(4) The disposition of any charges and collection of any revenues and administrative charges.

(5) The terms and conditions of the issuance of additional special indebtedness.

(6) The custody, safeguarding, investment, and application of all moneys.

(h) State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any transfer of the State's interest in property authorized by this Article, whether to a deed of trust trustee or other secured party as security for special indebtedness or to a purchaser of property in connection with a foreclosure or similar conveyance of property to realize upon the security for special indebtedness following the State's default on its obligations under the special indebtedness.

"**§ 142-86. Financing contract indebtedness.**

(a) Treasurer Oversight. – Financing contract indebtedness shall not be incurred until all documentation providing for its incurrence has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration.

(b) Interest Component. – A financing contract may provide for payments under the contract to represent principal and interest components of the cost of the capital facility to be financed, as determined by the State Treasurer.

(c) Bidding. – Financing contracts may be entered into pursuant to any applicable public or competitive bidding process or any private or negotiated process to the extent required by applicable law and, if not so required, as may be determined by the Department of Administration after consulting with the State Treasurer.

(d) Party. – All financing contracts shall be executed on behalf of the State by the State Treasurer or, upon delegation by the State Treasurer, by the Department of Administration.

(e) Credit Facility. – If the State Treasurer determines that it is in the best interest of the State, the State Treasurer may arrange for the delivery of a credit facility to secure payment under any financing contract. The State Treasurer may also provide that payments by the State representing the interest component of the payments to be made under a financing contract may be calculated based upon a fixed or a variable rate of interest.

(f) Terms and Conditions. – All other conditions set forth elsewhere in this Article with respect to financing contract indebtedness shall also be satisfied prior to incurring any financing contract indebtedness. To the extent applicable as conclusively determined by the State Treasurer, the provisions of G.S. 142-89, 142-90, and 142-91 apply to financing contract indebtedness.

"**§ 142-87. Additional requirements for certificates of participation indebtedness.**

(a) Treasurer Oversight. – A financing contract shall not be used in connection with the delivery of certificates of participation by a special corporation until all documentation providing for its use has been approved by the State Treasurer, after the State Treasurer has consulted with the Department of Administration. All documentation providing for the delivery and sale of certificates of participation must be approved by the State Treasurer.

(b) Procedure. – The special corporation, if used, shall request the approval of the State Treasurer in writing and shall furnish any information and documentation relating to the delivery and sale of the certificates of participation requested by the State Treasurer. In determining whether to approve the financing in the documentation, the State Treasurer shall consider the factors set forth in G.S. 142-84(d), as well as the effect of the proposed financing upon any scheduled or proposed sale of debt obligations by the State or a unit of local government in the State.

(c) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(d) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer, and the provisions of G.S. 142-89(h) apply to the trust agreement or similar instrument to the extent applicable.

(e) Other Conditions. – All other conditions set forth elsewhere in this Article with respect to certificates of participation indebtedness, including the conditions set forth in G.S. 142-86, must be satisfied before any certificates of participation indebtedness is incurred.

"**§ 142-88. Bonded indebtedness.**

The State Treasurer is authorized, by and with the consent of the Council of State as provided in this Article, to issue and sell at one time or from time to time bonds of the State to be designated "State of North Carolina Limited Obligation Bonds, Series ____" or notes of the State as provided in this Article, for the purpose of providing funds, with any other available funds, for the uses authorized in this Article.

"**§ 142-89. Issuance of limited obligation bonds and notes.**

(a) Terms and Conditions. – Bonds or notes may bear any dates, may be serial or term bonds or notes, or any combination of these, may mature in any amounts and at any times, not exceeding 40 years from their dates, may be payable at any places, either

within or without the United States, in any coin or currency of the United States that at the time of payment is legal tender for payment of public and private debts, may bear interest at any 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 any prices, including a price greater than the face amount of the bonds or notes, and under any 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 in certificated or uncertificated form. If issued in certificated form, bonds or notes shall be signed on behalf of the State by the Governor or shall bear the Governor's facsimile signature, shall be signed by the State Treasurer or shall bear the State Treasurer's facsimile signature, and shall bear the great seal of the State or a facsimile of the seal impressed or imprinted on them. 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. If any officer whose signature or facsimile signature appears on bonds or notes issued under this Article ceases to be that 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 of the bonds or notes. Bonds or notes issued under this Article may bear the facsimile signatures of persons, who at the actual time of the execution of the bonds or notes were the proper officers to sign any bond or note, although at the date of the bond or note those persons may not have been 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 prescribed by the State Treasurer in conformity with this Article.

(c) Manner of Sale; Expenses. – Subject to the approval by the Council of State as to the manner in which bonds or notes will be offered for sale, whether at public or private sale, whether within or without the United States, 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 any rates of interest, which may vary from time to time, and at any prices, including a price less than the face amount of the bonds or notes, as the State Treasurer may determine. All expenses incurred in the 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) Application of Proceeds. – The proceeds of any bonds or notes shall be used solely for the purposes for which the bonds or notes were issued and shall be disbursed in the manner and under the restrictions, if any, that the Council of State may provide in the resolution authorizing the issuance of, or in any trust agreement securing, the bonds or notes.

Any additional moneys that may be received by means of a grant or grants from the United States or any agency or department thereof or from any other source to aid in

financing the cost of a capital facility may be disbursed, to the extent permitted by the terms of the grant or grants, without regard to any limitations imposed by this Article.

(e) Notes; Repayment. – By and with the consent of the Council of State, the State Treasurer is authorized to borrow money and to execute and issue notes of the State for the same, but only in any of the following circumstances and under the following conditions:

(1) For anticipating the sale of bonds, the issuance of which the Council of State has approved, if the State Treasurer considers it advisable to postpone the issuance of the bonds.

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

(3) For the renewal of any loan evidenced by notes authorized in this Article.

(4) For the purposes authorized in this Article.

(5) For refunding bonds or notes or financing contract indebtedness as authorized in this Article.

Funds derived from the sale of limited obligation bonds or notes may be used in the payment of any bond anticipation notes issued under this Article. 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 have been used in paying interest on or principal of the bonds.

(f) 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 for the purpose of refunding special indebtedness and to pay the cost of issuance of the refunding bonds or notes. The refunding bonds and notes may be combined with any other issues of State bonds and notes issued pursuant to this Article. Refunding bonds or notes may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds or notes shall be applied to the immediate payment and retirement of the obligations being refunded or, if not required for the immediate payment of the obligations being refunded, the proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded and to pay any expenses incurred in connection with the refunding. Money in a trust fund may be invested in (i) direct obligations of the United States government, (ii) obligations the principal of and interest on which are guaranteed by the United States government, (iii) to the extent then permitted by law, obligations of any agency or instrumentality of the United States government, or (iv) certificates of deposit issued by a bank or trust company located in the State if the certificates are secured by a pledge of any of the obligations described in (i), (ii), or (iii) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. This section does not limit the duration of any deposit in trust for the retirement of obligations being refunded but that have not matured and are not presently redeemable, or if presently redeemable, have not been called for redemption.

(g) Security. – Payment of the principal of and the interest on bonds and notes shall be secured as provided in G.S. 142-85.

(h) Trust Agreement. – In the discretion of the State Treasurer, any bonds and notes issued under this Article may be secured by a trust agreement or similar instrument between the State and a corporate trustee or by a resolution of the Council of State providing for the appointment of a corporate trustee. The corporate trustee may be, in either case, any trust company or bank that has the powers of a trust company within or without the State. The trust agreement or similar instrument or resolution, hereinafter referred to as "the trust", may provide for security and pledges and assignments that are permitted under this Article and may provide for the granting of a lien or security interest as authorized by G.S. 142-85. The trust may contain any provisions for protecting and enforcing the rights and remedies of the owners of any bonds or notes issued under the trust that are reasonable and not in violation of law, including covenants setting forth the duties of the State with respect to the purposes for which bond or note proceeds may be applied, the disposition and application of the revenues or assets of the State, the duties of the State with respect to the capital facilities financed, the disposition of any charges and collection of any revenues and administrative charges, the terms and conditions of the issuance of additional bonds and notes, and the custody, safeguarding, investment, and application of all moneys. All bonds and notes issued under this Article pursuant to the same trust shall be equally and ratably secured as provided in the trust, without priority by reasons of number, dates of bonds or notes, execution, or delivery, in accordance with the provisions of this Article and of the trust. The trust may, however, provide that bonds or notes issued pursuant to the trust shall, to the extent and in the manner prescribed in the trust, be subordinated and junior in standing, with respect to the payment of principal and interest and to the security of the payment, to any other bonds or notes issued pursuant to the trust. It is lawful for any bank or trust company that may act as depositary of the proceeds of bonds or notes, revenues, or any other money under this Article to furnish any indemnifying bonds or to pledge any securities that may be required by the State Treasurer. The trust may set out the rights and remedies of the owners of any bonds or notes and of any trustee and may restrict the individual rights of action by the owners. In addition to the foregoing, the trust may contain any other provisions the State Treasurer considers appropriate for the security of the owners of any bonds or notes. Expenses incurred in carrying out the provisions of the trust may be treated as a part of the cost of any capital facility or as an administrative charge and may be paid from the proceeds of the bonds or notes or from any other available funds.

"**§ 142-90. Variable rate demand bonds and notes and financing contract indebtedness.**

(a) In fixing the details of special indebtedness, the State Treasurer may make the special indebtedness subject to any of the following conditions:

(1) It is payable from time to time on demand or tender for purchase by the owner thereof, if a credit facility supports the special indebtedness, unless the State Treasurer specifically determines that a credit facility is not required upon a determination by the State Treasurer that the

absence of a credit facility will not materially and adversely affect the financial position of the State or the marketing of the bonds or notes or financing contract indebtedness at a reasonable interest cost to the State.

(2) It is additionally supported by a credit facility.

(3) It is subject to redemption or mandatory tender for purchase prior to maturity.

(4) It bears interest at a rate or rates that may be fixed or may vary over any period of time, as may be provided in the proceedings providing for the issuance or incurrence of the special indebtedness, including any variations that may be permitted pursuant to a par formula.

(5) It is the subject of a remarketing agreement under which an attempt is made to remarket special indebtedness to new purchasers before its presentment for payment to the provider of the credit facility or to the State.

(b) If the aggregate principal amount payable by the State under a credit facility is in excess of the aggregate principal amount of special indebtedness 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 and financing contract indebtedness during the term of the credit facility shall not be less than the amount of the excess, unless the payment of the excess is otherwise provided for by agreement of the State executed by the State Treasurer.

"**§ 142-91. Other agreements.**

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with the issuance of special indebtedness. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any incurrence or issuance of special indebtedness under this Article as the State Treasurer considers appropriate.

"**§ 142-92. Tax exemption.**

Special indebtedness shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the indebtedness; and franchise taxes. The interest component of any payments made by the State under special indebtedness, including the interest component of any certificates of participation, is not subject to taxation as to income.

"**§ 142-93. Investment eligibility.**

Special indebtedness are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations,

credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Special indebtedness are securities or obligations that 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 later be authorized by law.

"**§ 142-94. Procurement of capital facilities.**

The provisions of Articles 3, 3B, 3C, 3D, and 8 of Chapter 143 of the General Statutes and any other laws or rules of the State that relate to the acquisition and construction of State property apply to the financing of capital facilities through the use of special indebtedness pursuant to this Article. This section does not apply to the construction and lease-purchase, including leases with an option to purchase at the end of the lease term for a nominal sum, of State office buildings pursuant to proposals submitted before the effective date of this Article in response to requests for proposals to the extent any of those proposals, as they may be supplemented or amended, are approved by the Department of Administration and any of these leases or lease-purchase agreements are approved by the Council of State in accordance with G.S. 143-341(4)d2."

SECTION 3.2. G.S. 143-341(4) is amended by adding a new sub-subdivision to read:

"d2. To purchase or finance the purchase of buildings, utilities, structures, or other facilities or property developments, including streets and landscaping, the acquisition of land, equipment, machinery and furnishings in connection therewith; additions, extensions, enlargements, renovations and improvements to existing buildings, utilities, structures, or other facilities or property developments, including streets and landscaping; land or any interest in land; other infrastructure; furniture, fixtures, equipment, vehicles, machinery and similar items; or any combination of the forgoing, through installment purchase, lease purchase, or other similar type installment financing agreements in the manner and to the extent provided in Article 9 of Chapter 142 of the General Statutes. Any contract entered into or any proceeding instituted contrary to the provisions of this paragraph is voidable in the discretion of the Council of State."

PART 4. GENERAL PROVISIONS

SECTION 4.1. Interpretation of Act. (a) Additional Method. – This act provides an additional and alternative method for the doing of the things authorized by this act and shall be regarded as supplemental and additional to powers conferred by other laws. Except where expressly provided, this act shall not be regarded as in derogation of any powers now existing. The authority granted in this act is in addition to

other laws now or hereinafter enacted authorizing the State to issue or incur indebtedness.

SECTION 4.1.(b) Statutory References. – References in this act to specific sections or Chapters of the General Statutes are intended to be references to those sections or Chapters as they may be amended from time to time by the General Assembly.

SECTION 4.1.(c) Liberal Construction. – This act, being necessary for the health and welfare of the people of the State, shall be liberally construed to effect its purposes.

SECTION 4.1.(d) Severability. – If any provision of this act or its application to any person or circumstance is held invalid, that invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4.2. Effective Date. – Section 1 of this act becomes effective July 1, 2003. The remainder of this act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 154 A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO PERFORM DNA ANALYSIS ON UNTESTED SEXUAL ASSAULT KITS LOCATED IN LAW ENFORCEMENT DEPARTMENTS ACROSS NORTH CAROLINA AND TO PROVIDE THE STATE BUREAU OF INVESTIGATION CRIME LABORATORY SUFFICIENT FUNDS TO PERFORM DNA ANALYSIS OF EVIDENCE TO ASSIST LAW ENFORCEMENT AND PROSECUTORS IN CONVICTING CRIMINALS.

☐ 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 ☐ ☐.

☒ Without prejudice as to the committee substitute bill, ☒ which changes the title, unfavorable as to the original 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 232*

Short Title:	Incorporate Mills River.	(Local)
Sponsors:	Representative Justus.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF MILLS RIVER.

The General Assembly of North Carolina enacts:

SECTION 1. This act relates to the incorporation of the Town of Mills River.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 232*
PROPOSED COMMITTEE SUBSTITUTE H232-PCS30352-LMx-21

Short Title: Incorporate Mills River. (Local)

Sponsors:

Referred to:

March 5, 2003

A BILL TO BE ENTITLED

AN ACT TO INCORPORATE THE TOWN OF MILLS RIVER.

The General Assembly of North Carolina enacts:

SECTION 1. A Charter for the Town of Mills River is enacted to read:

"CHARTER OF THE TOWN OF MILLS RIVER.

"ARTICLE I. INCORPORATION AND CORPORATE BOUNDARIES.

"Section 1.1. **Incorporation and Corporate Powers.** The inhabitants of the Town of Mills River are a body corporate and politic under the name 'Town of Mills River'. Under that name they shall have all the powers, duties, rights, privileges, and immunities conferred and imposed on cities by the general law of North Carolina.

"ARTICLE II. CORPORATE BOUNDARIES.

"Section 2.1. **Town Boundaries.** Until modified in accordance with the law, the boundaries of the Town of Mills River are as follows:

Beginning at a point at the Buncombe-Henderson County line on Pennsylvania Road (SR 1348) and traveling South to the Intersection with North Mills River Road (SR 1345). Turning Northwest on North Mills River Road (SR 1345) until the Intersection with Whitaker Lane (SR 1341). Turning South on Whitaker Lane (SR 1341) until the Intersection with South Mills River Road (SR 1338). Continuing South along Henderson County Land Records parcel lines known as 0802005 along the Southern edge; 9933871 along the Southern edge; 0800935 along the Northern and Eastern edges; 9900853 along the Eastern edge; 0801109 along the Eastern edge; 9965467 along the Southeastern edge; 9935627 along the Southeastern edge; 9935626 along the Southern edge; until reaching the Mills River Fire District line. Continuing West along the United States Forest Service property line and the Mills River Fire District line across what is commonly known as "Forge Mountain" to the Transylvania County line. Following the Transylvania County line South to the Mills River Fire District line and then along with the Mills River Fire District line Southeast to Ladson Road. Turning East on Ladson Road (SR 1314) until reaching the Intersection of Schoolhouse Road (SR 1426).

Continuing East until the Intersection with Haywood Road (Hwy 191). Turning North on Haywood Road (Hwy 191) until reaching Hooper Lane (SR 1353). Turning East on Hooper Lane (SR 1353), including the property on the Southeast side of the road listed with the Henderson County Land Records as: 0803205 along the Eastern edge; 9945652 along the Eastern and Northern edges; and rejoining Hooper Lane (SR 1353). Following Hooper Lane (SR 1353) until reaching Jeffress Road (SR 1345). Turning North along Jeffress Road (SR 1345) until its Intersection with Butler Bridge Road (SR 1352). Following Butler Bridge Road (SR 1352) Northeast until reaching the Mills River Fire District line. Following the Mills River Fire District line North and Northwest back to the Buncombe-Henderson County line on Pennsylvania Road (SR 1348).

"ARTICLE III. GOVERNING BODY.

"Section 3.1. **Structure of Governing Body; Number of Members.** The governing body of the Town of Mills River is the Town Council, which shall have five members.

"Section 3.2. **Temporary Officers.** Until the organizational meeting after the initial election in 2003 provided for by Section 4.1 of this Charter, Roger D. Snyder, Lois M. Pryor, Wayne S. Carland, James R. Cowan, and Linda F. Brittain are appointed members of the Town Council of the Town of Mills River, and they shall possess and exercise the powers granted to the governing body until their successors are elected or appointed and qualified pursuant to this Charter. If any person named in this section is unable to serve, the remaining temporary officers shall, by majority vote, appoint a person to serve until the initial municipal election is held in 2003.

"Section 3.3. **Manner of Electing Town Council; Terms of Office.** Two of the Council members shall be elected at large from the residents of the Town and three shall be elected from each of Districts 1, 2, and 3 respectively, as provided in Article IV of this Charter. The qualified voters of the entire Town shall elect all the members of the Town Council, and, except as provided in this section, they shall serve four-year terms. In 2003, two Council members shall be elected at large and they shall serve for four-year terms, and one Council member shall be elected from each of Districts 1, 2, and 3, respectively and they shall serve for two-year terms. In 2005, and quadrennially thereafter, one Council member shall be elected from each of Districts 1, 2, and 3 respectively and they shall serve for four-year terms. In 2007, and quadrennially thereafter, two members shall be elected at large and they shall serve for four-year terms.

"Section 3.4. **Manner of Electing Mayor; Term of Office; Duties.** At the organizational meeting following each municipal election, the Town Council shall elect one of its members as Mayor, and the Mayor shall serve at the pleasure of the Town Council. The Mayor shall be the official head of Town government and shall preside at all meetings of the Town Council. The Mayor shall exercise such powers and duties as conferred by the general laws of this State and this Charter and as directed by the Town Council. In the case of a vacancy in the office of Mayor, the remaining members of the Town Council shall choose from their membership a person to serve as Mayor for the unexpired term.

"Section 3.5. **Vacancies.** Notwithstanding the provisions of G.S. 160A-63, a person appointed by the Town Council to fill a vacancy on the Council shall serve for the remainder of the unexpired term.

"ARTICLE IV. ELECTIONS.

"Section 4.1. **Conduct of Town Elections.** Town elections shall be conducted on a nonpartisan basis and the results determined by plurality, as provided in G.S. 163-292. Elections shall be conducted by the Henderson County Board of Elections in accordance with general law, except as may be modified by this Charter.

"Section 4.2. **Regular Municipal Elections; District Boundaries.** Regular municipal elections shall be held in each odd-numbered year in accordance with the uniform municipal election laws of North Carolina. For purpose of the election of Town Council members, the Town is divided into three geographical subdivisions, known as districts, and all qualified voters of the Town may cast a vote for each seat. A written description or map showing the current boundaries of the three election districts shall be maintained in the office of the Town Clerk and shall be available for public inspection. The district boundaries may be amended periodically pursuant to the provisions of general law. Whenever areas are hereafter annexed and made part of the Town, the Town Council shall, by ordinance, redefine and rearrange the three election districts so as to include the annexed areas. The ordinance shall be adopted at least seven days prior to the opening of candidate filing for the municipal election next succeeding the date of any annexation and shall provide for three election districts of approximately equal population. In redefining and rearranging the election district lines, the Town Council shall follow as nearly as practical existing district lines.

"Section 4.3. **Residency Required.** Candidates for election to district seats on the Town Council shall reside in and represent their respective districts, but all candidates for Town Council shall be nominated and elected by all the voters of the Town.

"ARTICLE V. ADMINISTRATION.

"Section 5.1 . **Town to Operate Under Council-Manager Plan.** The Town shall operate under the Council-Manager form of government as provided in Part 2 of Article 7 of Chapter 160A of the General Statutes.

"ARTICLE VI. TAXES AND BUDGET ORDINANCE.

"Section 6.1. **Commencement of Tax Collection.** From and after the effective date of this act, the citizens and property in the Town of Mills River shall be subject to municipal taxes levied for the year beginning July 1, 2003, and for that purpose the Town shall obtain from Henderson County a record of property in the area herein incorporated which was listed for property taxes as of January 1, 2003.

"Section 6.2. **Budget.** The Town may adopt a budget ordinance for fiscal year 2003-2004 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 2003-2004, 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. 105-360. If the effective date of the incorporation is prior to July 1, 2003, the Town may adopt a budget ordinance for fiscal year 2002-2003 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 practical. No ad valorem taxes may be levied for the 2002-2003 fiscal year.

"ARTICLE VII. ORDINANCES.

"Section 7.1. **Ordinances.** Except as otherwise provided in this Charter, the Town of Mills River is authorized to adopt such ordinances as the Town Council deems necessary to the governance of the Town.

"ARTICLE VIII. MISCELLANEOUS PROVISIONS.

"Section 8.1. **Expenses.** The entities sponsoring incorporation shall be entitled to recover from the Town expenses of sponsoring incorporation in the amount of five hundred dollars ($500.00) or greater, provided that the entities seeking recovery shall submit written requests for reimbursement and shall be subject to annual audit. The Town Council may reimburse expenses after the first full fiscal year. To receive reimbursement, all requests must be submitted prior to the end of the second fiscal year."

SECTION 2. The temporary officers of the Town of Mills River shall, at least seven days prior to the opening of candidate filing for the initial municipal elections, adopt a plan to divide the Town into three districts for the purpose of municipal elections as provided in Article IV of this Charter. The plan shall immediately be transmitted to the Henderson County Board of Elections.

SECTION 3. Notwithstanding G.S. 163-294.2, the filing period for the Town Council for the 2003 municipal election shall open at 12:00 noon on the first Monday in August and shall close at 12:00 noon on the first Friday in August.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 232 A BILL TO BE ENTITLED AN ACT TO INCORPORATE THE TOWN OF MILLS RIVER.

☐ 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 ☐ ☐.

☒ Without prejudice as to the committee substitute bill, unfavorable as to the original 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 805*

Short Title:	Initiatives to Address Teacher Shortages.	(Public)
Sponsors:	Representatives Yongue, Preston, L. Johnson, Carney (Primary Sponsors); Church, Cole, Crawford, Culp, Gillespie, Glazier, Goodwin, Gorman, Insko, Lucas, Michaux, and Sutton.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO EFFECTIVELY RECRUIT AND RETAIN TEACHERS FOR THE NORTH CAROLINA PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 805*
PROPOSED COMMITTEE SUBSTITUTE H805-PCS60363-LE-18

Short Title: Initiatives to Address Teacher Shortages. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO EFFECTIVELY RECRUIT AND RETAIN TEACHERS FOR THE NORTH CAROLINA PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

STUDY TO DEVELOP A COMPENSATION PROGRAM FOR TEACHERS IN NORTH CAROLINA

SECTION 1. It is the goal of the General Assembly to increase teacher salaries over the next four years so as to attract and retain excellent teachers in the public schools; therefore, the Joint Legislative Education Oversight Committee shall develop and recommend to the General Assembly a Compensation Program for Teachers in North Carolina. The purpose of this Program shall be to (i) recruit and retain highly qualified teachers by offering competitive salaries and (ii) provide cost-of-living increases, longevity, and benefits necessary to ensure that teacher compensation in North Carolina remains at or above the national average.

It is the intent of the General Assembly that local school administrative units will not use these State-funded salary increments to supplant local salary supplements.

The Committee shall report the results of this study to the 2004-2005 regular session of the 2003 General Assembly.

SALARY INCREASE FOR BEGINNING TEACHERS

SECTION 2.(a) It is the goal of the General Assembly to appropriate funds for the 2004-2005 fiscal year to increase the salaries of teachers on the first four steps of the teacher salary schedule as indicated in the following tables. All other increases in the teacher salary schedules for the 2004-2005 fiscal year shall be based on the salary schedules as modified in this section.

SECTION 2.(b) The first four steps of the salary schedule for "A" Teachers shall be as follows:

Years of Experience	"A" Teachers	NBPTS Certification
0	$2,600	N/A
1	$2,650	N/A
2	$2,700	N/A
3	$2,775	$3,108

SECTION 2.(c) The first four steps of the salary schedule for "M" Teachers shall be as follows:

Years of Experience	"M" Teachers	NBPTS Certification
0	$2,860	N/A
1	$2,915	N/A
2	$2,970	N/A
3	$3,053	$3,419

LOCAL INITIATIVES TO RECRUIT AND RETAIN TEACHERS

SECTION 3.(a) It is the goal of the General Assembly to appropriate funds for the 2004-2005 fiscal year for local initiatives to recruit and retain teachers. The State Board of Education shall allocate forty percent (40%) of any such funds to local school administrative units on the basis of projected average daily membership, thirty-five percent (35%) on the basis of the 2003-2004 low-wealth supplemental funding formula, and twenty-five percent (25%) on the basis of growth in average daily membership over the last four school years. Local school administrative units shall use these funds for one or more of the following initiatives to recruit and retain teachers:

(1) Recruiting bonuses;
(2) Interest-free loans to teachers;
(3) Stipends for teacher training;
(4) Teacher as leader programs;
(5) Annual bonuses for teachers certified in the fields of mathematics, science, special education, or other fields in which there is a shortage of qualified teachers;
(6) Annual bonuses for teachers at schools with high percentages of low-performing students; and
(7) Other local initiatives to recruit and retain teachers.

Local boards of education shall report to the State Board of Education on local initiatives implemented with these funds and on the effectiveness of those local initiatives in recruiting and retaining teachers.

The State Board of Education shall report to the Joint Legislative Education Oversight Committee on the effectiveness of the different local initiatives by December 15, 2005.

SECTION 3.(b) It is the goal of the General Assembly to fund the items set out in this section with recurring funds, beginning with the 2004-2005 fiscal year.

LICENSURE OF TEACHERS LICENSED IN OTHER STATES

SECTION 4. Chapter 115C of the General Statutes is amended by adding a new section to read:

"**§ 115C-296.3. Certification of highly qualified teachers from other states.**

Notwithstanding any other provision of law, a teacher from another state shall be granted North Carolina certification under the following conditions:

(1) New hires to the profession from other states. – A teacher from another state who (i) has less than three years of experience as a full-time classroom teacher, (ii) is fully certified and highly qualified, as provided in the No Child Left Behind Act of 2001, in that other state; and (iii) is employed as a teacher by a local school administrative unit in North Carolina, is deemed to have satisfied the academic and professional preparation required to receive initial certification in North Carolina. The initial certification shall be granted for one year or for the period of time necessary for the teacher to acquire three years of full-time teaching experience in North Carolina and the other state combined, whichever is longer.

Once the teacher has three years of experience as a full-time teacher with at least one full year in a local school administrative unit in North Carolina, the teacher shall receive continuing certification unless the employing local school administrative unit recommends that the teacher not be granted continuing certification. The teacher shall be subject to the same requirements for continuing certification and certificate renewal as other teachers in North Carolina.

The teacher shall not be required to take and pass a standard examination to demonstrate adequate academic and professional preparation for certification, except as otherwise provided by the No Child Left Behind Act of 2001.

(2) New hires with at least three years of experience from other states. – A teacher from another state who (i) has three or more years of experience as a full-time teacher, (ii) is fully certified and highly qualified as provided in the No Child Left Behind Act of 2001 in that other state, and (iii) is employed as a teacher by a local school administrative unit in North Carolina is deemed to have satisfied the academic and professional preparation required to receive continuing certification for one year in North Carolina.

If at the end of one year of employment, the employing local board of education recommends to the State Board of Education that the teacher's certification be renewed, the teacher shall be eligible to receive continuing certification. The teacher shall be subject to the

same requirements for continuing certification and certificate renewal as other teachers in North Carolina.

The teacher shall not be required to take and pass a standard examination to demonstrate that preparation, except as otherwise provided by the No Child Left Behind Act of 2001."

INITIATIVES TO INCREASE THE NUMBER OF STUDENTS IN TEACHER TRAINING PROGRAMS

SECTION 5. G.S. 115C-296(b) reads as rewritten:

"(b) It is the policy of the State of North Carolina to maintain the highest quality teacher education programs and school administrator programs in order to enhance the competence of professional personnel certified in North Carolina. To the end that teacher preparation programs are upgraded to reflect a more rigorous course of study, the State Board of Education, as lead agency in coordination and cooperation with the University Board of Governors, the Board of Community Colleges and such other public and private agencies as are necessary, shall continue to refine the several certification requirements, standards for approval of institutions of teacher education, standards for institution-based innovative and experimental programs, standards for implementing consortium-based teacher education, and standards for improved efficiencies in the administration of the approved programs. The certification program shall provide for initial certification after completion of preservice training, continuing certification after three years of teaching experience, and certificate renewal every five years thereafter, until the retirement of the teacher. The last certificate renewal received prior to retirement shall remain in effect for five years after retirement.

The State Board of Education shall modify the standards for approval of institutions of teacher education to encourage the institutions to (i) increase the number of students in teacher education programs each year, (ii) ensure that all students in the program take the standard examination required for certification prior to graduation, and (iii) increase the number of students passing the standard examination requirement prior to graduation.

The State Board of Education, as lead agency in coordination with the Board of Governors of The University of North Carolina and any other public and private agencies as necessary, shall continue to raise standards for entry into teacher education programs.

The State Board of Education, in consultation with the Board of Governors of The University of North Carolina, shall evaluate and develop enhanced requirements for continuing certification. The new requirements shall reflect more rigorous standards for continuing certification and to the extent possible shall be aligned with quality professional development programs that reflect State priorities for improving student achievement.

The State Board of Education, in consultation with local boards of education and the Board of Governors of The University of North Carolina, shall reevaluate and enhance the requirements for renewal of teacher certificates. The State Board shall consider modifications in the certificate renewal achievement and to make it a mechanism for

teachers to renew continually their knowledge and professional skills. The State Board shall adopt new standards for the renewal of teacher certificates by May 15, 1998.

The standards for approval of institutions of teacher education shall require that teacher education programs for students who do not major in special education include demonstrated competencies in the identification and education of children with learning disabilities. The State Board of Education shall incorporate the criteria developed in accordance with G.S. 116-74.21 for assessing proposals under the School Administrator Training Program into its school administrator program approval standards.

All North Carolina institutions of higher education that offer teacher education programs, masters degree programs in education, or masters degree programs in school administration shall provide performance reports to the State Board of Education. The performance reports shall follow a common format, shall be submitted according to a plan developed by the State Board, and shall include the information required under the plan developed by the State Board."

TAX CREDIT FOR TEACHERS

SECTION 6.(a) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"**§ 105-151.29. Credit for public school teachers.**

(a) Credit. – An individual who is employed as a public school teacher for at least 16 weeks during the taxable year is allowed as a credit against the tax imposed by this Part an amount equal to the following:

(1) Five hundred dollars ($500.00) for an individual who has, as of the last day of the taxable year, completed at least one but less than five years of service as a public school teacher.

(2) One thousand dollars ($1,000) for an individual who has, as of the last day of the taxable year, completed at least five but less than 10 years of service as a public school teacher.

(b) Credit Limitation. – This credit may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable, except tax payment made by or on behalf of the taxpayer. Any unused portion of the credit may be carried forward for the succeeding five years.

(c) Definitions. – The following definitions apply in this section:

(1) Public school. – Any elementary or secondary school located within the borders of this State that is operated by a local school administrative unit, any charter school approved by the State Board of Education and operated in the State, the State, a branch of the federal government, or a federally recognized Indian tribe.

(2) Public school teacher. – A full-time permanent employee of a public school who spends at least fifty percent (50%) of the school day providing classroom instruction."

SECTION 6.(b) G.S. 105-160.3(b) is amended by adding a new subdivision to read:

"(8) G.S. 105-151.29. Credit for public school teachers."

SECTION 6.(c) This section becomes available only if the General Assembly states in the General Fund Availability Statement set out in the Current Operations and Capital Improvements Appropriations Act of 2004 that funds are available to implement this section.

SECTION 6.(d) This section is effective for taxable years beginning on or after January 1, 2004. This section is repealed effective for taxable years beginning on or after January 1, 2014.

SECTION 6.(e) This section does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this section before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

TUITION SCHOLARSHIP LOANS FOR NONRESIDENT STUDENTS WHO AGREE TO TEACH IN NORTH CAROLINA

SECTION 7. The Board of Governors of The University of North Carolina may allow the constituent institutions that receive funds for focused enrollment growth to allocate up to one hundred seventy-eight thousand three hundred eighty dollars ($178,380) each of those funds to provide for a maximum of 20 Prospective Teacher Scholars at each such institution. These funds may be used to recruit new nonresident students to enter into agreements to: (i) pursue a full-time course of study that will lead to teacher certification in North Carolina and (ii) teach in a North Carolina public school or a school operated by the United States government in North Carolina for one year for each year that they receive this benefit. For each new Prospective Teacher Scholarship an institution provides to a nonresident student with these funds, the institution shall ensure that there is space for an additional North Carolina resident to enter the teacher preparation program. The Board of Governors shall establish guidelines and regulations for this program, including methodology for determining its success in increasing the supply of qualified teachers for North Carolina public schools. The Board shall report its guidelines and regulations to guide these pilot programs to the Joint Legislative Education Oversight Committee by November 15, 2003. The Board shall report annually to the Committee on the progress of the pilot programs and their costs.

LONG-RANGE PLAN FOR TEACHER RECRUITMENT AND RETENTION

SECTION 8. The Education Cabinet shall develop a long-range plan for the recruitment and retention of teachers. The Education Cabinet shall consult with public and private agencies, as necessary, in the development of this plan. The Education Cabinet shall report to the Joint Legislative Education Oversight Committee prior to December 1, 2004, on the plan it develops.

ALIGNMENT OF THE LATERAL ENTRY PROGRAM WITH THE REQUIREMENTS OF THE NO CHILD LEFT BEHIND ACT OF 2001

SECTION 9.(a) G.S. 115C-296(c) reads as rewritten:

"(c) It is the policy of the State of North Carolina to encourage lateral entry into the profession of teaching by ~~skilled individuals from the private sector.~~qualified individuals who hold a postsecondary degree that is at least a bachelors degree. To this end, before the ~~1985-86~~2004-2005 school year begins, the State Board of Education shall ~~develop criteria and procedures to accomplish the employment of such individuals as classroom teachers.~~review and revise the curriculum requirements for lateral entry candidates to receive certification. ~~Regardless of credentials or competence, no one shall begin teaching above the middle level of differentiation. Skilled individuals who choose to enter the profession of teaching laterally~~

Qualified first-year lateral entry candidates who are required by federal law to obtain certification before contracting to teach for a fourth year may be granted a provisional teaching certificate for no more than three years. Other qualified lateral entry candidates may be granted a provisional teaching certificate for no more than five years and shall be required to obtain certification before contracting for a sixth year of service with any local administrative unit in this State. The State Board of Education shall ensure that the teacher preparation programs in the State are providing training to lateral entry candidates, provide that training in a uniform and consistent manner that enables lateral entry candidates to obtain certification in accordance with the requirements of the No Child Left Behind Act of 2001 while working as full-time teachers.

~~It is further the policy of the State of North Carolina to ensure that local boards of education can provide the strongest possible leadership for schools based upon the identified and changing needs of individual schools. To this end, before the 1994-95 school year begins, the State Board of Education shall carefully consider a lateral entry program for school administrators to ensure that local boards of education will have sufficient flexibility to attract able candidates.~~"

SECTION 9.(b) The State Board of Education shall report to the Joint Legislative Education Oversight Committee prior to July 1, 2004, on revisions the Board made to the curriculum requirements for lateral entry candidates pursuant to G.S. 115C-296(c), as rewritten by subsection (a) of this section.

EFFECTIVE DATE

SECTION 10. This act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 805 A BILL TO BE ENTITLED AN ACT TO EFFECTIVELY RECRUIT AND RETAIN TEACHERS FOR THE NORTH CAROLINA PUBLIC SCHOOLS

☐ 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 ☐ ☐.

☒ Without prejudice as to the committee substitute bill, unfavorable as to the original bill, and recommendation that the committee substitute bill be re-referred to the Subcommittee on Preschool Elementary and Secondary Education.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE JOINT RESOLUTION 1328*

Sponsors: Representatives Coates; Mitchell, Rhodes, and Luebke.

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

June 2, 2003

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF REVERENDS ADOLPHEUS NUSSMAN AND GOTTFRIED ARENDS ON THE 200TH ANNIVERSARY OF THE NORTH CAROLINA SYNOD OF THE EVANGELICAL LUTHERAN CHURCH IN AMERICA.

Whereas, on November 15, 2003, the North Carolina Synod of the Evangelical Lutheran Church in America will celebrate its 200th anniversary; and

Whereas, the North Carolina Synod is the second oldest Lutheran Synod in the United States; and

Whereas, during the 1770s, German immigrants who had settled in the Piedmont area of North Carolina felt a need to have their own pastor and schoolteacher; and

Whereas, the German Lutheran Church sent Reverend Adolpheus Nussman and teacher Gottfried Arends to North Carolina in 1773; and

Whereas, Gottfried Arends, who also had theological training, became an ordained minister in 1775; and

Whereas, by 1783, Reverend Nussman was the pastor of three churches, each with a school, and the supervisor of 25 missions across North Carolina; and

Whereas, in 1803, the North Carolina Synod was organized to provide congregations with adequately prepared ministers; and

Whereas, Reverend Arends served as the synod's first bishop; and

Whereas, in the early years, the synod struggled with the issues of slavery, German heritage and language, and the structure of worship, but the synod managed to prosper despite differences of opinion; and

Whereas, in the late 1800s, the synod began supporting higher education and foreign missions and allowing lay people, especially women, to take a more active role in the Lutheran church; and

Whereas, the Lutheran population had increased dramatically in North Carolina by the 1960s, allowing the synod to provide centralized programs, resources, training, advice, and other services to local ministries; and

Whereas, the synod has responded to the changing demographics of the State by developing policies to improve its outreach to African-Americans and Latinos; and

Whereas, the synod has grown from four pastors in 14 congregations to 455 leaders in 241 congregations; and

Whereas, it is only fitting to acknowledge the 200th anniversary of the North Carolina Synod of the Evangelical Lutheran Church in America; Now, therefore,

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

SECTION 1. The General Assembly honors the memory of Reverend Adolpheus Nussman and Reverend Gottfried Arends for their roles in the development of the North Carolina Synod of the Evangelical Lutheran Church in America.

SECTION 2. The General Assembly extends its sincere congratulations to the North Carolina Synod of the Evangelical Lutheran Church in America on its 200th anniversary.

SECTION 3. The Secretary of State shall transmit a copy of this resolution to the Bishop of the North Carolina Synod of the Evangelical Lutheran Church in America.

SECTION 4. This resolution is effective upon adoption.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 1328 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF REVERENDS ADOLPHEUS NUSSMAN AND GOTTFRIED ARENDS ON THE 200TH ANNIVERSARY OF THE NORTH CAROLINA SYNOD OF THE EVANGELICAL LUTHERAN CHURCH IN AMERICA.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 706
Second Edition Engrossed 4/16/03
House Committee Substitute Favorable 5/28/03

Short Title: UNC-W Athletic Facilities Exemption. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW UNC-WILMINGTON TO ADD BLEACHERS TO AN EXISTING SOFTBALL FIELD WITHOUT HAVING TO CONSTRUCT ADDITIONAL PLUMBING FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any requirements for additional plumbing facilities imposed under Section 403.3.1.4, Table 403.1, and Table 403.4 of Chapter 4 of the North Carolina Plumbing Code, 2002 Edition, the University of North Carolina at Wilmington, as part of its addition of bleachers to an existing softball field, shall not be required to provide toilet facilities in addition to those facilities currently existing at the stadium.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 706

Second Edition Engrossed 4/16/03

House Committee Substitute Favorable 5/28/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S706-CSRW-52 [v.2]

6/2/2003 5:44:44 PM

Short Title: University Athletic Facilities Exemption. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PUBLIC UNIVERSITY TO ADD BLEACHERS TO AN EXISTING SOFTBALL FIELD WITHOUT HAVING TO CONSTRUCT ADDITIONAL PLUMBING FACILITIES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding any requirements for additional plumbing facilities imposed under Section 403.3.1.4, Table 403.1, and Table 403.4 of Chapter 4 of the North Carolina Plumbing Code, 2002 Edition, a public university, as part of its addition of bleachers to an existing softball field, shall not be required to provide facilities in addition to those facilities currently existing at the stadium.

SECTION 2. This act applies to public universities located in counties that (i) have a population of 160,000 or more according to the most recent decennial federal census; (ii) border the Atlantic Ocean; and (iii) border no more than two other counties that are a part of this State.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ House Committee Substitute #1 for
S.B. 706 A BILL TO BE ENTITLED AN ACT TO ALLOW UNC-WILMINGTON TO ADD BLEACHERS TO AN EXISTING SOFTBALL FIELD WITHOUT HAVING TO CONSTRUCT ADDITIONAL PLUMBING 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 House committee substitute bill # 2, 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 494

State Government, Local Government, and Veterans' Affairs Committee
Substitute Adopted 4/21/03
State Government, Local Government, and Veterans' Affairs Committee
Substitute #2 Adopted 4/24/03

Short Title: Carrboro Sprinklers. (Local)

Sponsors:

Referred to:

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF CARRBORO TO REQUIRE SPRINKLERS IN BARS, CLUBS, AND OTHER SIMILAR PLACES OF PUBLIC ASSEMBLY THAT HAVE GATHERINGS OF MORE THAN ONE HUNDRED PEOPLE AND SELL ALCOHOLIC BEVERAGES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9-5 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"**Section 9-5.** Sprinkler Systems.

(a) Notwithstanding any provision of the North Carolina State Building Code or any general or local law to the contrary, the board of aldermen may adopt an ordinance requiring that sprinkler systems be installed in all of the following types of buildings constructed within the town or its extraterritorial planning jurisdiction: (i) buildings in excess of 50 feet in height; (ii) nonresidential buildings containing at least 5,000 square feet of floor surface area; or (iii) buildings designed for assembly occupancy (as defined in the North Carolina State Building Code) that accommodate more than 25 people. This ordinance applies to existing buildings only to the extent and under the circumstances that the provisions of the North Carolina State Building Code apply to preexisting buildings.

(b) Notwithstanding any provision in the North Carolina State Building Code or any other provision of law, the Board of Aldermen may adopt an ordinance requiring that sprinkler systems be installed in bars, clubs, and other places of public assembly that are designed for occupancy by 100 or more persons and that sell alcoholic beverages. This ordinance may be made applicable to any new occupancy prior to issuance of a certificate of occupancy. The ordinance may also be made applicable to

any existing occupancy at the end of a period of three years following the date of enactment of the ordinance."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 494

State Government, Local Government, and Veterans' Affairs Committee Substitute Adopted 4/21/03

State Government, Local Government, and Veterans' Affairs Committee Substitute #2 Adopted 4/24/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S494-CSLR-22 [v.1]

5/21/2003 5:01:49 PM

Short Title: Carrboro Sprinklers/Chapel Hill Zoning. (Local)

Sponsors:

Referred to:

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF CARRBORO TO REQUIRE SPRINKLERS IN BARS, CLUBS, AND OTHER SIMILAR PLACES OF PUBLIC ASSEMBLY THAT HAVE GATHERINGS OF MORE THAN ONE HUNDRED PEOPLE AND SELL ALCOHOLIC BEVERAGES AND TO AUTHORIZE THE TOWN OF CHAPEL HILL TO POSTPONE FOR EIGHTEEN MONTHS THE APPROVAL OF SPECIAL USE PERMITS AND SITE PLANS PROPOSED ON SITES RESERVED AS SCHOOL SITES ON THE TOWN'S ADOPTED COMPREHENSIVE LAND USE PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 9-5 of the Charter of the Town of Carrboro, being Chapter 476 of the 1987 Session Laws, as amended, reads as rewritten:

"**Section 9-5.** Sprinkler Systems.

(a) Notwithstanding any provision of the North Carolina State Building Code or any general or local law to the contrary, the board of aldermen may adopt an ordinance requiring that sprinkler systems be installed in all of the following types of buildings constructed within the town or its extraterritorial planning jurisdiction: (i) buildings in excess of 50 feet in height; (ii) nonresidential buildings containing at least 5,000 square feet of floor surface area; or (iii) buildings designed for assembly occupancy (as defined in the North Carolina State Building Code) that accommodate more than 25 people. This ordinance applies to existing buildings only to the extent and under the circumstances that the provisions of the North Carolina State Building Code apply to preexisting buildings.

(b) Notwithstanding any provision in the North Carolina State Building Code or any other provision of law, the Board of Aldermen may adopt an ordinance requiring that sprinkler systems be installed in bars, clubs, and other places of public assembly that are designed for occupancy by 100 or more persons and that sell alcoholic beverages. This ordinance may be made applicable to any new occupancy prior to issuance of a certificate of occupancy. The ordinance may also be made applicable to any existing occupancy at the end of a period of three years following the date of enactment of the ordinance."

SECTION 2. G.S. 160A-381 is amended by adding a new subsection to read:

"(d) An ordinance enacted under the authority of this Part may provide for the reservation of school sites in accordance with comprehensive land use plans approved by the council or the planning agency. In order for this authorization to become effective, before approving such plans the council or planning agency and the board of education with jurisdiction over the area shall jointly determine the specific location and size of any school sites to be reserved, which information shall appear in the comprehensive land use plan. Whenever a special use permit or site plan development is submitted for approval which includes part or all of a school site to be reserved under the plan, the council or planning agency shall immediately notify the board of education and the board shall promptly decide whether it still wishes the site to be reserved. If the board of education does not wish to reserve the site, it shall so notify the council or planning agency and no site shall be reserved. If the board does wish to reserve the site, the special use permit or site plan development shall not be approved without such reservation. The board of education shall then have 18 months beginning on the date of final approval of the special use permit or site plan development within which to acquire the site by purchase or by initiating condemnation proceedings. If the board of education has not purchased or begun proceedings to condemn the site within 18 months, the owner and applicant for the special use permit or site plan development may treat the land as freed of the reservation."

SECTION 3. Section 1 of this act applies to the Town of Carrboro only. Section 2 of this act applies to the Town of Chapel Hill only and shall apply in that area where the Town of Chapel Hill exercises territorial planning jurisdiction, including any area under that Town's jurisdiction pursuant to a Joint Planning Agreement with Orange County.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute #2 for
S.B. 494 A BILL TO BE ENTITLED AN ACT TO ALLOW THE TOWN OF CARRBORO TO REQUIRE SPRINKLERS IN BARS, CLUBS, AND OTHER SIMILAR PLACES OF PUBLIC ASSEMBLY THAT HAVE GATHERINGS OF MORE THAN ONE HUNDRED PEOPLE AND SELL ALCOHOLIC BEVERAGES.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 437

Short Title:	Gen. Contrs. Board/Est. Temp. Rules/Bidding.	(Public)
Sponsors:	Senator Hoyle.	
Referred to:	Commerce.	

March 17, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE LICENSING BOARD OF GENERAL CONTRACTORS TO ESTABLISH TEMPORARY RULES THAT ALLOW A LICENSEE TO BID AND CONTRACT DIRECTLY WITH THE OWNER OF A PUBLIC BUILDING PROJECT IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. The North Carolina Licensing Board of General Contractors may adopt rules allowing a licensee under Article 2 or 4 of Chapter 87 of the General Statutes to bid and contract directly with the owner of a public building project if: (i) a licensed general contractor performs all work that falls within the classifications in G.S. 87-10(b) and the Board's rules; and (ii) the total amount of the work classified does not exceed a percentage of the total bid price pursuant to rules established by the Board.

Notwithstanding any other provisions of law to the contrary, the Board may adopt temporary rules to implement this section pursuant to G.S. 150B-21.1.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 437
PROPOSED HOUSE COMMITTEE SUBSTITUTE S437-CSRW-53 [v.2]

6/3/2003 11:54:04 AM

Short Title: Gen. Contrs. Board/Bidding. (Public)

Sponsors:

Referred to:

March 17, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW A PLUMBING AND HEATING CONTRACTOR OR AN ELECTRICAL CONTRACTOR LICENSED UNDER CHAPTER 87 OF THE GENERAL STATUTES TO BID AND CONTRACT DIRECTLY WITH THE OWNER OF A PUBLIC BUILDING PROJECT IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 87 of the General Statutes is amended by adding a new section to read:

"**§ 87-1.1 Exception for licensees under Article 2 and 4.**

G.S. 87-1 shall not apply to a licensee under Article 2 or 4 of this Chapter of the General Statutes when the licensee is bidding and contracting directly with the owner of a public building project if: (i) a licensed general contractor performs all work that falls within the classifications in G.S. 87-10(b) and the State Licensing Board of General Contractor's rules; and (ii) the total amount of the work classified does not exceed a percentage of the total bid price pursuant to rules established by the Board."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.B. 437 A BILL TO BE ENTITLED AN ACT AUTHORIZING THE LICENSING BOARD OF GENERAL CONTRACTORS TO ESTABLISH TEMPORARY RULES THAT ALLOW A LICENSEE TO BID AND CONTRACT DIRECTLY WITH THE OWNER OF A PUBLIC BUILDING PROJECT IN CERTAIN CIRCUMSTANCES.

☐ 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 the House committee substitute bill, ☒ which changes the title, unfavorable as to the original bill.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 819

Short Title:	Use of State Prop./Blount St. Historic Dist.	(Public)
Sponsors:	Senator Rand.	
Referred to:	State Government, Local Government, and Veterans' Affairs.	

April 3, 2003

A BILL TO BE ENTITLED

AN ACT REGARDING THE USE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT.

Whereas, the North Carolina Capital Planning Commission adopted a master plan for the State government complex in Raleigh; and

Whereas, recommendations in the master plan for the Blount Street Historic District include: (i) the introduction of residential land uses, (ii) infill along Blount Street with structures equal to the quality of existing structures, (iii) the systematic removal of most State offices from the existing structures, and (iv) the adaptive reuse for private residences of structures previously used for State office space; and

Whereas, implementation of the master plan will result in (i) the moving of State offices to more efficient structures, (ii) the preservation of historical structures and the historic district, and (iii) the revitalization of the area consistent with the principles of smart growth development; and

Whereas, the adaptation of property in this area to mixed residential and business use should be accomplished by the private sector and not by State government; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Modification of the Capital Area Master Plan to provide for the sale of certain properties. – Prior to May 1, 2004, the Department of Administration and the Capital Planning Commission shall modify the Capital Area Master Plan for State Government to provide for the sale to private or public entities of State-owned properties within and adjacent to the Blount Street Historic District, an area bordered by North Person Street, Jones Street, North Wilmington Street, and Peace Street, except for the Leonidas Lafayette Polk House, on Blount Street, which shall be excluded from the sales provisions hereof. The sales shall take place at such times as the Department of Administration determines that land is no longer needed for State purposes and that it is in the best interest of the State that the land be sold.

SECTION 1.(b) Preservation or conservation agreements required on all sales. – The sale of property in this area shall be subject to preservation or conservation agreements as defined in G.S. 121-35 that ensure that the use of the property is consistent with the historic and architectural character of the district. The Historic Preservation Foundation of North Carolina, Inc., shall be a party to all preservation or conservation agreements entered into pursuant to this act. The Historic Preservation Foundation of North Carolina, Inc., is authorized to enforce such agreements in accordance with G.S. 121-39.

SECTION 1.(c) Procedures for the sale of properties. – Due to (i) the significant architectural, archaeological, artistic, cultural, or historical associations of these properties, (ii) the properties' relationship to other property that is significant for architectural, archaeological, artistic, cultural, or historical associations, and (iii) the requirement that a preservation agreement or conservation agreement as defined in G.S. 121-35 is placed in the deed conveying said property from the State, these properties shall be sold by private negotiation and sale, and all such sales shall be approved by the State Property Office.

When a property available for sale is not to be sold and used as a private residence, advertisement of the availability of that property for sale shall occur at least 45 days prior to any private negotiations for the sale of that property. Also, an announcement of the terms of the proposed sale and an opportunity for public comment on the proposed sale shall occur at least 45 days prior to the sale.

When a property available for sale is to be sold and used as a private residence, advertisement of the availability of that property for sale shall occur at least 45 days prior to any private negotiations for the sale of that property. The property may then be sold without a 45-day public comment period.

The Department of Administration shall use the services of the Historic Preservation Foundation of North Carolina, Inc., to assist it in the administration of this act.

SECTION 2. Use of the net proceeds of sales. – The net proceeds of any sale made in accordance with this act shall be handled in the following priority order:

(1) The funds shall be used in accordance with the provisions of any trust or other instrument of title under which title to the real property was acquired by the State. The term "net proceeds" means the gross amount received from the sale of any such property less any expenses incurred incident to that sale, subject to regulations adopted by the Governor and approved by the Council of State.

(2) The next ten million dollars ($10,000,000) of the funds shall be placed in a special trust fund in the Department of State Treasurer, hereinafter to be held in trust and used solely for the upkeep, repair, and maintenance of State-owned properties not to be sold hereunder and located within the Blount Street Historic District. The State Treasurer, as custodian of the special trust fund, shall authorize the use of interest earned by the special trust fund only for such purposes approved by the Governor and the Secretary of Cultural Resources. The State

Treasurer shall authorize the use of the principal only as authorized by the General Assembly and approved by the Governor and the Secretary of Cultural Resources.

(3) The remainder of the funds shall be deposited in the General Fund.

SECTION 3.(a) Establishment of the Blount Street Historic District Oversight Committee. – The Blount Street Historic District Oversight Committee is established in the Office of the Governor.

SECTION 3.(b) Membership of the Committee. – The Committee shall consist of six members appointed as follows:

(1) Two members appointed by the Governor, one of whom shall be a person with experience in urban planning;

(2) Two members appointed by the President Pro Tempore of the Senate, one of whom shall be a person with experience in historic preservation; and

(3) Two members appointed by the Speaker of the House of Representatives, one of whom shall be a resident of Historic Oakwood in Raleigh.

In making initial appointments to the Committee, the appointing officers shall designate one appointee to serve for a term of four years ending July 1, 2007, and one a term of six years ending July 1, 2009. Subsequent terms shall be for four years. A member shall continue to serve until the member's successor is appointed. A vacancy shall be filled for the remainder of the term by the officer who made the original appointment.

In making all appointments, the appointing officer shall consider the unique historic and architectural nature of the area and shall appoint people who are dedicated to preserving it.

SECTION 3.(c) Purpose of the Committee. – The purpose of the Committee shall be to monitor the implementation of this act.

SECTION 4. Implementation plan for this act. – Prior to September 1, 2003, the Department of Administration shall submit to the Blount Street Historic District Oversight Committee a plan for the implementation of this act and a schedule for implementation of the plan. The plan shall provide for the sale of any property that is vacant for more than three months. The plan may also provide for the sale of property in separate parcels.

SECTION 5. G.S. 143B-79 reads as rewritten:

"**§ 143B-79.** Executive Mansion Fine Arts Committee – creation, powers and duties.

There is hereby created the Executive Mansion Fine Arts Committee. The Executive Mansion Fine Arts Committee shall have the following functions and duties:

(1) To advise the Secretary of Cultural Resources on the preservation and maintenance of the Executive Mansion located at 200 North Blount Street, Raleigh, North Carolina;

(2) To encourage gifts and objects of art, furniture and articles of historical value for furnishing the Executive Mansion, and advise the

Secretary of Cultural Resources on major changes in the furnishings of the Mansion;

(3) To make recommendations to the Secretary of Cultural Resources concerning major renovations necessary to preserve and maintain the structure;

(4) To aid the Secretary of Cultural Resources in keeping a complete list of all gifts and articles received together with their history and value;

(4a) To advise the Secretary of Cultural Resources on the use of funds from the special trust fund held in trust by the State Treasurer for the upkeep, repair, and maintenance of State-owned property located within the Blount Street Historic District to the extent that such funds are to be used for the upkeep, repair, and maintenance of the Executive Mansion. These funds shall not be expended without the approval of the Committee;

(5) No gifts or articles shall be accepted for the Executive Mansion without the approval of the Committee;

(6) The Committee shall advise the Secretary of Cultural Resources upon any matter the Secretary may refer to it; and

(7) The Committee may dispose of property held in the Executive Mansion after consultation with a review committee comprised of one person from the Executive Mansion Fine Arts Committee, appointed by its chairman; one person from the Department of Administration appointed by the Secretary of Administration; and two qualified professionals from the Department of Cultural Resources, Division of Archives and History, appointed by the Secretary of Cultural Resources. Upon request of the Executive Mansion Fine Arts Committee, the review committee will view proposed items for disposition and make a recommendation to the North Carolina Historical Commission who will make a final decision. The Historical Commission must consider whether the disposition is in the best interest of the State of North Carolina. If such property is sold, (i) if the records with regard to the property reflect that it was acquired by the State by gift or devise the net proceeds of each such sale shall be deposited in the State Treasury to the credit of the Executive Mansion, Special Fund, and shall be used only for the purchase, conservation, restoration or repair of other property for use in the Executive Mansion and; (ii) if the records with regard to the property reflect that the property was acquired by the State by purchase with appropriated funds or do not show the manner of acquisition, the net proceeds of such sale shall be deposited in the General Fund."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 819
PROPOSED HOUSE COMMITTEE SUBSTITUTE S819-PCS65305-LB-65

Short Title: Use of State Prop./Blount St. Historic Dist. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT REGARDING THE SALE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT.

Whereas, the North Carolina Capital Planning Commission adopted a master plan for the State government complex in Raleigh; and

Whereas, recommendations in the master plan for the Blount Street Historic District include: (i) the introduction of residential land uses, (ii) infill along Blount Street with structures equal to the quality of existing structures, (iii) the systematic removal of most State offices from the existing structures, and (iv) the adaptive reuse for private residences of structures previously used for State office space; and

Whereas, implementation of the master plan will result in (i) the moving of State offices to more efficient structures, (ii) the preservation of historical structures and the historic district, and (iii) the revitalization of the area consistent with the principles of smart growth development; and

Whereas, the adaptation of property in this area to mixed residential and business use should be accomplished by the private sector and not by State government; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Modification of the Capital Area Master Plan to provide for the sale of certain properties. – Prior to May 1, 2004, the Department of Administration and the Capital Planning Commission shall modify the Capital Area Master Plan for State Government to provide for the sale to private or public entities of State-owned properties within and adjacent to the Blount Street Historic District, an area bordered by North Person Street, Jones Street, North Wilmington Street, and Peace Street, except for the Governor's Mansion, the Archives and History Building, the State Records Center, the Bath Building, and the Leonidas Lafayette Polk House, which shall be excluded from the sales provisions hereof. The Department of Administration is authorized to sell any such property pursuant to Chapter 146 of the General Statutes, and such sale shall

take place at the time the Department determines that a property is no longer needed for State purposes and that it is in the best interest of the State to sell that property.

SECTION 1.(b) Preservation or conservation agreements required on all sales. – The sale of property in this area shall be subject to preservation or conservation agreements as defined in G.S. 121-35 that ensure that the use of the property is consistent with the historic and architectural character of the district.

SECTION 1.(c) Procedures for the sale of properties. – Due to (i) the significant architectural, archaeological, artistic, cultural, or historical associations of these properties, (ii) the properties' relationship to other property that is significant for architectural, archaeological, artistic, cultural, or historical associations, and (iii) the requirement that a preservation agreement or conservation agreement as defined in G.S. 121-35 is placed in the deed conveying said property from the State, these properties shall be sold by private negotiation and sale, and all such sales shall be approved by the State Property Office.

Property sold pursuant to this act shall be sold in accordance with the procedures set forth in G.S. 146-27 through G.S. 146-29.

SECTION 1.(d) Funds to implement the sales process. – Of the funds available to the Department of Administration, the Department may use up to three hundred thousand dollars ($300,000) to implement the provisions of this act.

SECTION 2. Use of the net proceeds of sales. – The net proceeds of any sale made in accordance with this act shall be handled in the following priority order:

(1) In accordance with the provisions of any trust or other instrument of title under which title to the real property was acquired by the State. The term "net proceeds" means the gross amount received from the sale of any such property less any expenses incurred incident to that sale, subject to regulations adopted by the Governor and approved by the Council of State.

(2) To reimburse the Department of Administration for any funds expended pursuant to Section 1(d) of this act.

(3) For the relocation of displaced State offices and for the upkeep, repair, and maintenance of the Executive Mansion. Authorized relocation expenses include ancillary facilities such as parking. Funds used under this subdivision for leasing space are only available for five years. If fifteen million dollars ($15,000,000) or more is received, then ten million dollars ($10,000,000) of the funds shall be placed in a special trust fund in the Department of State Treasurer, hereinafter to be held in trust and used solely for the upkeep, repair, and maintenance of the Executive Mansion. If less than fifteen million dollars ($15,000,000) is received, then two-thirds of the funds shall be used for the Executive Mansion as provided in this subdivision. The State Treasurer, as custodian of the special trust fund, shall authorize the use of interest earned by the special trust fund only for such purposes approved by the Executive Mansion Fine Arts Committee and the Secretary of Cultural Resources. The State Treasurer shall authorize the use of the

principal only as authorized by the General Assembly and approved by the Executive Mansion Fine Arts Committee. The State Treasurer shall promptly report expenditures from the special trust fund to the General Assembly.

(4) The remainder not needed under subdivisions (1) through (3) of this subsection shall be placed in a separate special trust fund in the Department of State Treasurer for the upkeep, repair, and maintenance of State-owned properties other than the Executive Mansion that are located within the Blount Street Historic District and are not sold under this act. The State Treasurer, as custodian of the special trust fund, shall authorize the use of interest earned by the separate special trust fund only for such purposes approved by the Secretary of Cultural Resources. The State Treasurer shall authorize the use of the principal only as authorized by the General Assembly. The State Treasurer shall promptly report expenditures from the separate special trust fund to the General Assembly.

(5) The remainder not needed under subdivisions (1) through (4) of this subsection shall be placed in the General Fund.

SECTION 3.(a) Establishment of the Blount Street Historic District Oversight Committee. – The Blount Street Historic District Oversight Committee is established in the Office of the Governor.

SECTION 3.(b) Membership of the Committee. – The Committee shall consist of eight members appointed as follows:

(1) The State Historic Preservation Officer, or a person designated by that officer, ex officio.

(2) Two members appointed by the Governor, one of whom shall be a person with experience in urban planning.

(3) Two members appointed by the President Pro Tempore of the Senate, one of whom shall be a person with experience in historic preservation.

(4) Two members appointed by the Speaker of the House of Representatives, one of whom shall be a resident of Historic Oakwood in Raleigh.

(5) One member, appointed by the Mayor of the City of Raleigh.

In making initial appointments to the Committee, the appointing officers shall designate one appointee to serve for a term of four years ending July 1, 2007, and one appointee to serve a term of six years ending July 1, 2009. Subsequent terms shall be for four years. A member shall continue to serve until the member's successor is appointed. A vacancy resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

In making all appointments, the appointing officer shall consider the unique historic and architectural nature of the area and shall appoint people who are dedicated to preserving it.

The Governor may remove any member of the Committee from office in accordance with the provisions of G.S. 143B-16.

A majority of the Committee shall constitute a quorum for the transaction of business. The Governor shall appoint the chair and vice-chair from among the Committee's membership. The State Historic Preservation Officer shall serve as secretary of the Committee. The members of the Committee shall serve without pay and without expense allowance.

SECTION 3.(c) Purpose of the Committee. – The purpose of the Committee shall be to monitor the implementation of this act.

SECTION 4. Implementation plan for this act. – Prior to September 1, 2004, the Department of Administration shall submit to the Blount Street Historic District Oversight Committee a plan for the implementation of this act and a schedule for implementation of the plan. The plan may provide for the sale of property in separate parcels or in its entirety.

SECTION 5. G.S. 143B-79 reads as rewritten:

"**§ 143B-79.** Executive Mansion Fine Arts Committee – creation, powers and duties.

There is hereby created the Executive Mansion Fine Arts Committee. The Executive Mansion Fine Arts Committee shall have the following functions and duties:

(1) To advise the Secretary of Cultural Resources on the preservation and maintenance of the Executive Mansion located at 200 North Blount Street, Raleigh, North Carolina;

(2) To encourage gifts and objects of art, furniture and articles of historical value for furnishing the Executive Mansion, and advise the Secretary of Cultural Resources on major changes in the furnishings of the Mansion;

(3) To make recommendations to the Secretary of Cultural Resources concerning major renovations necessary to preserve and maintain the structure;

(4) To aid the Secretary of Cultural Resources in keeping a complete list of all gifts and articles received together with their history and value;

(4a) To advise the Secretary of Cultural Resources on the use of funds from the special trust fund held in trust by the State Treasurer for the upkeep, repair, and maintenance of State-owned property located within the Blount Street Historic District to the extent that such funds are to be used for the upkeep, repair, and maintenance of the Executive Mansion. These funds shall not be expended without the approval of the Committee;

(5) No gifts or articles shall be accepted for the Executive Mansion without the approval of the Committee;

(6) The Committee shall advise the Secretary of Cultural Resources upon any matter the Secretary may refer to it; and

(7) The Committee may dispose of property held in the Executive Mansion after consultation with a review committee comprised of one person from the Executive Mansion Fine Arts Committee, appointed

by its chairman; one person from the Department of Administration appointed by the Secretary of Administration; and two qualified professionals from the Department of Cultural Resources, Division of Archives and History, appointed by the Secretary of Cultural Resources. Upon request of the Executive Mansion Fine Arts Committee, the review committee will view proposed items for disposition and make a recommendation to the North Carolina Historical Commission who will make a final decision. The Historical Commission must consider whether the disposition is in the best interest of the State of North Carolina. If such property is sold, (i) if the records with regard to the property reflect that it was acquired by the State by gift or devise the net proceeds of each such sale shall be deposited in the State Treasury to the credit of the Executive Mansion, Special Fund, and shall be used only for the purchase, conservation, restoration or repair of other property for use in the Executive Mansion and; (ii) if the records with regard to the property reflect that the property was acquired by the State by purchase with appropriated funds or do not show the manner of acquisition, the net proceeds of such sale shall be deposited in the General Fund."

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

VISITOR REGISTRATION SHEET

RULES — 6/3/03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Henry Jones	Attorney - Raleigh
BRUCE THOMPSON	RETIRED DOC [illegible] KS BOARD
Jo Ann Norris	Public School Forum
Susan Harrison	WCPSS
NELS ROSECANS	NC DOJ
Anita Bunch	NC DOJ
Michael Budzynski	DOJ - SBI
Jerry Richardson	DOJ - SBI
Colleen Kochanek	Hafer & Caldwell, P.A.
Joanne Stevens	nursing + NCCMSA
[illegible]	MCICU
John McHugh	GOV OFFICE
Amy Dobson	NC State Watch
[illegible]	Millis Thomas Isom BDB
Molly Ryan	NCSBA
Sarah Faerst	Draftline
Leslie Bywaters	NCCBI
[illegible]	ElectriCities
Paige Johnson	Planned Parenthood of Central NC
Terry Harper	NCDCR
[illegible]	DCR
[illegible]	
[illegible]	
David Crawford	AIA NC
Leanne Winner	NCSBA
Austin Brunch	ECU
Dean Smith	UNC-CH

VISITOR REGISTRATION SHEET

Rules — 6/3/03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Barbara Carlton	IC
[signature]	NASW-NC
Jennifer M. Sullivan	NASW. NC
Jessica Dowdy	Covenant w/ NC's Children
RICK ZECHINI	NC ASSOC. OF REALTORS
Monika Johnson Hostler	NCCASA
MRobertson	NCALB
KEN Pike	NCALE
John Phelps	NCLM
Michael Houser	NCAE

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JUNE 10, 2003
1:10 P.M.

AGENDA

CALL TO ORDER
CONSIDERATION OF BILLS

HOUSE JOINT RESOLUTION 844 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ELMER "E. V." WILKINS, FORMER EDUCATION AND CIVIC LEADER

HOUSE JOINT RESOLUTION 1339 – A JOINT RESOLUTION HONORING THE TOWN OF LILLINGTON ON THE OCCASION OF THE TOWN'S CENTENNIAL AND HONORING THE MEMORY OF GENERAL ALEXANDER LILLINGTON

SENATE BILL 117 – AN ACT TO NAME THE WESTERN JUSTICE ACADEMY IN HONOR OF REPRESENTATIVE LARRY T. JUSTUS

SENATE BILL 511 – AN ACT TO REQUIRE LOCAL GOVERNMENTS TO PUBLISH THE REVENUE-NEUTRAL TAX RATE IN YEARS WHEN THERE IS A GENERAL REVALUATION OF REAL PROPERTY

COMMITTEE SUBSTITUTE FOR SENATE BILL 965 – AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT CLEAR PROCEEDS OF CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY ARE REMITTED TO THE CIVIL PENALTY AND FORFEITURE FUND AND FAITHFULLY USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

June 10, 2003

The Committee on Rules, Calendar and Operations of the House met on June 10, 2003 at 1:10 p.m. in Room 421 of the Legislative Office Building. All members were present except Representatives Howard and Miner.

The following bills were considered:

HOUSE JOINT RESOLUTION 844 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ELMER "E.V." WILKINS, FORMER EDUCATION AND CIVIC LEADER. Representative Bernard Allen, sponsor, was recognized to speak on the resolution. He stated that Mayor Wilkins was a visionary and an educator highly respected across the state. Representative Crawford made a motion that the resolution be given a favorable report, which motion was carried.

HOUSE JOINT RESOLUTION 1339 – A JOINT RESOLUTION HONORING THE TOWN OF LILLINGTON ON THE OCCASION OF THE TOWN'S CENTENNIAL AND HONORING THE MEMORY OF GENERAL ALEXANDER LILLINGTON. Representative Dickson, sponsor, was recognized to speak on the resolution. She stated that the resolution was requested by the Mayor of Lillington and members of the Town Board. Lillington will celebrate its centennial on July 4th and July 5th and would like to have the resolution as part of its celebration. Representative McComas moved for a favorable report, which motion carried.

SENATE BILL 117 – AN ACT TO NAME THE WESTERN JUSTICE ACADEMY IN HONOR OF REPRESENTATIVE LARRY T. JUSTUS. A proposed committee substitute was offered, and Representative Brubaker moved for its adoption for purposes of discussion.. Without objection, the chairman so ordered. Representative Kiser was recognized to explain the committee substitute. He stated that it was fitting and proper that the Western Justice Academy located in Edneyville in Henderson County be named the Larry T. Justus Western Justice Academy in recognition of Representative Justus' dedicated leadership in the General Assembly on justice and public safety issues. Representative Sherrill made a motion that the proposed House committee substitute be given a favorable report, unfavorable to the original bill. The motion passed.

SENATE BILL 511 – AN ACT TO REQUIRE LOCAL GOVERNMENTS TO PUBLISH THE REVENUE-NEUTRAL TAX RATE IN YEARS WHEN THERE IS A GENERAL REVALUATION OF REAL PROPERTY. Senator Rucho, sponsor, was recognized. He said that the bill requests a municipality or county at the time of re-evalution to make public the revenue neutral value with the option of how to make it public. Representatives Owens and Luebke had concerns about the bill because of the restriction on local government. Senator Rucho answered that the requirement could be handled by a one line press release which would allow the public to be aware of the

changes in the valuation of property. Gerry Cohen, Director of the Bill Drafting Division, however, said that a statement in the budget ordinance would be all that is required. Andrew Romanet, representing the League of Municipalities, and Paul Meyer with the County Commissioners Association informed the committee that the League and the Commissioners Association have taken a neutral position on the bill. Representative Gorman made a motion that the bill be given a favorable report, which motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 965 – AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT CLEAR PROCEEDS OF ALL CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY ARE REMITTED TO THE CIVIL PENALTY AND FORFEITURE FUND AND FAITHFULLY USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS. A proposed House committee substitute changing the title to AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT THE GENERAL ASSEMBLY MAY PLACE THE CLEAR PROCEEDS OF CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY IN A STATE FUND TO BE USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS was offered, and Representative Hackney moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Senator Dalton, sponsor of the bill, was unable to attend the meeting. Dianna Jessup, staff attorney, was recognized and explained that the bill proposes a constitutional amendment, subject to voter approval in 2003, for the collection by a state agency of civil forfeitures and fines to be appropriated for the use of maintaining free public schools. The proposed committee substitute makes technical changes. Leanne Winner, representing the School Boards Association, and Paul Meyer with the County Commissioners Association stated that the associations do not have a position on the bill. Following a discussion by the members. At the request of Representative Gorman the chairman stated that the bill would be held until the sponsor of the bill could be present to further explain the bill.

The meeting adjourned at 1:45 p.m.

Bill Culpepper

Representative Bill Culpepper, Chairman

Dorothy C. Crocker

Dorothy C. Crocker, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE JOINT RESOLUTION 844

Sponsors:	Representatives B. Allen; Bell, Bonner, Carney, Culpepper, Cunningham, Earle, Farmer-Butterfield, Glazier, Goodwin, Hall, Harrell, Hunter, Jones, Lucas, McAllister, Michaux, Owens, Parmon, Ross, Wainwright, Warren, A. Williams, and Womble.
Referred to:	Rules, Calendar, and Operations of the House.

April 3, 2003

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ELMER "E.V." WILKINS, FORMER EDUCATOR AND CIVIC LEADER.

Whereas, Elmer Vanray "E.V." Wilkins was born on July 4, 1911, to Tom and Maggie Wilkins in Roper, North Carolina; and

Whereas, E.V. Wilkins received his B.S. and M.A. degrees from North Carolina Central University; and

Whereas, E.V. Wilkins taught mathematics in Roper at J.J. Clemmons High School, which was renamed Washington County Union School; and

Whereas, while at Clemmons High School, E.V. Wilkins met the love of his life, Elizabeth Witherspoon, also a teacher, whom he later married; and

Whereas, E.V. Wilkins became principal of Clemmons High School in 1941 and served in that position until 1974; and

Whereas, E.V. Wilkins was a mentor to his young students, encouraging them to attain academic success; and

Whereas, in 1946, E.V. Wilkins was instrumental in raising money to purchase the school's first bus; and

Whereas, E.V. Wilkins and the National Association for the Advancement of Colored People won a major victory in the mid-1950s when the court sided with them in allowing African-American residents in Washington County the right to vote; and

Whereas, in 1967, E.V. Wilkins become the first African-American since reconstruction to be elected to the Roper Town Council; and

Whereas, in 1975, E.V. Wilkins was the first African-American elected as Mayor of Roper, a position he held for 20 years; and

Whereas, E.V. Wilkins was a member of numerous boards, serving on the State Board of Education, the State Economic Development Commission, the North Carolina Secondary Road Council, the North Carolina Railroad Board of Directors, and the North Carolina State Ports Authority; and

Whereas, E.V. Wilkins served as a member of the Board of Trustees of the North Carolina School of Science and Mathematics, the Advisory Board for the Rural Education Institution at East Carolina University, and of the Elizabeth City State University Board of Trustees from 1987 to 1994, serving as Chair from 1989 to 1994; and

Whereas, E.V. Wilkins organized and served as director of the Industrialization Center in Roper from 1974 to 1975; and

Whereas, E.V. Wilkins was active in the Democratic party, serving as a delegate to the National Democratic Convention in 1972, 1980, 1982, and 1986; and

Whereas, E.V. Wilkins received numerous honors and awards, including the North Carolina Distinguished Citizen Award, the Order of the Long Leaf Pine Award, the Service Award by the North Carolina Leadership Caucus, the North Carolina Distinguished Service Award, and the North Carolina Human Relations Commission's Libby D. Koonz Award in recognition of his dedication and leadership in the areas of education, civil rights, and human rights; and

Whereas, E.V. Wilkins was honored by Elizabeth City State University when the University's computer center was renamed the E.V. Wilkins Academic Computing Center in 1992; and

Whereas, E.V. Wilkins was also honored by the University with the establishment of the E.V. Wilkins Endowed Chair in the Elizabeth City State University School of Education and Psychology in 1996; and

Whereas, E.V. Wilkins died on June 2, 2002; and

Whereas, E.V. Wilkins is survived by his daughters, Bunny Sanders and Joy Price, son-in-law, Ralph Price, and two grandchildren; Now, therefore,

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

SECTION 1. The General Assembly honors the life and memory of Elmer "E.V." Wilkins and expresses the gratitude of this State and its citizens for service he rendered.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Elmer "E.V." Wilkins for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Elmer "E.V." Wilkins.

SECTION 4. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 844 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF ELMER "E.V." WILKINS, FORMER EDUCATOR AND CIVIC LEADER.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE JOINT RESOLUTION 1329

Sponsors: Representatives Dickson; Lewis, Lucas, and Sauls.

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

June 2, 2003

A JOINT RESOLUTION HONORING THE TOWN OF LILLINGTON ON THE OCCASION OF THE TOWN'S CENTENNIAL AND HONORING THE MEMORY OF GENERAL ALEXANDER LILLINGTON.

Whereas, the Town of Lillington was formally incorporated in 1903, through an act of the General Assembly, although the area had been home to enterprising, patriotic, loyal, and publicly spirited settlers and citizens for nearly 200 years prior to its incorporation; and

Whereas, the citizens of the Town of Lillington and the surrounding communities have honored our State and country in a wide range of duties and tasks that represent the best of American citizenship, both in times of war and peace, many making the supreme sacrifice in those efforts; and

Whereas, the Town of Lillington bears the name of General Alexander Lillington, a hero of the American Revolutionary War, widely known for his role during the Battle of Moores Creek Bridge in 1776, a victory which inspired others throughout the colonies; and

Whereas, the Town of Lillington is celebrating its honored past and the centennial of its incorporation in ceremonies on July 4th and July 5th and during numerous activities throughout 2003; Now, therefore,

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

SECTION 1. The General Assembly honors the memory of General Alexander Lillington, takes notice of the good works of the citizens of the Town of Lillington during the past, and extends its appreciation for the role the Town's citizens have played in building and sustaining the State of North Carolina and the United States of America.

SECTION 2. The General Assembly congratulates the Town of Lillington for its fortitude and commitment and extends good wishes on this special and auspicious occasion.

SECTION 3. The Secretary of State shall transmit a copy of this resolution to the Mayor of the Town of Lillington.

SECTION 4. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for

H.J.R. 1329 A JOINT RESOLUTION HONORING THE TOWN OF Lillington ON THE OCCASION OF THE TOWN'S CENTENNIAL AND HONORING THE MEMORY OF GENERAL ALEXANDER LILLINGTON.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 117*

Short Title:	The Larry T. Justus Western Justice Academy.	(Public)
Sponsors:	Senators Apodaca; Allran, Carpenter, Dalton, Forrester, Foxx, Garwood, Hargett, Horton, Metcalf, Rand, Smith, and Thomas.	
Referred to:	Judiciary II.	

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO NAME THE WESTERN JUSTICE ACADEMY IN HONOR OF REPRESENTATIVE LARRY T. JUSTUS.

The General Assembly of North Carolina enacts:

SECTION 1. The Western Justice Academy located at Edneyville in Henderson County is part of the North Carolina Department of Justice and provides training programs for criminal justice personnel and technical assistance to criminal justice agencies to aid them in the discharge of their responsibilities. The Western Justice Academy is hereby designated the Larry T. Justus Western Justice Academy in recognition of Representative Larry T. Justus' dedicated leadership in the North Carolina General Assembly on justice and public safety issues and his commitment to the safety and well-being of the citizens of this State.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 117*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S117-CSSW-48 [v.4]

6/10/2003 10:50:55 AM

Short Title: The Larry T. Justus Western Justice Academy. (Public)

Sponsors:

Referred to:

February 20, 2003

A BILL TO BE ENTITLED

AN ACT TO NAME THE WESTERN JUSTICE ACADEMY IN HONOR OF REPRESENTATIVE LARRY T. JUSTUS.

Whereas, Representative Larry T. Justus of Hendersonville, North Carolina was a member of the North Carolina House of Representatives for nine terms, from 1985 until his untimely death on October 20, 2002; and

Whereas, during his nine terms as a member of the General Assembly, Larry T. Justus served on a number of committees, including the Appropriations Subcommittee on Justice and Public Safety and the Judiciary II and IV Committees; and

Whereas, Larry T. Justus was particularly interested in justice and public safety issues and was instrumental in the establishment of the Western Justice Academy; and

Whereas, the Western Justice Academy located at Edneyville in Henderson County is part of the North Carolina Department of Justice; and

Whereas, the Western Justice Academy provides training programs for criminal justice personnel and technical assistance to criminal justice agencies to aid them in the discharge of their responsibilities; Now, therefore

The General Assembly of North Carolina enacts:

SECTION 1. The Western Justice Academy is hereby designated the Larry T. Justus Western Justice Academy in recognition of Representative Larry T. Justus' dedicated leadership in the North Carolina General Assembly on justice and public safety issues and his commitment to the safety and well-being of the citizens of this State.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.B. 117 A BILL TO BE ENTITLED AN ACT TO NAME THE WESTERN JUSTICE ACADEMY IN HONOR OF REPRESENTATIVE LARRY T. JUSTUS

☐ 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 the House committee substitute bill, unfavorable as to the original bill.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 511

Short Title:	Publish Revenue-Neutral Property Tax Rate.	(Public)
Sponsors:	Senators Rucho; Allran, Apodaca, Ballantine, Berger, Bingham, Blake, Brock, Carpenter, Carrington, Forrester, Foxx, Garwood, Hartsell, Pittenger, Shubert, Stevens, Tillman, and Webster.	
Referred to:	Finance.	

March 24, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE LOCAL GOVERNMENTS TO PUBLISH THE REVENUE-NEUTRAL TAX RATE IN YEARS WHEN THERE IS A GENERAL REVALUATION OF REAL PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-11 is amended by adding a new subsection to read:

"(e) In each year in which a general reappraisal of real property has been conducted, the budget officer shall include in the budget, for comparison purposes, a statement of the revenue-neutral property tax rate for the budget. The revenue-neutral property tax rate is the rate that is estimated to produce revenue for the next fiscal year equal to the revenue that would have been produced for the next fiscal year by the current tax rate if no reappraisal had occurred. To calculate the revenue-neutral tax rate, the budget officer shall first determine a rate that would produce revenues equal to those produced for the current fiscal year and then increase the rate by a growth factor equal to the average annual percentage increase in the tax base due to improvements since the last general reappraisal. This growth factor represents the expected percentage increase in the value of the tax base due to improvements during the next fiscal year. The budget officer shall further adjust the rate to account for any annexation, deannexation, merger, or similar event."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.B. 511 A BILL TO BE ENTITLED AN ACT TO REQUIRE LOCAL GOVERNMENTS TO PUBLISH THE REVENUE-NEUTRAL TAX RATE IN YEARS WHEN THERE IS A GENERAL REVALUATION OF REAL PROPERTY.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 965
Judiciary II Committee Substitute Adopted 4/16/03

Short Title: Amend Constitution/Sch. Fines & Forfeitures. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT CLEAR PROCEEDS OF ALL CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY ARE REMITTED TO THE CIVIL PENALTY AND FORFEITURE FUND AND FAITHFULLY USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of Article IX of the North Carolina Constitution reads as rewritten:

"**Sec. 7. County school fund.**

All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all ~~penalties and forfeitures and of all~~ criminal penalties, criminal forfeitures, and criminal fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools."

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

"**Sec. 7A. Civil Penalty and Forfeiture Fund.**

All monies belonging to the Civil Penalty and Forfeiture Fund and the clear proceeds of all civil penalties, civil forfeitures, and civil fines collected by a State agency shall belong to and remain in the Civil Penalty and Forfeiture Fund and shall be faithfully appropriated by the General Assembly to the counties and used exclusively for maintaining free public schools as provided by statute."

SECTION 3. G.S. 115C-437 reads as rewritten:

"**§ 115C-437. Allocation of revenues to the local school administrative unit by the county.**

Revenues accruing to the local school administrative unit by virtue of Article IX, Sec. 7, of the Constitution and taxes levied by or on behalf of the local school

administrative unit pursuant to a local act or G.S. 115C-501 to 115C-511 shall be remitted to the school finance officer by the officer having custody thereof within 10 days after the close of the calendar month in which the revenues were received or collected. The clear proceeds of all ~~penalties and forfeitures and of all~~ criminal penalties, criminal forfeitures, and criminal fines collected for any breach of the penal laws of the State, as referred to in Article IX, Sec. 7 of the Constitution, shall include the full amount of all criminal penalties, criminal forfeitures or criminal fines collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected. Revenues appropriated to the local school administrative unit by the board of county commissioners from general county revenues shall be made available to the school finance officer by ~~such~~ procedures ~~as may be~~ that are mutually agreeable to the board of education and the board of county commissioners, but if no ~~such~~ agreement is reached, these funds shall be remitted to the school finance officer by the county finance officer in monthly installments sufficient to meet its lawful expenditures from the county appropriation until the county appropriation to the local school administrative unit is exhausted. Each installment shall be paid not later than 10 days after the close of each calendar month. When revenue has been appropriated to the local school administrative unit by the board of county commissioners from funds ~~which~~ that carry specific restrictions binding upon the county as recipient, the board of commissioners ~~must~~ shall inform the local school administrative unit in writing of those restrictions."

SECTION 4. G.S. 115C-457.1 reads as rewritten:

"**§ 115C-457.1. Creation of Fund; administration.**

(a) There is created the Civil Penalty and Forfeiture Fund. The Fund shall consist of the clear proceeds of all civil ~~penalties and civil forfeitures~~penalties, civil forfeitures, and civil fines that are collected by a State agency and are payable to the ~~County School Fund~~ Civil Penalty and Forfeiture Fund pursuant to Article IX, ~~Section 7~~ Section 7A of the Constitution.

(b) The Fund shall be administered by the Office of State Budget and Management. The Fund and all interest accruing to the Fund shall be faithfully used exclusively for maintaining free public schools."

SECTION 5. G.S. 115C-457.2 reads as rewritten:

"**§ 115C-457.2. Remittance of ~~moneys~~ monies to the Fund.**

The clear proceeds of all civil ~~penalties and civil forfeitures~~penalties, civil forfeitures, and civil fines that are collected by a State agency and are payable to the ~~County School Fund~~ Civil Penalty and Forfeiture Fund pursuant to Article IX, ~~Section 7~~ Section 7A of the Constitution shall be remitted to the Office of State Budget and Management by the officer having custody of the funds within 10 days after the close of the calendar month in which the revenues were received or collected. Notwithstanding any other law, all funds which are civil penalties or civil forfeitures within the meaning of Article IX, ~~Section 7~~Section 7A of the Constitution shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of ~~such~~ these funds include the full amount of all ~~such penalties and forfeitures~~ civil penalties, civil forfeitures, and civil

fines collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected."

SECTION 6. The amendments set out in Section 1 and Section 2 of this act shall be submitted to the qualified voters of the State at a statewide general election on November 4, 2003, 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 to provide that clear proceeds of all civil penalties, civil forfeitures, and civil fines collected by a State agency are remitted to the Civil Penalty and Forfeiture Fund and faithfully used exclusively for maintaining free public schools as provided by statute."

SECTION 7. If a majority of votes cast on the question are in favor of the amendments set out in Section 1 and Section 2 of this act, the State Board of Elections shall certify the amendments to the Secretary of State. The Secretary of State shall enroll the amendments so certified among the permanent records of that office. The amendments set out in Section 1 and Section 2 of this act shall become effective July 1, 2004.

SECTION 8. Sections 3, 4, and 5 of this act become effective only if the voters approve the constitutional amendments set out in Section 1 and Section 2 of this act. If the voters approve the constitutional amendments, Sections 3, 4, and 5 of this act shall become effective July 1, 2004.

SECTION 9. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 965

Judiciary II Committee Substitute Adopted 4/16/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S965-CSLE-17 [v.4]

6/10/2003 9:52:01 AM

Short Title: Amend Constitution/Sch. Fines & Forfeitures. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT THE GENERAL ASSEMBLY MAY PLACE THE CLEAR PROCEEDS OF CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY IN A STATE FUND TO BE USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of Article IX of the North Carolina Constitution reads as rewritten:

"**Sec. 7. County school ~~fund.~~fund; State fund for certain monies.**

(a) ~~All~~ Except as provided in subsection (b) of this section, all moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

(b) The General Assembly may place in a State fund the clear proceeds of all civil penalties, forfeitures and fines which are collected by state agencies and which belong to the public schools pursuant to subsection (a) of this section. Monies in such State fund shall be faithfully appropriated by the General Assembly, on a per pupil basis, to the counties or to local school units, to be used exclusively for maintaining free public schools."

SECTION 2. G.S. 115C-457.1 reads as rewritten:

"**§ 115C-457.1. Creation of Fund; administration.**

(a) There is created the Civil Penalty and Forfeiture Fund. The Fund shall consist of the clear proceeds of all civil ~~penalties and civil forfeitures~~penalties, civil forfeitures, and civil fines that are collected by a State agency and ~~are payable to the County School~~

~~Fund~~ that the General Assembly is authorized to place in a State fund pursuant to Article IX, ~~Section 7~~ Section 7(b) of the Constitution.

(b) The Fund shall be administered by the Office of State Budget and Management. The Fund and all interest accruing to the Fund shall be faithfully used exclusively for maintaining free public schools."

SECTION 3. G.S. 115C-457.2 reads as rewritten:

"**§ 115C-457.2. Remittance of ~~moneys~~ monies to the Fund.**

The clear proceeds of all civil ~~penalties and civil forfeitures~~penalties, civil forfeitures, and civil fines that are collected by a State agency and ~~are payable to the County School Fund~~ that the General Assembly is authorized to place in a State fund pursuant to Article IX, ~~Section 7~~ Section 7(b) of the Constitution shall be remitted to the Office of State Budget and Management by the officer having custody of the funds within 10 days after the close of the calendar month in which the revenues were received or collected. Notwithstanding any other law, ~~all funds which are civil penalties or civil forfeitures within the meaning of Article IX, Section 7 of the Constitution~~all such funds shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of ~~such~~ these funds include the full amount of all ~~such penalties and forfeitures~~ civil penalties, civil forfeitures, and civil fines collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected."

SECTION 4. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at a statewide general election on November 4, 2003, 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 to provide that the General Assembly may place the clear proceeds of civil penalties, civil forfeitures, and civil fines collected by a State agency in a State fund to be used exclusively for maintaining free public schools."

SECTION 5. 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. The amendment set out in Section of this act shall become effective July 1, 2004.

SECTION 7. Sections 2 and 3 of this act become effective only if the voters approve the constitutional amendment set out in Section 1 of this act. If the voters approve the constitutional amendment, Sections 2 and 3 of this act shall become effective July 1, 2004.

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

VISITOR REGISTRATION SHEET

Rules — 6-10-13

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Mike Robertson	ALB
Bruce Thompson	Parker Poe Adams & Bernstein
Amy Darden	NC Bar Assn.
Katherine Joyce	NCASA
Paige Johnson	Planned Parenthood of Coast NC
Karina Chapman	PPHS
Melissa Bailey	SOS
Haley Montgomery	SOS
Rebeca Gomez-Palacio	NC Justice Center
Jessica Dandy	Covenant w/ NC's children
Paula Wolf	" " "
Michelle Frazier	NC Bar Ass'n
Brian Lewis	Planned Parenthood Health Sys.
Kori Saunders	NCAE
McCrowell	Lawyer
Amanda Skinner	CCPS
Dollar	NCAE
Joanne Winn	NCSBA
Paul Pulley	NCATL
Markham	NCSPA
Richard Boston	Visitor
[illegible]	NCFPC
Joanne Stevens	nursing + NCCASA

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
June 18, 2003
1:00 P.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE JOINT RESOLUTION 53 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF VERNON GRANT JAMES, FORMER MEMBER OF THE GENERAL ASSEMBLY

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL 1140 – AN ACT TO AUTHORIZE THE QUICK REMOVAL OF VEHICLES, CARGO, OR OTHER PERSONAL PROPERTY FROM CONTROLLED-ACCESS HIGHWAYS AND TO ALLOW DRIVERS TO REMOVE VEHICLES FROM TRAVEL LANES OF A HIGHWAY FOLLOWING MINOR ACCIDENTS, IF THE VEHICLES CAN BE SAFELY MOVED.

HOUSE JOINT RESOLUTION 1331 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JANE HURLEY MOSLEY, FORMER MEMBER OF THE GENERAL ASSEMBLY

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR
AND OPERATIONS OF THE HOUSE

June 18, 2003

The Committee on Rules, Calendar and Operations of the House met on June 18, 2003 at 1:00 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representatives Culpepper, Chairman; Brubaker, Church, Gorman, Hill, Justus, Luebke, Owens and Yongue.

The following bills were considered:

HOUSE JOINT RESOLUTION 53 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF VERNON GRANT JAMES, FORMER MEMBER OF THE GENERAL ASSEMBLY. Representative Owens, a primary sponsor, was recognized and related the background and accomplishments of Representative James. Representative Hill moved for a favorable report, which motion carried.

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL 1140 – AN ACT TO AUTHORIZE THE QUICK REMOVAL OF VEHICLES, CARGO, OR OTHER PERSONAL PROPERTY FROM CONTROLLED-ACCESS HIGHWAYS AND TO ALLOW DRIVERS TO REMOVE VEHICLES FROM TRAVEL LANES OF A HIGHWAY FOLLOWING MINOR ACCIDENTS, IF THE VEHICLES CAN BE SAFELY MOVED. The chairman stated that the Senate committee substitute had been referred to the committee to decide whether to recommend concurrence by the House. Roberto Canales from the Department of Transportation, State Construction and Materials Department, supported the bill. Representative Hill moved that the committee recommend that the House concur in the committee substitute. The motion carried.

HOUSE JOINT RESOLUTION 1331 – A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JANE HURLEY MOSLEY, FORMER MEMBER OF THE GENERAL ASSEMBLY. A proposed committee substitute was offered and Representative Brubaker moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Representative Weiss, a primary sponsor, was recognized. She stated that the resolution was self-explanatory, and the proposed committee substitute was for technical changes. Representative Luebke made a motion for a favorable report. The motion passed.

The meeting adjourned at 1:15 p.m.

Representative Bill Culpepper,
Chairman

Dorothy C. Crocker,
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE JOINT RESOLUTION 53

Sponsors:	Representatives Owens, Culpepper (Primary Sponsors); Farmer-Butterfield, Alexander, Luebke, and Pate.
Referred to:	Rules, Calendar, and Operations of the House.

February 20, 2003

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF VERNON GRANT JAMES, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Vernon Grant James was born on July 11, 1910, in Pasquotank County, to John Calvin James and Fannie Coppersmith James; and

Whereas, Vernon Grant James graduated from Weeksville High School in 1930 and attended North Carolina State University from 1930 to 1931; and

Whereas, Vernon Grant James was a lifelong supporter of the 4-H Club, which he joined at an early age, serving as secretary and treasurer of the State 4-H Club Council in 1930 and as a delegate and international member of the State 4-H Honor Club in 1931; and

Whereas, Vernon Grant James was a successful farmer and served as President and Manager of James Brothers, Inc., a produce supply business; and

Whereas, Vernon Grant James served the State with distinction as a member of the House of Representatives from 1945 to 1947 and 1973 to 1995 for a total of 13 terms; and

Whereas, during his service in the General Assembly, Vernon Grant James provided invaluable leadership as chair of the Agriculture Committee for nine terms and also contributed as a member of several other legislative committees and commissions; and

Whereas, Vernon Grant James was active in his community, serving as a member of numerous civic and fraternal organizations, including the Board of Directors of the Elizabeth City Chamber of Commerce, Board of Education for Weeksville High School of which he served as chair from 1943 to 1944, Elizabeth City Airport Commission, Masonic Lodge 317, Elizabeth City York Bodies, and Sudan Temple Shriners; and

Whereas, Vernon Grant James' knowledge of agriculture enabled him to serve effectively as President of the National Potato Council, Chair of the National Potato Board, a member of the National Potato Steering Committee and the Potato Advisory

Committee, and a member of both the State and national Fresh Fruits and Vegetable Growers Associations; and

Whereas, Vernon Grant James was active in the Salem Baptist Church and served as a Sunday school teacher; and

Whereas, Vernon Grant James was distinguished as the "Tarheel of the Week" in December of 1965 and was the recipient of numerous awards and honors, including the Award for Outstanding Contributions to the North Carolina Soybean Association in 1983, North Carolina Farm Bureau Federation Award for Distinguished Service to Agriculture in 1983, Award for Distinguished Service to County Government and North Carolina Citizens from the North Carolina Association of County Commissioners in 1984, 4-H Club Outstanding Alumni Award in 1985, College of the Albemarle 25th Anniversary Award in 1985, North Carolina School Boards Association "True Friend of Public Education" Award in 1986, and the North Carolina Association of County Commissioners Distinguished Service Award in 1987; and

Whereas, Vernon Grant James died on October 21, 2002; and

Whereas, Vernon Grant James was predeceased in death by his first wife, Selma Harris James, and his two sons, John Thomas James Sr. and Vernon James Jr.; and

Whereas, Vernon Grant James is survived by his wife, Thelma James, 12 grandchildren, and 18 great-grandchildren; Now, therefore,

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

SECTION 1. The General Assembly honors the memory of Vernon Grant James and expresses the appreciation of this State and its citizens for the service he rendered.

SECTION 2. The General Assembly extends its deepest sympathy to the family of Vernon Grant James for the loss of a devoted and beloved husband, father, grandfather, and great-grandfather.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Vernon Grant James.

SECTION 4. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 53 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF VERNON GRANT JAMES, 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 4

HOUSE BILL 1140

Committee Substitute Favorable 4/23/03
Third Edition Engrossed 4/30/03
Senate Commerce Committee Substitute Adopted 6/4/03

Short Title: North Carolina 'Quick Clearance' Act. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE QUICK REMOVAL OF VEHICLES, CARGO, OR OTHER PERSONAL PROPERTY FROM CONTROLLED-ACCESS HIGHWAYS AND TO ALLOW DRIVERS TO REMOVE VEHICLES FROM TRAVEL LANES OF A HIGHWAY FOLLOWING MINOR ACCIDENTS, IF THE VEHICLES CAN BE SAFELY MOVED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-161 reads as rewritten:

"**§ 20-161. Stopping on highway prohibited; warning signals; removal of vehicles from public highway.**

(a) No person shall park or leave standing any vehicle, whether attended or unattended, upon the paved or main-traveled portion of any highway or highway bridge outside municipal corporate limits unless the vehicle is disabled to such an extent that it is impossible to avoid stopping and temporarily leaving the vehicle upon the paved or main traveled portion of the highway or highway bridge.

(b) No person shall park or leave standing any vehicle upon the shoulder of a public highway outside municipal corporate limits unless the vehicle can be clearly seen by approaching drivers from a distance of 200 feet in both directions and does not obstruct the normal movement of traffic.

(c) The operator of any truck, truck tractor, trailer or semitrailer which is disabled upon any portion of the highway shall display warning devices of a type and in a manner as required under the rules and regulations of the United States Department of Transportation as adopted by the Division of Motor Vehicles. Such warning devices shall be displayed as long as the vehicle is disabled.

(d) The owner of any vehicle parked or left standing in violation of law shall be deemed to have appointed any investigating law-enforcement officer his agent:

(1) For the purpose of removing the vehicle to the shoulder of the highway or to some other suitable place; and

(2) For the purpose of arranging for the transportation and safe storage of any vehicle which is interfering with the regular flow of traffic or which otherwise constitutes a hazard, in which case the officer shall be deemed a legal possessor of the vehicle within the meaning of G.S. 44A-2(d).

(e) When any vehicle is parked or left standing upon the right-of-way of a public highway for a period of 48 hours or more, the owner shall be deemed to have appointed any investigating law-enforcement officer his agent for the purpose of arranging for the transportation and safe storage of such vehicle and such investigating law-enforcement officer shall be deemed a legal possessor of the motor vehicle within the meaning of that term as it appears in G.S. 44A-2(d).

(f) Any investigating law enforcement officer, with the concurrence of the Department of Transportation, may immediately remove or cause to be removed from a controlled-access highway any wrecked, abandoned, disabled, unattended, burned, or partially dismantled vehicle, cargo, or other personal property interfering with the regular flow of traffic or which otherwise constitutes a hazard. In the event of a motor vehicle crash involving serious personal injury or death, no removal shall occur until the investigating law enforcement officer determines that adequate information has been obtained for preparation of a crash report. No state or local law enforcement officer, Department of Transportation employee, or person or firm contracting or assisting in the removal or disposition of any such vehicle, cargo, or other personal property shall be held criminally or civilly liable for any damage or economic injury related to carrying out or enforcing the provisions of this section.

(g) The owner shall be liable for any costs incurred in the removal, storage, and subsequent disposition of a vehicle, cargo, or other personal property under the authority of this section."

SECTION 2. G.S. 20-166 is amended by adding a new subsection to read:

"(c2) If an accident or collision occurs on a main lane, ramp, shoulder, median, or adjacent area of a highway, each vehicle shall be moved as soon as possible out of the travel lane and onto the shoulder or to a designated accident investigation site to complete the requirements of this section and minimize interference with traffic if all of the following apply:

(1) The accident or collision has not resulted in injury or death to any person or the drivers did not know or have reason to know of any injury or death.

(2) Each vehicle can be normally and safely driven. For purposes of this subsection, a vehicle can be normally and safely driven if it does not require towing and can be operated under its own power and in its usual manner, without additional damage or hazard to the vehicle, other traffic, or the roadway."

SECTION 3. This act becomes effective October 1, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Senate Committee Substitute for
H.B. 1140 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE QUICK REMOVAL OF VEHICLES, CARGO, OR OTHER PERSONAL PROPERTY FROM CONTROLLED-ACCESS HIGHWAYS AND TO ALLOW DRIVERS TO REMOVE VEHICLES FROM TRAVEL LANES OF A HIGHWAY FOLLOWING MINOR ACCIDENTS, IF THE VEHICLES CAN BE SAFELY MOVED.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

HOUSE JOINT RESOLUTION 1331

Sponsors:	Representatives Weiss, B. Allen, Ross (Primary Sponsors); Alexander, Ellis, Goodwin, Hill, Luebke, Miner, Setzer, and Stam.
Referred to:	Rules, Calendar, and Operations of the House.

June 16, 2003

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JANE HURLEY MOSLEY, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Jane Hurley Mosley was born on July 4, 1945, in Wake County to James Thaw Hurley and Sarah Alford Hurley; and

Whereas, Jane Mosley graduated from Cary High School and attended North Carolina State University, North Carolina Wesleyan College, and Pacific Western University; and

Whereas, Jane Mosley worked in the field of public relations for a number of years, serving as Public Information Officer for the Department of Community Colleges, Information and Communications Specialist for the North Carolina Department of Natural Resources and Community Development, Coordinator for Student Development Services of the Visiting Artist Program for the Department of Community Colleges, Executive Director of the North Carolina Community College Alumni Scholarship Foundation, Inc., Public Relations Consultant for North Carolina Operation Lifesaver, Inc., and State Coordinator and President of Cary Public Relations, Inc.; and

Whereas, Jane Mosley proudly served her profession as a member of numerous organizations, including the North Carolina Passenger Safety Association, North Carolina Employees for Traffic Safety, North Carolina Law Enforcement Officers Association, North Carolina Association of Government Information Officers, Public Relations Society of America, the Governor's Highway Safety Association, and Community College Adult Educators Association; and

Whereas, Jane Mosley served her community in many worthwhile capacities, serving as President of the Wake County Unit of the North Carolina Division of the American Cancer Society, Vice-President of Public Government Affairs for the Cary Chamber of Commerce, Executive Coordinator of the Cary Clean Community System, and President, Vice-President, and Regional Director of the Cary Jaycettes and North Carolina Jaycettes; and

Whereas, Jane Mosley also served as a board member of the North Carolina Community College Alumni Foundation, Inc., North Carolina Operation Lifesaver, Inc., Wake County Arts Council, and Rex Home Care, and the Cary Chamber of Commerce; and

Whereas, Jane Mosley served with honor and distinction as a member of the House of Representatives from 1993 to 1994 and 1996 to 1999, contributing as a member of numerous committees, including Ethics, Finance, Public Utilities, Election Law and Campaign Reform, the Education Subcommittee on Community Colleges and Universities, and the Transportation Subcommittee on Highways; and

Whereas, Jane Mosley's commitment to improving safety at railroad crossings earned her the North Carolina State Highway Patrol Award for Safety in 1995, the Governor's Certificate of Appreciation for Safety in 1995, and the North Carolina Safety Award/Second in the Nation from North Carolina Operation Lifesaver, Inc., in 1990, 1991, 1994, 1995; and

Whereas, Jane Mosley was recognized as the Most Outstanding Woman in State Government in 1972 and 1981, Volunteer of the Year (Ralph Whitaker Memorial Award) by the American Cancer Society in 1985, Tarheel of the Week in 1986, and Citizen of the Year by the Cary Chamber of Commerce in 1995; and

Whereas, Jane Mosley was active in the First United Methodist Church in Cary; and

Whereas, Jane Mosley died on September 28, 1999; and

Whereas, Jane Mosley is survived by her husband, Jerry W. Mosley, a son, Carlton Mosley, and a daughter, Kimberly Mosley White; Now, therefore,

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

SECTION 1. The General Assembly honors the life and memory of Jane Hurley Mosley and expresses the appreciation of this State and its citizens for the service she rendered.

SECTION 2. The General Assembly expresses its deepest sympathy to the family and friends of Jane Hurley Mosley for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Jane Hurley Mosley.

SECTION 4. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE JOINT RESOLUTION 1331
PROPOSED COMMITTEE SUBSTITUTE H1331-CSSW-50 [v.2]

6/18/2003 10:37:04 AM

Sponsors:

Referred to:

June 16, 2003

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JANE HURLEY MOSLEY, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Jane Hurley Mosley was born on July 4, 1945, in Wake County, North Carolina to James Thaw Hurley and Sarah Alford Hurley; and

Whereas, Jane Mosley graduated from Cary High School and attended North Carolina State University, North Carolina Wesleyan College, and Pacific Western University; and

Whereas, Jane Mosley worked in the field of public relations for a number of years, serving as Public Information Officer for the North Carolina Department of Community Colleges, Information and Communications Specialist for the North Carolina Department of Natural Resources and Community Development, Coordinator for Student Development Services of the Visiting Artist Program for the North Carolina Department of Community Colleges, Executive Director of the North Carolina Community College Alumni Scholarship Foundation, Inc., Public Relations Consultant for North Carolina Operation Lifesaver, Inc., and State Coordinator and President of Cary Public Relations, Inc.; and

Whereas, Jane Mosley proudly served her profession as a member of numerous organizations, including the North Carolina Passenger Safety Association, North Carolina Employees for Traffic Safety, North Carolina Law Enforcement Officers Association, North Carolina Association of Government Information Officers, Public Relations Society of America, the Governor's Highway Safety Association, and Community College Adult Educators Association; and

Whereas, Jane Mosley served her community in many worthwhile capacities, serving as President of the Wake County Unit of the North Carolina Division of the American Cancer Society, Vice-President of Public Government Affairs for the Cary Chamber of Commerce, Executive Coordinator of the Cary Clean Community System, and President, Vice-President, and Regional Director of the Cary Jaycettes and North Carolina Jaycettes; and

Whereas, Jane Mosley also served as a board member of the North Carolina Community College Alumni Foundation, Inc., North Carolina Operation Lifesaver, Inc., Wake County Arts Council, Rex Home Care, and the Cary Chamber of Commerce; and

Whereas, Jane Mosley served with honor and distinction as a member of the North Carolina House of Representatives from 1993 to 1994 and 1996 to 1999, contributing as a member of numerous House committees, including Ethics, Finance, Public Utilities, Election Law and Campaign Reform, the Education Subcommittee on Community Colleges and Universities, and the Transportation Subcommittee on Highways; and

Whereas, Jane Mosley's commitment to improving safety at railroad crossings earned her the North Carolina State Highway Patrol Award for Safety in 1995, the Governor's Certificate of Appreciation for Safety in 1995, and the North Carolina Safety Award/Second in the Nation from North Carolina Operation Lifesaver, Inc., in 1990, 1991, 1994, 1995; and

Whereas, Jane Mosley was recognized as the Most Outstanding Woman in State Government in 1972 and 1981, Volunteer of the Year (Ralph Whitaker Memorial Award) by the American Cancer Society in 1985, Tarheel of the Week in 1986, and Citizen of the Year by the Cary Chamber of Commerce in 1995; and

Whereas, Jane Mosley was active in the First United Methodist Church in Cary; and

Whereas, Jane Mosley died on September 28, 1999; and

Whereas, Jane Mosley is survived by her husband, Jerry W. Mosley, a son, Carlton Mosley, and a daughter, Kimberly Mosley White; Now, therefore,

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

SECTION 1. The General Assembly honors the life and memory of Jane Hurley Mosley and expresses the appreciation of this State and its citizens for the service she rendered.

SECTION 2. The General Assembly expresses its deepest sympathy to the family and friends of Jane Hurley Mosley for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Jane Hurley Mosley.

SECTION 4. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 1331 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JANE HURLEY MOSLEY, 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 the committee substitute ~~bill~~ resolution, unfavorable as to the original ~~bill.~~ resolution

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

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules — Name of Committee

6/18/03 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Ed Regan	N.C.A.C.C.
Philip Reale	GTECH Corp
BRUCE THOMPSON	PARKER POE
CASSANDRA SKINNER	CCPS
Martha Glass	NCDAICS
John Kuster	NCFPC
Barbara Cameron	NFIB
Michelle Frazier	NC Bar Ass'n
Michael Houser	NCAE
EDDIE CALDWELL	Hafer & Caldwell, P.A.
[illegible]	N.O
Kim Hibbard	NCLM
John Kennedy	AOC
~~Anne Dinan~~	~~AAA~~
Charlie Olive	Poyner & Spruill
Julie Allen	NC Statewatch
BILL SLOBOIN	NCIH
Steve Coward	NCDOT
Fred Dyer	SBE
John McHugh	Gov Office
Kari Barsness	DENR
RICK ZECHINI	NC Assoc. of REALTORS
Cam Cyrus	BPMHC
Katherine Joyce	NCASA
Julie Woodson	NCCBI

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JUNE 29, 2003
10:15 P.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

SENATE BILL 274 – AN ACT TO MAKE A CONFORMING STATUTORY CHANGE CONCERNING THE ORGANIZATIONAL SESSION IF THE SESSION LIMITS CONSTITUTIONAL AMENDMENT IS APPROVED BY THE VOTERS

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

June 29, 2003

The Committee on Rules, Calendar and Operations of the House met on June 29, 2003 at 10:15 p.m. in Room 421 of the Legislative Office Building. The following members were present; Representatives Culpepper, Chairman; Hackney, Vice Chairman; Brubaker, Church, Crawford, Hill, Gorman, Howard, LaRoque, Luebke, McComas, Miller, Miner, Owens, Setzer, Sherrill and Yongue.

The following bill was considered:

SENATE BILL 274 – AN ACT TO MAKE A CONFORMING STATUTORY CHANGE CONCERNING THE ORGANIZATIONAL SESSION IF THE SESSION LIMITS CONSTITUTIONAL AMENDMENT IS APPROVED BY THE VOTERS. A proposed House committee substitute changing the title to AN ACT TO MAKE ADJUSTMENTS TO THE BUDGET TO DIRECT SAVINGS IDENTIFIED BY THE BLUE RIBBON COMMISSION ON MEDICAID REFORM TO REPLENISH THE MEDICAID TRUST FUND, TO PROVIDE FOR REVIEW OF 2004-2005 FISCAL YEAR AVAILABILITY, TO PROVIDE CONTINGENCIES FOR FAILURE TO IDENTIFY ADEQUATE SURPLUS PROPERTY TO BE SOLD, TO PROVIDE REVENUE SHORTFALL CONTINGENCY PREPARATIONS, TO REPLENISH CONTINGENCY AND EMERGENCY FUND ALLOCATIONS, AND TO MAINTAIN THE CURRENT LAW ON RECEIPTS was offered, and Representative Crawford moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Lynn Muchmore, staff attorney, was recognized to explain the bill. A short discussion followed. Representative Owens moved for a favorable report for the proposed House committee substitute, unfavorable to the original bill. The motion carried.

The meeting adjourned at 10:30 p.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 274

Short Title:	Session Limits Conforming Change.	(Public)
Sponsors:	Senator Hoyle.	
Referred to:	Judiciary I.	

March 3, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE A CONFORMING STATUTORY CHANGE CONCERNING THE ORGANIZATIONAL SESSION IF THE SESSION LIMITS CONSTITUTIONAL AMENDMENT IS APPROVED BY THE VOTERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 120-11.1 reads as rewritten:

"**§ 120-11.1. Time of meeting.**

The regular session of the Senate and House of Representatives shall be held biennially beginning at 12:00 noon on the ~~third Wednesday after the second Monday in January~~ first Wednesday in December next after their election."

SECTION 2. Section 1 of this act shall take effect only upon approval of the voters of the constitutional amendments set forth in Sections 1 and 2 of Senate Bill 3, 2003 Session, AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO LIMIT THE LENGTH OF LEGISLATIVE SESSION, AND TO PROVIDE FOR AN EARLIER CONVENING TIME FOR ORGANIZATION. If the constitutional amendments proposed in Sections 1 and 2 of that act are approved by the voters, Section 1 of this act shall become effective at the same time as the constitutional amendments.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 274
PROPOSED HOUSE COMMITTEE SUBSTITUTE S274-PCS35337-LB-86

Short Title: Budget Adjustment Act. (Public)

Sponsors:

Referred to:

March 3, 2003

A BILL TO BE ENTITLED

AN ACT TO MAKE ADJUSTMENTS TO THE BUDGET TO DIRECT SAVINGS IDENTIFIED BY THE BLUE RIBBON COMMISSION ON MEDICAID REFORM TO REPLENISH THE MEDICAID TRUST FUND, TO PROVIDE FOR REVIEW OF 2004-2005 FISCAL YEAR AVAILABILITY, TO PROVIDE CONTINGENCIES FOR FAILURE TO IDENTIFY ADEQUATE SURPLUS PROPERTY TO BE SOLD, TO PROVIDE REVENUE SHORTFALL CONTINGENCY PREPARATIONS, TO REPLENISH CONTINGENCY AND EMERGENCY FUND ALLOCATIONS, AND TO MAINTAIN THE CURRENT LAW ON RECEIPTS.

The General Assembly of North Carolina enacts:

DIRECT SAVINGS IDENTIFIED BY BLUE RIBBON COMMISSION ON MEDICAID REFORM TO REPLENISH MEDICAID TRUST FUND

SECTION 1. If House Bill 397, 2003 Regular Session, becomes law, Section 6.14A of that act is amended by adding a new subsection to read:

"**SECTION 6.14A.(c)** Cost savings resulting from measures identified by the North Carolina Blue Ribbon Commission on Medicaid Reform established by this section shall first be used to replenish the Medicaid Trust Fund in order to meet expected federal obligations in the 2004-2005 fiscal year. If these cost savings are not realized by July 1, 2004, then the General Assembly shall identify in the bill revising the 2004-2005 budget other funds to replenish the Medicaid Trust Fund in an amount sufficient to meet expected federal obligations."

2004-2005 FISCAL YEAR AVAILABILITY

SECTION 2. If House Bill 397, 2003 Regular Session, becomes law, then Section 6.23 of that act is amended by adding a new subsection to read:

"**SECTION 6.23.(a1)** By November 1, 2003, the Joint Legislative Commission on Governmental Operations shall review the balances in all special funds and recommend those special funds from which the transfers are to be made under this section for the

2004-2005 fiscal year. The General Assembly shall identify in the bill revising the 2004-2005 budget the special funds that may be transferred by the Office of State Budget and Management for the 2004-2005 fiscal year and used to meet the General Fund availability for that fiscal year."

CONTINGENCIES FOR FAILURE TO IDENTIFY ADEQUATE SURPLUS PROPERTY TO BE SOLD

SECTION 3. If House Bill 397, 2003 Regular Session, becomes law, then Section 6.8(b) of that act reads as rewritten:

"**SECTION 6.8.(b)** Establish State-Owned Surplus Real Property Disposal System; Purpose; Use of Proceeds. – The Department of Administration, in consultation with the Office of State Budget and Management, the Department of Transportation, The University of North Carolina, and all other affected State departments, agencies, and institutions, shall develop and implement a State-owned surplus real property disposal system. The purpose of the system is to establish a uniform real property disposal system that will continuously identify State-owned surplus real property, evaluate that property, and dispose of that property as appropriate. Within 60 days after receiving the list from the State Property Office, the Joint Legislative Commission on Governmental Operations shall review the list of State-owned surplus real property and recommend which properties shall be sold. Unless otherwise provided by law, the clear proceeds of the sale of State-owned surplus real property shall be credited to the General Fund. It is the intent of the General Assembly that these proceeds shall partially offset debt service costs occasioned by the use of Certificates of Participation to finance the repair and renovation of State buildings. If the clear proceeds from the disposal of such property are not expected to generate the expected availability of funds contemplated under this section to be used to offset debt service by June 30, 2005, the General Assembly shall identify in the bill revising the 2004-2005 budget other sources of funds to fund the debt service."

REVENUE SHORTFALL CONTINGENCY PREPARATIONS

SECTION 4. If House Bill 397, 2003 Regular Session, becomes law, Section 2.2(e) of that act reads as rewritten:

"**SECTION 2.2.(e)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, the State Controller shall transfer only one hundred fifty million dollars ($150,000,000) from the unreserved credit balance to the Savings Reserve Account on June 30, 2003. This is not an "appropriation made by law", as that phrase is used in Article V, Section 7(1) of the North Carolina Constitution.

However, if the Director of the Budget finds by February 28, 2004, that economic growth forecasts for the 2004-2005 fiscal year indicate a shortfall in revenue below that anticipated by this act, then for every one-half percent (0.5%) below five and one-half percent (5.5%) in anticipated growth for the 2004-2005 fiscal year, fifty million dollars ($50,000,000) from the Savings Reserve Account may be used to support General Fund appropriations up to the balance of the Savings Reserve Account.

This subsection becomes effective June 30, 2003."

REPLENISH CONTINGENCY AND EMERGENCY FUND ALLOCATIONS

SECTION 5. If House Bill 397, 2003 Regular Session, becomes law, Section 6.4 of that act reads as rewritten:

"**SECTION 6.4.(a)** Funds in the amount of five million dollars ($5,000,000) for the 2003-2004 fiscal year and five million dollars ($5,000,000) for the 2004-2005 fiscal year are appropriated in this act to the Contingency and Emergency Fund. Of these funds:

(1) Up to two million dollars ($2,000,000) for the 2003-2004 fiscal year may be used for purposes related to the Base Realignment and Closure Act (BRAC); and

(2) Up to two hundred fifty thousand dollars ($250,000) for the 2003-2004 fiscal year may be expended for statutory purposes other than those set out in G.S. 143-23(a1)(2) or in subdivision (1) of this section.

The remainder of these funds shall be expended only for the purposes outlined in G.S. 143-23(a1)(2).

SECTION 6.4.(b) If funds are expended from the Contingency and Emergency Fund for the purposes set out in subdivision (a)(1) or (a)(2) of this section, the Director of the Budget may use funds otherwise appropriated from the General Fund under this act to replenish the Contingency and Emergency Fund by the same amount."

MAINTAIN CURRENT LAW ON RECEIPTS

SECTION 6. If House Bill 397, 2003 Regular Session, becomes law, Section 6.2 of that act is repealed.

SECTION 7. This act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **CULPEPPER** (Chair) for the Committee on **RULES, CALENDAR AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for

S.B. 274 A BILL TO BE ENTITLED AN ACT A BILL TO BE ENTITLED AN ACT TO MAKE A CONFORMING STATUTORY CHANGE CONCERNING THE ORGANIZATIONAL SESSION IF THE SESSION LIMITS CONSTITUTINAL AMENDMENT IS APPROVED BY THE VOTERS.

☐ 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 the House committee substitute bill, ☒ which changes the title, unfavorable as to the original bill.

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

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules — 6/29/03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Tim Cowley	UNCTV
Julie Donnelly	NC Public Radio
Rob Ogsbow	NC State Univ
Mark Johnson	Charlotte Observer
~~Blake~~ Tom Srv	NCRMA
Scott Mooneyham	AP
[illegible]	Capitol Group
[illegible]	NCFPC
[illegible]	NCRA
[illegible]	NCSR
Paula A. Stoll	Covenant w/NC's Children
[illegible]	NCCAI
[illegible]	APPCNC/ACCU
Josh Hallenan	NCAE
Michael Houser	NCAE
Kari Barsness	NCDENR
Carol Lauer	EGNS
Percy Harrison	Beaufort NC
Lori Ann Harris	LA Harrison Assoc Inc
John Motley	Gov office
Susan Conrad	NCDOT
Sheila Mckinney	NC DHHS
Donna Rosefield	DCR
Tracy Little	NCDOC
KBE	AC-T
MES	Wilm. Star-N
LMB	NRO
[illegible]	DOC

VISITOR REGISTRATION SHEET

Name of Committee _____ Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Cam Crew	BPMHL
John Bowdish	Astra Zeneca

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 8, 2003
1:00 P.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE RESOLUTION 1334 – A HOUSE RESOLUTION HONORING THE CITIES OF WILSON AND LAURINBURG ON BEING NAMED 2003 ALL-AMERICA CITIES

SENATE BILL 357- AN ACT TO ALLOW FRANKLIN COUNTY TO ACQUIRE PROPERTY FOR AIRPORT PURPOSES BY USING THE "QUICK TAKE" PROCEDURE

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 359 – AN ACT AUTHORIZING LOCAL BOARDS OF EDUCATION TO APPLY FOR AND BE GRANTED A CHARTER TO OPERATE A CHARTER SCHOOL AND TO RAISE THE CAP ON CHARTER SCHOOLS TO ONE HUNDRED TEN SCHOOLS

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 563 – AN ACT TO REPEAL THE LAWS REGULATING ATHLETE AGENTS AND TO ADOPT THE UNIFORM ATHLETE AGENTS ACT

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 668 – AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPERS PERMITS TO ALLOW THE DIRECT SHIPMENT OF WINES TO RESIDENTS OF NORTH CAROLINA AND TO ESTABLISH A MECHANISM FOR COLLECTING THE TAXES DUE ON WINE SHIPPED TO NORTH CAROLINA, AND TO INCREASE THE CEILING THAT A SMALL BREWERY MAY PRODUCE WITHOUT BEING REQUIRED TO GO THROUGH A MALT BEVERAGE DISTRIBUTOR

SENATE BILL 819 – AN ACT REGARDING THE USE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT

ADJOURNMENT

MINUTES OF THE HOUSE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

July 8, 2003

The Committee on Rules, Calendar and Operations of the House met on July 8, 2003 at 1:00 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representative Culpepper, Chairman; Brubaker, Crawford, Gorman, Hill, Howard Justus, LaRoque, Luebke, Miller, Miner, Owens, Setzer, Sherrill and Yongue.

The following bills were considered:

HOUSE RESOLUTION 1334 – A HOUSE RESOLUTION HONORING THE CITIES OF WILSON AND LAURINBURG ON BEING NAMED 2003 ALL-AMERICA CITIES. A proposed committee substitute was offered, and Representative Yongue moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Representative Yongue, a primary sponsor, was recognized to speak on the resolution. He stated that North Carolina is honored to have two of the 500 communities named as All-America Cities. Representative Farmer-Butterfield, another primary sponsor, was recognized and stated that the cities of Wilson and Laurinburg exemplify communities overcoming challenges by way of making sure that their citizens have free health care, and by working on adolescent pregnancies, affordable housing and setting up educational summer programs for children. Representative Crawford made a motion that the committee substitute resolution be adopted, unfavorable to the original resolution, which motion carried.

SENATE BILL 357- AN ACT TO ALLOW FRANKLIN COUNTY TO ACQUIRE PROPERTY FOR AIRPORT PURPOSES BY USING THE "QUICK TAKE" PROCEDURE. A proposed House committee substitute changing the title to AN ACT TO ALLOW MAYLAND COMMUNITY COLLEGE TO LEASE OR SELL AT PRIVATE SALE TWO PROPERTIES AND TO CLARIFY THAT THE CITY OF ROANOKE RAPIDS MAY ORDER OWNERS OF RESIDENTIAL PROPERTY TO REPAIR RATHER THAN VACATE HOUSING TO MEET MINIMUM CODE STANDARDS was offered, and Representative LaRoque moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Representative Frye, a principal sponsor of the proposed committee substitute, was recognized and stated that Senator Swindell, sponsor of the original Senate bill had approved a request to use the bill for the purpose stated in the title of the proposed House committee substitute. Representative Frye spoke on Section 1 of the bill and Representative Allen, also a principal sponsor, explained Section 2. Representative Owens moved that the proposed House committee substitute be given a favorable report, unfavorable to the original bill. The motion passed.

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 359 – AN ACT AUTHORIZING LOCAL BOARDS OF EDUCATION TO APPLY FOR AND BE

GRANTED A CHARTER TO OPERATE A CHARTER SCHOOL AND TO RAISE THE CAP ON CHARTER SCHOOLS TO ONE HUNDRED TEN SCHOOLS. A proposed House committee substitute changing the title to AN ACT AUTHORIZING THE FORSYTH BOARD OF EDUCATION TO APPLY FOR AND BE GRANTED A CHARTER TO OPERATE A CHARTER SCHOOL, AND TO RAISE THE CAP ON CHARTER SCHOOLS TO ONE HUNDRED TEN SCHOOLS, was offered, and Representative Miller moved for its adoption. Without objection, the chairman so ordered. The chairman gave the history of the bill and recognized Senator Garrou, sponsor, who stated that the proposed House committee substitute only applies to Forsyth County. Representative Gorman moved for a favorable report for the proposed House committee substitute #2, unfavorable to the House committee substitute #1. The motion passed.

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 563 – AN ACT TO REPEAL THE LAWS REGULATING ATHLETE AGENTS AND TO ADOPT THE UNIFORM ATHLETE AGENTS ACT. The chairman stated that the bill was re-referred from the Finance Committee to this committee because it had been determined that it does not create any new fees. Ben Kuhn, representing the Sports and Entertainment Law Section of the North Carolina Bar Association, answered questions of the committee. Representative Sherrill made a motion that the bill be given a favorable report, which motion passed.

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 668 – AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPERS PERMITS TO ALLOW THE DIRECT SHIPMENT OF WINES TO RESIDENTS OF NORTH CAROLINA AND TO ESTABLISH A MECHANISM FOR COLLECTING THE TAXES DUE ON WINE SHIPPED TO NORTH CAROLINA, AND TO INCREASE THE CEILING THAT A SMALL BREWERY MAY PRODUCE WITHOUT BEING REQUIRED TO GO THROUGH A MALT BEVERAGE DISTRIBUTOR A proposed House committee substitute changing the title to AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPERS PERMITS TO ALLOW THE DIRECT SHIPMENT OF WINES TO RESIDENTS OF NORTH CAROLINA AND TO ESTABLISH A MECHANISM FOR COLLECTING THE TAXES DUE ON WINE SHIPPED TO NORTH CAROLINA was offered, and Representative Sherrill moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Senator Metcalf, sponsor, was recognized and stated that the bill allows out-of-state wineries and in-state wineries to ship two cases per month to adults in North Carolina. Reverend Mark Creech, Executive Director of the Christian Action League of North Carolina, spoke against the bill. Representative Sherrill supported the bill and moved for a favorable report to the proposed House committee substitute #2, unfavorable to House committee substitute #1, which motion passed.

SENATE BILL 819 – AN ACT REGARDING THE USE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT. A proposed House committee substitute was offered, and Representative Miner moved for its adoption for

the purpose of discussion. Without objection, the chairman so ordered. Representative Ross was recognized and stated that the bill sets up the structure of the sale of properties in the Blount Street District of Raleigh which are no longer needed as state offices. Representatives Owens, had concerns that a precedent was being created by setting up a special fund for the proceeds of the sale rather than having them go into the general fund. Representatives Gorman and LaRoque also expressed concerns about relocating the state employees. In answer to a question by Representative LaRoque, Robert Poole General Real Estate Manager of the State Property Office, stated that Chapter 146 of the General Statutes specifies that net sale proceeds will go into the general fund but lists exceptions. The chairman stated that the bill would again be considered the next day.

The meeting adjourned at 1:55 p.m.

Bill Culpepper

Representative Bill Culpepper
Chairman

Dorothy C. Crocker

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE RESOLUTION 1334

Sponsors:	Representatives Farmer-Butterfield, Yongue, Bonner (Primary Sponsors); Tolson and Goodwin.
Referred to:	Rules, Calendar, and Operations of the House.

July 7, 2003

A HOUSE RESOLUTION HONORING THE CITIES OF WILSON AND LAURINBURG ON BEING NAMED 2003 ALL-AMERICA CITIES.

Whereas, each year the National Civic League honors 10 communities that best exemplify the spirit of grassroots citizen involvement and cross-sector collaborative problem solving; and

Whereas, since 1949, more than 4,000 communities have competed and nearly 500 communities have been named All-America Cities; and

Whereas, the 10 recipients selected from this year's 48 competitors were the Cities of Wilson and Laurinburg along with Tempe, Arizona; New Haven, Connecticut; Miami Beach, Florida; Des Moines, Iowa; Marquette County, Michigan; South Sioux City, Nebraska; Corpus Christi, Texas; and Greater Racine Area, Wisconsin; and

Whereas, individuals, businesses, government agencies, and nonprofit organizations in Laurinburg and Wilson worked together to improve their communities through cultural diversity, affordable housing, and increased access to health care; and

Whereas, Laurinburg's All-America City Award Committee made a presentation highlighting the City's use of SCOTTY, a mobile health care unit, which travels throughout Scotland County performing free health care services; the City's study of the needs of its children, which resulted in the creation of educational after school programs; and the City's efforts to increase home ownership by replacing dilapidated rental housing with affordable homes; and

Whereas, Wilson's All-America City Award Committee's presentation highlighted the completion of the Oliver Nestus Freeman Round House, which was made into a museum exhibiting the importance of African-Americans in Wilson's history; the redevelopment of East Wilson, which has resulted in improved home ownership, a decrease in crime, better looking neighborhoods, and decreased rental property; and the Citizens for a Healthier Wilson's campaign, which provided immunizations and lead screening exams for children and reduced adolescent pregnancies; and

Whereas, the All-America City distinction is a favorable attribute for cities in attracting new residents, businesses, industry, and grants; and

Whereas, Laurinburg and Wilson join a small number of cities with multiple All-America City Awards, with Laurinburg previously winning in 1956 and 1967 and Wilson in 1973; and

Whereas, Wilson's and Laurinburg's accomplishments exemplify community spirit and deserve recognition; Now, therefore,

Be it resolved by the House of Representatives:

SECTION 1. The House of Representatives recognizes the Cities of Laurinburg and Wilson on being named All-America Cities. The House of Representatives congratulates the members of the Laurinburg and Wilson All-America City Award Committees and the citizens of Laurinburg and Wilson for their hard work in helping their communities receive this national recognition.

SECTION 2. The Principal Clerk shall transmit a certified copy of this resolution to the Mayor of Wilson and the Mayor of Laurinburg and to the members of the Cities of Wilson and Laurinburg All-America City Award Committees.

SECTION 3. This resolution is effective upon adoption.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE RESOLUTION 1334
Corrected Copy 7/8/03
PROPOSED COMMITTEE SUBSTITUTE H1334-CSRW-59 [v.1]

7/8/2003 12:04:25 PM

Sponsors:

Referred to:

July 7, 2003

A HOUSE RESOLUTION HONORING THE CITIES OF WILSON AND LAURINBURG ON BEING NAMED 2003 ALL-AMERICA CITIES.

Whereas, each year the National Civic League honors 10 communities that best exemplify the spirit of grassroots citizen involvement and cross-sector collaborative problem solving; and

Whereas, since 1949, more than 4,000 communities have competed and nearly 500 communities have been named All-America Cities; and

Whereas, the 10 recipients selected from this year's 48 competitors were the Cities of Wilson and Laurinburg along with Tempe, Arizona; New Haven, Connecticut; Miami Beach, Florida; Des Moines, Iowa; Marquette County, Michigan; South Sioux City, Nebraska; Corpus Christi, Texas; and Greater Racine Area, Wisconsin; and

Whereas, individuals, businesses, government agencies, and nonprofit organizations in both Laurinburg and Wilson worked together to improve their communities with efforts to recognize cultural diversity, create affordable housing, and increase access to health care; and

Whereas, Laurinburg's All-America City Award Committee made a presentation highlighting the City's use of SCOTTY, a mobile health care unit that travels throughout Scotland County and provides free health care services; the City's study of the needs of its children that resulted in the creation of educational after school programs; and the City's efforts to increase home ownership by replacing dilapidated rental housing with affordable homes; and

Whereas, Wilson's All-America City Award Committee's presentation highlighted the completion of the restoration of the Oliver Nestus Freeman Round House, which was made into a museum exhibiting the importance of African-Americans in Wilson's history; the redevelopment of East Wilson, which has resulted in improved home ownership, a decrease in crime, better looking neighborhoods, and decreased rental property; and the Citizens for a Healthier Wilson's campaign, which provided immunizations and lead screening exams for children and reduced adolescent pregnancies; and

Whereas, the All-America City distinction is a favorable attribute for cities in attracting new residents, businesses, industry, and grants; and

Whereas, Laurinburg and Wilson join a small number of cities with multiple All-America City Awards, with Laurinburg previously winning in 1956 and 1967 and Wilson in 1973; and

Whereas, Wilson's and Laurinburg's accomplishments exemplify community spirit and deserve recognition; Now, therefore,

Be it resolved by the House of Representatives:

SECTION 1. The House of Representatives recognizes the Cities of Laurinburg and Wilson on being named All-America Cities. The House of Representatives congratulates the members of the Laurinburg and Wilson All-America City Award Committees and the citizens of Laurinburg and Wilson for their hard work in helping their communities receive this national recognition.

SECTION 2. The Principal Clerk shall transmit a certified copy of this resolution to the Mayor of Wilson and the Mayor of Laurinburg and to the members of the Cities of Wilson and Laurinburg All-America City Award Committees.

SECTION 3. This resolution is effective upon adoption.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.R. 1334 A HOUSE RESOLUTION HONORING THE CITIES OF WILSON AND LAURINBURG ON BEING NAMED 2003 ALL-AMERICA CITIES.

☐ 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 the committee substitute bill, unfavorable as to the original bill.

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

☐ 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 the committee substitute resolution be adopted, unfavorable to the original resolution. (HOUSE RESOLUTION ONLY)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 357*

Short Title:	Franklin County Airport Quick Take.	(Local)
Sponsors:	Senator Swindell.	
Referred to:	Finance.	

March 11, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW FRANKLIN COUNTY TO ACQUIRE PROPERTY FOR AIRPORT PURPOSES BY USING THE "QUICK TAKE" PROCEDURE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 40A-42(a)(1) reads as rewritten:

"(1) When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b)(1), (4) or (7), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), ~~(2) or (3),~~ (2), (3), or (4), or when a local board of education or any combination of local boards of education is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemnor is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10), (12), or (13), title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41."

SECTION 2. This act applies to Franklin County only.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 357*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S357-PCS35332-LB-80

Short Title: Mayland CC Conveyance/Roanoke Rapids Housing. (Local)

Sponsors:

Referred to:

March 11, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW MAYLAND COMMUNITY COLLEGE TO LEASE OR SELL AT PRIVATE SALE TWO PROPERTIES AND TO CLARIFY THAT THE CITY OF ROANOKE RAPIDS MAY ORDER OWNERS OF RESIDENTIAL PROPERTY TO REPAIR RATHER THAN VACATE HOUSING TO MEET MINIMUM CODE STANDARDS.

The General Assembly of North Carolina enacts:

SECTION 1. Mayland Community College may, with prior approval of the State Board of Community Colleges and notwithstanding G.S. 115D-15 or Article 12 of Chapter 160A of the General Statutes:

(1) Lease at private sale the former Lexington Furniture Building for such consideration as it deems sufficient; and

(2) Sell at private sale the former Hampshire Hosiery Building to Mitchell County Development Foundation, Inc., for such consideration as it deems sufficient.

SECTION 2. Section 2 of S.L. 2003-76 reads as rewritten:

"**SECTION 2.** This act applies only to the ~~City of Greensboro.~~ Cities of Greensboro and Roanoke Rapids."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.B. 357 A BILL TO BE ENTITLED AN ACT TO ALLOW FRANKLIN COUNTY TO ACQUIRE PROPERTY FOR AIRPORT PURPOSES BY USING THE "QUICK TAKE"" PROCEDURE.

☐ 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 the House committee substitute bill, ☒ which changes the title, unfavorable as to the original bill.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 359

Education/Higher Education Committee Substitute Adopted 4/17/03
House Committee Substitute Favorable 6/12/03

Short Title: LEAs Operate Charter Schs/Raise Cap. (Public)

Sponsors:

Referred to:

March 11, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING LOCAL BOARDS OF EDUCATION TO APPLY FOR AND BE GRANTED A CHARTER TO OPERATE A CHARTER SCHOOL AND TO RAISE THE CAP ON CHARTER SCHOOLS TO ONE HUNDRED TEN SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-238.29B(a) reads as rewritten:

"(a) Any person, group of persons, or nonprofit ~~corporation~~ corporation, including a local board of education, seeking to establish a charter school may apply to establish a charter school. If the ~~applicant~~ applicant, other than a local board of education, seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion. If the applicant, who is the local board of education, seeks to convert a public school to a charter school, the application shall include input from the teachers and instructional support personnel currently employed at the school and evidence that a significant number of parents of children enrolled in the school favor conversion."

SECTION 2. G.S. 115C-238.29E reads as rewritten:

"**§ 115C-238.29E. Charter school operation.**

(a) A charter school that is approved by the State shall be a public school within the local school administrative unit in which it is located. It shall be accountable to the local board of education if it applied for and received preliminary approval from that local board for purposes of ensuring compliance with applicable laws and the provisions of its ~~charter.~~charter or if the local board of education was the applicant for the charter. All other charter schools shall be accountable to the State Board for ensuring compliance with applicable laws and the provisions of their charters, except that any of

these charter schools may agree to be accountable to the local board of the school administrative unit in which the charter school is located rather than to the State Board.

(b) A charter school shall be operated by a private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the ~~application.~~application unless a local board of education applied for and was granted a charter for the conversion of an existing public school or for the creation of a new charter school. In such a case, a charter school shall be operated by the local board of education or by a board of directors appointed by the local board of education.

(c) A charter school shall operate under the written charter signed by the entity to which it is accountable under subsection (a) of this section and the applicant. A charter school is not required to enter into any other contract. The charter shall incorporate the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the State Board of Education. No other terms may be imposed on the charter school as a condition for receipt of local funds.

(d) The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning ~~authority.~~authority unless the local board of education applied for and was granted the charter for the conversion of a public school or the creation of a new charter school. The school may lease space from a local board of education or as is otherwise lawful in the local school administrative unit in which the charter school is located. If a charter school leases space from a sectarian organization, the charter school classes and students shall be physically separated from any parochial students, and there shall be no religious artifacts, symbols, iconography, or materials on display in the charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space from a sectarian organization, the charter school shall not use the name of that organization in the name of the charter school.

At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs. Notwithstanding any other law, a local board of education may provide a school facility to a charter school free of charge; however, the charter school is responsible for the maintenance of and insurance for the school facility.

(f) Except as provided in this Part and pursuant to the provisions of its charter, a charter school is exempt from statutes and rules applicable to a local board of education or local school administrative unit."

SECTION 3. G.S. 115C-238.29D(b) reads as rewritten:

"(b) The State Board shall authorize no more than five charter schools per year in one local school administrative unit. The State Board shall authorize no more than ~~100~~ 110 charter schools statewide. If more than five charter schools in one local school administrative unit or more than ~~100~~ 110 schools statewide meet the standards for final

approval, the State Board shall give priority to applications that are most likely to further State education policies and to strengthen the educational program offered in the local school administrative units in which they are located. This subsection shall not apply to any charter school if the applicant for that charter school was the local board of education."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 359

Education/Higher Education Committee Substitute Adopted 4/17/03
House Committee Substitute Favorable 6/12/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S359-CSRH-55 [v.2]

6/24/2003 9:35:16 AM

Short Title: Forsyth Charter Sch/Raise Cap. (Public)

Sponsors:

Referred to:

March 11, 2003

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE FORSYTH BOARD OF EDUCATION TO APPLY FOR AND BE GRANTED A CHARTER TO OPERATE A CHARTER SCHOOL, AND TO RAISE THE CAP ON CHARTER SCHOOLS TO ONE HUNDRED TEN SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 115C-238.29B(a) reads as rewritten:

"(a) Any person, group of persons, or nonprofit ~~corporation~~ corporation, including a local board of education, seeking to establish a charter school may apply to establish a charter school. If the ~~applicant~~ applicant, other than a local board of education, seeks to convert a public school to a charter school, the application shall include a statement signed by a majority of the teachers and instructional support personnel currently employed at the school indicating that they favor the conversion and evidence that a significant number of parents of children enrolled in the school favor conversion. If the applicant, who is the local board of education, seeks to convert a public school to a charter school, the application shall include input from the teachers and instructional support personnel currently employed at the school and evidence that a significant number of parents of children enrolled in the school favor conversion."

SECTION 1.(b) G.S. 115C-238.29E reads as rewritten:

"**§ 115C-238.29E. Charter school operation.**

(a) A charter school that is approved by the State shall be a public school within the local school administrative unit in which it is located. It shall be accountable to the local board of education if it applied for and received preliminary approval from that local board for purposes of ensuring compliance with applicable laws and the provisions of its ~~charter.~~charter or if the local board of education was the applicant for the charter. All other charter schools shall be accountable to the State Board for ensuring

compliance with applicable laws and the provisions of their charters, except that any of these charter schools may agree to be accountable to the local board of the school administrative unit in which the charter school is located rather than to the State Board.

(b) A charter school shall be operated by a private nonprofit corporation that shall have received federal tax-exempt status no later than 24 months following final approval of the ~~application.~~application unless a local board of education applied for and was granted a charter for the conversion of an existing public school or for the creation of a new charter school. In such a case, a charter school shall be operated by the local board of education or by a board of directors appointed by the local board of education.

(c) A charter school shall operate under the written charter signed by the entity to which it is accountable under subsection (a) of this section and the applicant. A charter school is not required to enter into any other contract. The charter shall incorporate the information provided in the application, as modified during the charter approval process, and any terms and conditions imposed on the charter school by the State Board of Education. No other terms may be imposed on the charter school as a condition for receipt of local funds.

(d) The board of directors of the charter school shall decide matters related to the operation of the school, including budgeting, curriculum, and operating procedures.

(e) A charter school's specific location shall not be prescribed or limited by a local board or other authority except a zoning ~~authority.~~authority unless the local board of education applied for and was granted the charter for the conversion of a public school or the creation of a new charter school. The school may lease space from a local board of education or as is otherwise lawful in the local school administrative unit in which the charter school is located. If a charter school leases space from a sectarian organization, the charter school classes and students shall be physically separated from any parochial students, and there shall be no religious artifacts, symbols, iconography, or materials on display in the charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space from a sectarian organization, the charter school shall not use the name of that organization in the name of the charter school.

At the request of the charter school, the local board of education of the local school administrative unit in which the charter school will be located shall lease any available building or land to the charter school unless the board demonstrates that the lease is not economically or practically feasible or that the local board does not have adequate classroom space to meet its enrollment needs. Notwithstanding any other law, a local board of education may provide a school facility to a charter school free of charge; however, the charter school is responsible for the maintenance of and insurance for the school facility.

(e1) Any charter school operated by a local board of education or by a board of directors appointed by a local board of education shall be included with the other schools in that local school administrative unit for the purpose of student, school, and system accountability under Part 3 of Article 8B of this Chapter and No Child Left Behind.

(f) Except as provided in this Part and pursuant to the provisions of its charter, a charter school is exempt from statutes and rules applicable to a local board of education or local school administrative unit."

SECTION 1.(c) G.S. 115C-238.29D(b) reads as rewritten:

"(b) ~~The~~ For applicants other than a local board of education, the State Board shall authorize no more than five charter schools per year in one local school administrative unit. ~~The~~ In addition, for applicants other than a local board of education, the State Board shall authorize no more than 100 charter schools statewide. If more than five charter schools in one local school administrative unit or more than 100 schools statewide meet the standards for final approval, the State Board shall give priority to applications from applicants other than a local board of education that are most likely to further State education policies and to strengthen the educational program offered in the local school administrative units in which they are located. For applicants that are local boards of education, the State Board may authorize only one charter school in a local school administrative unit."

SECTION 1.(d) This section applies only to the Winston-Salem/Forsyth School System.

SECTION 2. G.S. 115C-238.29D(b) reads as rewritten:

"(b) The State Board shall authorize no more than five charter schools per year in one local school administrative unit. The State Board shall authorize no more than ~~100~~ 110 charter schools statewide. If more than five charter schools in one local school administrative unit or more than ~~100~~ 110 schools statewide meet the standards for final approval, the State Board shall give priority to applications that are most likely to further State education policies and to strengthen the educational program offered in the local school administrative units in which they are located."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ House Committee Substitute for
S.B. 359 A BILL TO BE ENTITLED AN ACT AUTHORIZING LOCAL BOARDS OF EDUCATION TO APPLY FOR AND BE GRANTED A CHARTER TO OPERATE A CHARTER SCHOOL AND TO RAISE THE CAP ON CHARTER SCHOOLS TO ONE HUNDRED TEN SCHOOLS.

☐ 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 the House committee substitute bill #2, ☒ which changes the title, unfavorable as to ~~the original bill~~. House committee substitute #1.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 563

Judiciary II Committee Substitute Adopted 4/16/03
House Committee Substitute Favorable 6/18/03

Short Title: Uniform Athlete Agents Act. (Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO REPEAL THE LAWS REGULATING ATHLETE AGENTS AND TO ADOPT THE UNIFORM ATHLETE AGENTS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 8 of Chapter 78C of the General Statutes is repealed.

SECTION 2. Chapter 78C of the General Statutes is amended by adding a new Article to read:

"Article 8A.

"Uniform Athlete Agents Act.

"**§ 78C-85. Title.**

This Article may be cited as the 'Uniform Athlete Agents Act'.

"**§ 78C-86. Definitions.**

The following definitions apply in this Article:

(1) Agency contract. – An agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract.

(2) Athlete agent. – An individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.

(3) Athletic director. – An individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

(4) Contact. – A communication, direct or indirect, between an athlete agent and a student-athlete to recruit or solicit the student-athlete to enter into an agency contract.

(5) Endorsement contract. – An agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

(6) Intercollegiate sport. – A sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics.

(7) Person. – An individual, company, corporation, partnership, association, or any other legal or commercial entity.

(8) Professional-sports-services contract. – An agreement under which an individual is employed or agrees to render services as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(9) Record. – Information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(10) Registration. – A certificate issued by the Secretary of State evidencing that a person has satisfied the requirements of an athlete agent pursuant to this Article.

(11) Student-athlete. – An individual who engages in, is eligible to engage in, or may be eligible in the future to engage in any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

"**§ 78C-87. Service of process; subpoenas.**

(a) By acting as an athlete agent in this State, a nonresident individual appoints the Secretary of State as the individual's agent for service of process in any civil action in this State related to the individual's acting as an athlete agent in this State.

(b) The Secretary of State may issue subpoenas for any material that is relevant to the administration of this Article.

"**§ 78C-88. Athlete agents; registration required; exceptions; void contracts.**

(a) Except as otherwise provided in this section, an individual may not act as an athlete agent in this State without holding a certificate of registration under G.S. 78C-90 or G.S. 78C-92.

(b) Before being issued a certificate of registration, an individual may act as an athlete agent in this State for all purposes except signing an agency contract if: (i) a student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and (ii) within seven days after an initial act as an

athlete agent, the individual submits an application for registration as an athlete agent in this State.

(c) A North Carolina licensed and resident attorney may act as an athlete agent in this State for all purposes without registering pursuant to this section if the attorney neither advertises directly for, nor solicits, any student-athlete by representing to any person that the attorney has special experience or qualifications with regard to representing student-athletes and represents no more than two student-athletes.

(d) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.

"**§ 78C-89. Registration as athlete agent; form; requirements.**

(a) An individual seeking registration as an athlete agent shall submit an application for registration to the Secretary of State in a form prescribed by the Secretary of State. The application must be in the name of an individual and, except as otherwise provided in subsection (b) of this section, signed or otherwise authenticated by the applicant under penalty of perjury and must state or contain the following:

(1) The name of the applicant and the address of the applicant's principal place of business.

(2) The name of the applicant's business or employer, if applicable.

(3) Any business or occupation engaged in by the applicant for the five years immediately preceding the date of submission of the application.

(4) A description of the applicant's:

a. Formal training as an athlete agent.

b. Practical experience as an athlete agent.

c. Educational background relating to the applicant's activities as an athlete agent.

(5) The names and addresses of three individuals not related to the applicant who are willing to serve as references.

(6) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the five years immediately preceding the date of submission of the application.

(7) The names and addresses of all persons who are:

a. With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business.

b. With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater.

(8) Whether the applicant or any person named under subdivision (7) of this subsection has been convicted of a crime that, if committed in this State, would be a crime involving moral turpitude or a felony and identify the crime.

(9) Whether there has been any administrative or judicial determination that the applicant or any person named under subdivision (7) of this

subsection has made a false, misleading, deceptive, or fraudulent representation.

(10) Any instance in which the conduct of the applicant or any person named under subdivision (7) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution.

(11) Any sanction, suspension, or disciplinary action taken against the applicant or any person named under subdivision (7) of this subsection arising out of occupational or professional conduct.

(12) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew the registration or licensure of the applicant or any person named under subdivision (7) of this subsection as an athlete agent in any state.

(b) An individual who has submitted an application for registration or licensure as an athlete agent in another state or who holds a certificate of registration or licensure as an athlete agent in another state may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (a) of this section. The Secretary of State shall accept the application and the certificate from the other state as an application for registration in this State if the application to the other state satisfied all of the following criteria:

(1) Was submitted in the other state within six months immediately preceding the submission of the application in this State and the applicant certifies that the information contained in the application is current.

(2) Contains information substantially similar to or more comprehensive than that required in an application submitted in this State.

(3) Was signed by the applicant under penalty of perjury.

(c) An application filed under this section is a 'public record' within the meaning of Chapter 132 of the General Statutes.

"**§ 78C-90. Certificate of registration; issuance or denial; renewal.**

(a) Except as otherwise provided in subsection (b) of this section, the Secretary of State shall issue a certificate of registration to an individual who complies with G.S. 78C-89(a) or whose application has been accepted under G.S. 78C-89(b).

(b) The Secretary of State may refuse to issue a certificate of registration if the Secretary of State determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the Secretary of State may consider whether the applicant has:

(1) Been convicted of a crime that, if committed in this State, would be a crime involving moral turpitude or a felony.

(2) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent.

(3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity.

(4) Engaged in conduct prohibited by G.S. 78C-98.
(5) Had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any state.
(6) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution.
(7) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(c) In making a determination under subsection (b) of this section, the Secretary of State shall consider: (i) how recently the conduct occurred; (ii) the nature of the conduct and the context in which it occurred; and (iii) any other relevant conduct of the applicant.

(d) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the Secretary of State. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.

(e) An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (d) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The Secretary of State shall accept the application for renewal from the other state as an application for renewal in this State if the application to the other state satisfied the following:

(1) Was submitted in the other state within six months immediately preceding the filing in this State and the applicant certifies the information contained in the application for renewal is current.
(2) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this State.
(3) Was signed by the applicant under penalty of perjury.

(f) A certificate of registration or a renewal of a registration is valid for one year.

(g) An application filed under this section is a 'public record' within the meaning of Chapter 132 of the General Statutes.

"**§ 78C-91. Suspension; revocation; refusal to renew registration.**

(a) The Secretary of State may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under G.S. 78C-90(b).

(b) The Secretary of State may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing in accordance with the Administrative Procedures Act pursuant to Article 3 of Chapter 150B of the General Statutes.

"**§ 78C-92. Temporary registration.**

The Secretary of State may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

"**§ 78C-93. Registration; renewal of fees.**

An application for registration or renewal of registration must be accompanied by a fee in the following amount:

(1) Application for registration.....$200.00
(2) Application for registration based upon a certificate of registration or licensure issued by another state.....200.00
(3) Application for renewal of registration.....200.00
(4) Application for renewal of registration based upon an application for renewal of registration or licensure submitted in another state ...200.00.

"**§ 78C-94. Required form of contract.**

(a) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(b) An agency contract must state or contain the following:

(1) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services.
(2) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract.
(3) A description of any expenses that the student-athlete agrees to reimburse.
(4) A description of the services to be provided to the student-athlete.
(5) The duration of the contract.
(6) The date of execution.

(c) An agency contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

WARNING TO STUDENT-ATHLETE
IF YOU SIGN THIS CONTRACT:
(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;
(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR;
(3) YOU WAIVE YOUR ATTORNEY-CLIENT PRIVILEGE WITH RESPECT TO THIS CONTRACT AND CERTAIN INFORMATION RELATED TO IT; AND
(4) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

(d) An agency contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agency contract, the student-athlete is not

required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

(e) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

"**§ 78C-95. Notice to educational institution.**

(a) Within 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(b) Within 72 hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.

"**§ 78C-96. Student-athlete's right to cancel.**

(a) A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.

(b) A student-athlete may not waive the right to cancel an agency contract.

(c) If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

"**§ 78C-97. Required records; waiver of attorney-client privilege.**

(a) An athlete agent shall retain the following records for a period of five years:

(1) The name and address of each individual represented by the athlete agent.

(2) Any agency contract entered into by the athlete agent.

(3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.

(b) Records required to be retained by subsection (a) of this section are open to inspection by the Secretary of State during normal business hours.

(c) Where a student-athlete enters into an agency contract regulated under this Article, the student-athlete will be deemed to waive the attorney-client privilege with respect to records required to be retained by subsection (a) of this section.

"**§ 78C-98. Prohibited conduct.**

(a) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, shall not:

(1) Give any materially false or misleading information or make a materially false promise or representation.

(2) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract.

(3) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

(b) An athlete agent shall not intentionally:

(1) Initiate contact with a student-athlete unless the athlete agent is registered under this Article.
(2) Refuse or fail to retain or permit inspection of the records required to be retained by G.S. 78C-97.
(3) Fail to register as required by G.S. 78C-88.
(4) Provide materially false or misleading information in an application for registration or renewal of registration.
(5) Predate or postdate an agency contract.
(6) Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

"**§ 78C-99. Criminal penalties.**

An athlete agent who violates any provision under G.S. 78C-98(a) is guilty of a Class I felony.

"**§ 78C-100. Civil remedies.**

(a) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of this Article. In an action under this section, the court may award costs and reasonable attorneys' fees to the prevailing party.

(b) Damages suffered by an educational institution under subsection (a) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of this Article or was penalized, disqualified, or suspended from participation in athletics by: (i) a national association for the promotion and regulation of athletics; (ii) an athletic conference; or (iii) reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by an athletic organization.

(c) A right of action under this section does not accrue until the educational institution discovers, or by the exercise of reasonable diligence would have discovered, the violation by the athlete agent or former student-athlete.

(d) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.

(e) This Article does not restrict rights, remedies, or defenses of any person under law or equity.

"**§ 78C-101. Administrative penalty.**

The Secretary of State may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars ($25,000) for a violation of this Article.

"**§ 78C-102. Uniformity of application and construction.**

In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

"**§ 78C-103. Electronic Signatures in Global and National Commerce Act.**

The provisions of this Article governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of

those records or signatures, conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act.

"**§ 78C-104. Severability.**

If any provision of this Article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.

"**§ 78C-105. Rules.**

The Secretary of State may, in accordance with Chapter 150B of the General Statutes, adopt rules necessary to carry out the provisions of this Article."

SECTION 3. G.S. 78C-99 becomes effective December 1, 2003, and applies to acts committed on and after that date. The rest of the act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ House Committee Substitute for
S.B. 563 A BILL TO BE ENTITLED AN ACT TO REPEAL THE LAWS REGULATING ATHLETE AGENTS AND TO ADOPT THE UNIFORM ATHLETE AGENTS 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 the House committee substitute bill; ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 4

SENATE BILL 668

Finance Committee Substitute Adopted 6/12/03
Third Edition Engrossed 6/18/03
House Committee Substitute Favorable 6/25/03

Short Title: Wine Shippers Permits and Brewery Permits. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPERS PERMITS TO ALLOW THE DIRECT SHIPMENT OF WINES TO RESIDENTS OF NORTH CAROLINA AND TO ESTABLISH A MECHANISM FOR COLLECTING THE TAXES DUE ON WINE SHIPPED TO NORTH CAROLINA, AND TO INCREASE THE CEILING THAT A SMALL BREWERY MAY PRODUCE WITHOUT BEING REQUIRED TO GO THROUGH A MALT BEVERAGE DISTRIBUTOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-902(d) reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

(1) On-premises malt beverage permit – $400.00.
(2) Off-premises malt beverage permit – $400.00.
(3) On-premises unfortified wine permit – $400.00.
(4) Off-premises unfortified wine permit – $400.00.
(5) On-premises fortified wine permit – $400.00.
(6) Off-premises fortified wine permit – $400.00.
(7) Brown-bagging permit – $400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be $200.00.
(8) Special occasion permit – $400.00.
(9) Limited special occasion permit – $50.00.
(10) Mixed beverages permit – $1,000.
(11) Culinary permit – $200.00.
(12) Unfortified winery permit – $300.00.
(13) Fortified winery permit – $300.00.
(14) Limited winery permit – $300.00.

(15) Brewery permit – $300.00.
(16) Distillery permit – $300.00.
(17) Fuel alcohol permit – $100.00.
(18) Wine importer permit – $300.00.
(19) Wine wholesaler permit – $300.00.
(20) Malt beverage importer permit – $300.00.
(21) Malt beverage wholesaler permit – $300.00.
(22) Bottler permit – $300.00.
(23) Salesman permit – $100.00.
(24) Vendor representative permit – $50.00.
(25) Nonresident malt beverage vendor permit – $100.00.
(26) Nonresident wine vendor permit – $100.00.
(27) Any special one-time permit under G.S. 18B-1002 – $50.00.
(28) Winery special event permit – $200.00.
(29) Mixed beverages catering permit – $200.00.
(30) Guest room cabinet permit – $1,000.
(31) Liquor importer/bottler permit – $500.00.
(32) Cider and vinegar manufacturer permit – $200.00.
(33) Brew on premises permit – $400.00.
(34) Wine producer permit – $300.00.
(35) Wine tasting permit – $100.00.
(36) Wine shipper permit – $100.00."

SECTION 2. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1001.1 Authorization of wine shipper permit.**

(a) A winery holding a federal basic wine manufacturing permit located within or outside of the State may apply to the Commission for issuance of a wine shipper permit that shall authorize the shipment of brands of fortified and unfortified wines identified in the application. A wine shipper permittee may amend the brands of wines identified in the permit application but shall file any amendment with the Commission. Any winery that applies for a wine shipper permit shall notify in writing any wholesalers that have been authorized to distribute the winery's brands within the State that an application has been filed for a wine shipper permit. A wine shipper permittee may sell and ship not more than two cases of wine per month to any person in North Carolina to whom alcoholic beverages may be lawfully sold. All sales and shipments shall be for personal use only and not for resale. A case of wine shall mean any combination of packages containing not more than nine liters of wine.

(b) A wine shipper permittee that ships to addresses in the State more than 1,000 cases of wine in a calendar year must appoint at least one wholesaler to offer and sell the products of the wine shipper permittee under Article 12 of this Chapter if the wine shipper permittee is contacted by a wholesaler that wishes to sell the products of the wine shipper permittee. This provision shall not be construed to require the wine shipper permittee to appoint the wholesaler that originally contacted the wine shipper permittee. Wine purchased by a resident of the State at the premises of the wine shipper permittee

and shipped to an address in the State under G.S. 18B-109(b) shall not be included in calculating the total of 1,000 cases per year.

(c) The direct shipment of wine by wine shipper permittees made pursuant to this section shall be by approved common carrier only. Each common carrier shall apply to the Commission for approval to provide common carriage of wines shipped by holders of permits issued pursuant to this section.

Each common carrier making deliveries pursuant to this section shall:

(1) Require the recipient, upon delivery, to demonstrate that the recipient is at least 21 years of age by providing a form of identification specified in G.S. 18B-302(d)(1).

(2) Require the recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the Commission.

(3) Refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identification as required by subdivision (1) of this subsection.

(4) Submit any other information that the Commission shall require.

All wine shipper permittees shipping wines pursuant to this section shall affix a notice in 26-point type or larger to the outside of each package of wine shipped within or to the State in a conspicuous location stating: 'CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY'. Any delivery of wines to a person under 21 years of age by a common carrier shall constitute a violation of G.S. 18B-302(a)(1) by the common carrier. The common carrier and the wine shipper permittee shall be liable only for their independent acts.

(d) A wine shipper permittee shall be subject to jurisdiction of the North Carolina courts by virtue of applying for a wine shipper permit and shall comply with any audit or other compliance requirements of the Commission and the Department of Revenue."

SECTION 3. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1001.2. Additional wine shipping requirements.**

(a) A wine shipper permittee shall:

(1) Compile and submit to the Commission quarterly a summary indicating all wine products shipped, including brand and price of each product, date of each shipment, quantity of each shipment, and amount of excise and sales tax remitted to the Department of Revenue.

(2) Register with the Department of Revenue as a wine shipper permittee and provide any additional information required by the Department.

(b) The Commission may adopt rules to carry out the provisions of this section and other related provisions governing the direct shipping of wine."

SECTION 4. G.S. 18B-109 reads as rewritten:

"**§ 18B-109. Direct shipment of alcoholic beverages into State.**

(a) General Prohibition. – ~~No~~ Except as provided in G.S. 18B-1001.1, no person shall have any alcoholic beverage mailed or shipped to him from outside this State unless he has the appropriate ABC permit.

(b) Armed Forces Installation. – No person shall have malt beverages or unfortified wine shipped directly from a point outside this State to an armed forces installation within this State if those alcoholic beverages are for resale on the installation.

(c) Wine Shipper Permittees. – It is unlawful for a wine shipper permittee to ship any wines except in compliance with this Chapter and Articles 2C and 5 of Chapter 105 of the General Statutes.

(d) On-Premises Purchases. – A person who purchases wine while visiting the premises of a winery, whether located within or outside the State, may authorize the winery to ship by common carrier, or may personally ship by common carrier, the purchased wine directly to addresses in the State in amounts that can be personally transported in accordance with the laws of this State and of the state in which the winery is located. A winery shipping wine pursuant to this subsection is not required to have a wine shipper permit."

SECTION 5. G.S. 18B-1001 reads as rewritten:

"**§ 18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

...

(3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises. It also authorizes the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

a. Restaurants;
b. Hotels;
c. Eating establishments;
d. Private clubs;
e. Convention centers;
f. Cooking schools;
g. Community theatres;
h. Wineries.

(4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit may also be

issued for a winery for sale of its own unfortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

(5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. It also authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

a. Restaurants;
b. Hotels;
c. Private clubs;
d. Community theatres;
e. Wineries;
f. Convention centers.

(6) Off-Premises Fortified Wine Permit. – An off-premises fortified wine permit authorizes the retail sale of fortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for food businesses. The permit may also be issued for a winery for sale of its own fortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

..."

SECTION 6. G.S. 18B-1101(3) reads as rewritten:

"(3) Ship its wine in closed containers to individual purchasers inside and outside this ~~State;~~State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1, and 18B-1001.2 and other applicable provisions of this Chapter;".

SECTION 7. G.S. 18B-1102(3) reads as rewritten:

"(3) Ship its wine in closed containers to individual purchasers inside and outside this ~~State;~~ State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1, and 18B-1001.2 and other applicable provisions of this Chapter;".

SECTION 8. G.S. 105-113.68 is amended by adding a new subdivision to read:

"(15) 'Wine shipper permittee' means a winery that holds a wine shipper permit issued by the ABC Commission under G.S. 18B-1001.1."

SECTION 9. G.S. 105-113.73 reads as rewritten:

"**§ 105-113.73. Misdemeanor.**

Except as otherwise expressly provided, violation of a provision of ~~the ABC law~~ this Article is a Class 1 misdemeanor."

SECTION 10. G.S. 105-113.83(b) reads as rewritten:

"(b) Beer and Wine. – The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State. The excise taxes on wine levied under G.S. 105-113.80(b) shipped directly to consumers pursuant to G.S. 18B-1001.1 must be paid by the wine shipper permittee. The taxes on malt beverages and wine shall be paid only once on the same beverages. The tax shall be paid on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the ~~wholesaler or importer.~~wholesaler, importer, or wine shipper permittee. When excise taxes are paid on wine or malt beverages, the ~~wholesaler or importer~~wholesaler, importer, or wine shipper permittee shall submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report shall indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply."

SECTION 11. G.S. 105-113.84 reads as rewritten:

"**§ 105-113.84. Report of resident brewery, resident winery, ~~or nonresident vendor.~~vendor, or wine shipper permittee.**

A resident brewery, resident winery, ~~and~~ nonresident ~~vendor~~ vendor, and wine shipper permittee must file a monthly report with the Secretary. The report must list the amount of beverages delivered to North Carolina ~~wholesalers and importers~~wholesalers, importers, and purchasers under G.S. 18B-1001.1 during the month. The report is due by the 15th day of the month following the month covered by the report. The report must be filed on a form approved by the Secretary and must contain the information required by the Secretary."

SECTION 12. G.S. 105-164.3(9) reads as rewritten:

"(9) Engaged in business. – Maintaining, occupying or using permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, any office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business, for the selling or delivering of tangible personal property for storage, use or consumption in this State, or permanently or temporarily, directly or through a subsidiary, having any representative, agent, salesman, canvasser or solicitor operating in this State in such selling or delivering, and the fact that any corporate retailer, agent or subsidiary engaged in business in this State may not be legally domesticated or qualified to do business in this State is immaterial. It also means maintaining in this State, either permanently

or temporarily, directly or through a subsidiary, tangible personal property for the purpose of lease or rental. It also means making a mail order sale, as defined in this section, if one of the conditions listed in G.S. 105-164.8(b) is met. It also means the direct shipment of wine to a purchaser in this State by a wine shipper permittee under G.S. 18B-1001.1."

SECTION 13. G.S. 105-164.8(b) reads as rewritten:

"(b) Mail Order Sales. – A retailer who makes a mail order sale is engaged in business in this State and is subject to the tax levied under this Article if at least one of the following conditions is met:

(1) The retailer is a corporation engaged in business under the laws of this State or a person domiciled in, a resident of, or a citizen of, this ~~State;~~State.

(2) The retailer maintains retail establishments or offices in this State, whether the mail order sales thus subject to taxation by this State result from or are related in any other way to the activities of such establishments or ~~offices;~~offices.

(3) The retailer has representatives in this State who solicit business or transact business on behalf of the retailer, whether the mail order sales thus subject to taxation by this State result from or are related in any other way to such solicitation or transaction of ~~business;~~business.

(4) Repealed by Session Laws 1991, c. 45, s. 16.

(5) The retailer, by purposefully or systematically exploiting the market provided by this State by any media-assisted, media-facilitated, or media-solicited means, including direct mail advertising, distribution of catalogs, computer-assisted shopping, television, radio or other electronic media, telephone solicitation, magazine or newspaper advertisements, or other media, creates nexus with this ~~State;~~State.

(6) Through compact or reciprocity with another jurisdiction of the United States, that jurisdiction uses its taxing power and its jurisdiction over the retailer in support of this State's taxing ~~power; or~~power.

(7) The retailer consents, expressly or by implication, to the imposition of the tax imposed by this Article. For purposes of this subdivision, evidence that a retailer engaged in the activity described in subdivision (5) shall be prima facie evidence that the retailer consents to the imposition of the tax imposed by this Article.

(8) The retailer is a holder of a wine shipper permit issued by the ABC Commission pursuant to G.S. 18B-1001.1."

SECTION 14. G.S. 18B-1104 reads as rewritten:

"**§ 18B-1104. Authorization of brewery permit.**

The holder of a brewery permit may:

(1) Manufacture malt beverages;

(2) Purchase malt, hops and other ingredients used in the manufacture of malt beverages;

(3) Sell, deliver and ship malt beverages in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that malt beverages may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State;

(4) Receive malt beverages manufactured by the permittee in some other state for transshipment to dealers in other states;

(5) Furnish or sell marketable malt beverage products, or packages which do not conform to the manufacturer's marketing standards, if State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State;

(6) Give its products to its employees and guests for consumption on its premises;

(7) In areas where the sale is legal, sell the brewery's malt beverages at the brewery upon receiving a permit under G.S. 18B-1001(1). The brewery also may obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than ~~310,000 gallons~~50,000 barrels of malt beverages produced by it per year.

A sale or gift under subdivision (5) or (6) shall not be considered a retail or wholesale sale under the ABC laws."

SECTION 15. Sections 14 and 15 of this act are effective when it becomes law. The remainder of this act becomes effective October 1, 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

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SENATE BILL 668
Finance Committee Substitute Adopted 6/12/03
Third Edition Engrossed 6/18/03
House Committee Substitute Favorable 6/25/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S668-CSSW-62 [v.2]

7/8/2003 10:06:47 AM

Short Title: Wine Shippers Permits. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPERS PERMITS TO ALLOW THE DIRECT SHIPMENT OF WINES TO RESIDENTS OF NORTH CAROLINA AND TO ESTABLISH A MECHANISM FOR COLLECTING THE TAXES DUE ON WINE SHIPPED TO NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-902(d) reads as rewritten:

"(d) Fees. – An application for an ABC permit shall be accompanied by payment of the following application fee:

(1) On-premises malt beverage permit – $400.00.
(2) Off-premises malt beverage permit – $400.00.
(3) On-premises unfortified wine permit – $400.00.
(4) Off-premises unfortified wine permit – $400.00.
(5) On-premises fortified wine permit – $400.00.
(6) Off-premises fortified wine permit – $400.00.
(7) Brown-bagging permit – $400.00, unless the application is for a restaurant seating less than 50, in which case the fee shall be $200.00.
(8) Special occasion permit – $400.00.
(9) Limited special occasion permit – $50.00.
(10) Mixed beverages permit – $1,000.
(11) Culinary permit – $200.00.
(12) Unfortified winery permit – $300.00.
(13) Fortified winery permit – $300.00.
(14) Limited winery permit – $300.00.

(15) Brewery permit – $300.00.
(16) Distillery permit – $300.00.
(17) Fuel alcohol permit – $100.00.
(18) Wine importer permit – $300.00.
(19) Wine wholesaler permit – $300.00.
(20) Malt beverage importer permit – $300.00.
(21) Malt beverage wholesaler permit – $300.00.
(22) Bottler permit – $300.00.
(23) Salesman permit – $100.00.
(24) Vendor representative permit – $50.00.
(25) Nonresident malt beverage vendor permit – $100.00.
(26) Nonresident wine vendor permit – $100.00.
(27) Any special one-time permit under G.S. 18B-1002 – $50.00.
(28) Winery special event permit – $200.00.
(29) Mixed beverages catering permit – $200.00.
(30) Guest room cabinet permit – $1,000.
(31) Liquor importer/bottler permit – $500.00.
(32) Cider and vinegar manufacturer permit – $200.00.
(33) Brew on premises permit – $400.00.
(34) Wine producer permit – $300.00.
(35) Wine tasting permit – $100.00.
(36) Wine shipper permit – $100.00."

SECTION 2. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1001.1 Authorization of wine shipper permit.**

(a) A winery holding a federal basic wine manufacturing permit located within or outside of the State may apply to the Commission for issuance of a wine shipper permit that shall authorize the shipment of brands of fortified and unfortified wines identified in the application. A wine shipper permittee may amend the brands of wines identified in the permit application but shall file any amendment with the Commission. Any winery that applies for a wine shipper permit shall notify in writing any wholesalers that have been authorized to distribute the winery's brands within the State that an application has been filed for a wine shipper permit. A wine shipper permittee may sell and ship not more than two cases of wine per month to any person in North Carolina to whom alcoholic beverages may be lawfully sold. All sales and shipments shall be for personal use only and not for resale. A case of wine shall mean any combination of packages containing not more than nine liters of wine.

(b) A wine shipper permittee that ships to addresses in the State more than 1,000 cases of wine in a calendar year must appoint at least one wholesaler to offer and sell the products of the wine shipper permittee under Article 12 of this Chapter if the wine shipper permittee is contacted by a wholesaler that wishes to sell the products of the wine shipper permittee. This provision shall not be construed to require the wine shipper permittee to appoint the wholesaler that originally contacted the wine shipper permittee. Wine purchased by a resident of the State at the premises of the wine shipper permittee

and shipped to an address in the State under G.S. 18B-109(b) shall not be included in calculating the total of 1,000 cases per year.

(c) The direct shipment of wine by wine shipper permittees made pursuant to this section shall be by approved common carrier only. Each common carrier shall apply to the Commission for approval to provide common carriage of wines shipped by holders of permits issued pursuant to this section.

Each common carrier making deliveries pursuant to this section shall:

(1) Require the recipient, upon delivery, to demonstrate that the recipient is at least 21 years of age by providing a form of identification specified in G.S. 18B-302(d)(1).

(2) Require the recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the Commission.

(3) Refuse delivery when the proposed recipient appears to be under the age of 21 years and refuses to present valid identification as required by subdivision (1) of this subsection.

(4) Submit any other information that the Commission shall require.

All wine shipper permittees shipping wines pursuant to this section shall affix a notice in 26-point type or larger to the outside of each package of wine shipped within or to the State in a conspicuous location stating: 'CONTAINS ALCOHOLIC BEVERAGES; SIGNATURE OF PERSON AGED 21 YEARS OR OLDER REQUIRED FOR DELIVERY'. Any delivery of wines to a person under 21 years of age by a common carrier shall constitute a violation of G.S. 18B-302(a)(1) by the common carrier. The common carrier and the wine shipper permittee shall be liable only for their independent acts.

(d) A wine shipper permittee shall be subject to jurisdiction of the North Carolina courts by virtue of applying for a wine shipper permit and shall comply with any audit or other compliance requirements of the Commission and the Department of Revenue."

SECTION 3. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1001.2. Additional wine shipping requirements.**

(a) A wine shipper permittee shall:

(1) Compile and submit to the Commission quarterly a summary indicating all wine products shipped, including brand and price of each product, date of each shipment, quantity of each shipment, and amount of excise and sales tax remitted to the Department of Revenue.

(2) Register with the Department of Revenue as a wine shipper permittee and provide any additional information required by the Department.

(b) The Commission may adopt rules to carry out the provisions of this section and other related provisions governing the direct shipping of wine."

SECTION 4. G.S. 18B-109 reads as rewritten:

"**§ 18B-109. Direct shipment of alcoholic beverages into State.**

(a) General Prohibition. – ~~No~~ Except as provided in G.S. 18B-1001.1, no person shall have any alcoholic beverage mailed or shipped to him from outside this State unless he has the appropriate ABC permit.

(b) Armed Forces Installation. – No person shall have malt beverages or unfortified wine shipped directly from a point outside this State to an armed forces installation within this State if those alcoholic beverages are for resale on the installation.

(c) Wine Shipper Permittees. – It is unlawful for a wine shipper permittee to ship any wines except in compliance with this Chapter and Articles 2C and 5 of Chapter 105 of the General Statutes.

(d) On-Premises Purchases. – A person who purchases wine while visiting the premises of a winery, whether located within or outside the State, may authorize the winery to ship by common carrier, or may personally ship by common carrier, the purchased wine directly to addresses in the State in amounts that can be personally transported in accordance with the laws of this State and of the state in which the winery is located. A winery shipping wine pursuant to this subsection is not required to have a wine shipper permit."

SECTION 5. G.S. 18B-1001 reads as rewritten:

"**§ 18B-1001. Kinds of ABC permits; places eligible.**

When the issuance of the permit is lawful in the jurisdiction in which the premises are located, the Commission may issue the following kinds of permits:

...

(3) On-Premises Unfortified Wine Permit. – An on-premises unfortified wine permit authorizes the retail sale of unfortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises. It also authorizes the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

a. Restaurants;
b. Hotels;
c. Eating establishments;
d. Private clubs;
e. Convention centers;
f. Cooking schools;
g. Community theatres;
h. Wineries.

(4) Off-Premises Unfortified Wine Permit. – An off-premises unfortified wine permit authorizes the retail sale of unfortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship unfortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for retail businesses. The permit may also be

issued for a winery for sale of its own unfortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

(5) On-Premises Fortified Wine Permit. – An on-premises fortified wine permit authorizes the retail sale of fortified wine for consumption on the premises, either alone or mixed with other beverages, and the retail sale of fortified wine in the manufacturer's original container for consumption off the premises. It also authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision. The permit may be issued for any of the following:

a. Restaurants;
b. Hotels;
c. Private clubs;
d. Community theatres;
e. Wineries;
f. Convention centers.

(6) Off-Premises Fortified Wine Permit. – An off-premises fortified wine permit authorizes the retail sale of fortified wine in the manufacturer's original container for consumption off the premises and it authorizes the holder of the permit to ship fortified wine in closed containers to individual purchasers inside and outside the State. The permit may be issued for food businesses. The permit may also be issued for a winery for sale of its own fortified wine. Orders received by a winery by telephone, Internet, mail, facsimile, or other off-premises means of communication shall be shipped pursuant to a wine shipper permit and not pursuant to this subdivision.

..."

SECTION 6. G.S. 18B-1101(3) reads as rewritten:

"(3) Ship its wine in closed containers to individual purchasers inside and outside this ~~State;~~State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1, and 18B-1001.2 and other applicable provisions of this Chapter;".

SECTION 7. G.S. 18B-1102(3) reads as rewritten:

"(3) Ship its wine in closed containers to individual purchasers inside and outside this ~~State;~~ State in accordance with the provisions of G.S. 18B-1001, 18B-1001.1, and 18B-1001.2 and other applicable provisions of this Chapter;".

SECTION 8. G.S. 105-113.68 is amended by adding a new subdivision to read:

"(15) 'Wine shipper permittee' means a winery that holds a wine shipper permit issued by the ABC Commission under G.S. 18B-1001.1."

SECTION 9. G.S. 105-113.73 reads as rewritten:

"**§ 105-113.73. Misdemeanor.**

Except as otherwise expressly provided, violation of a provision of ~~the ABC law~~ this Article is a Class 1 misdemeanor."

SECTION 10. G.S. 105-113.83(b) reads as rewritten:

"(b) Beer and Wine. – The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State. The excise taxes on wine levied under G.S. 105-113.80(b) shipped directly to consumers pursuant to G.S. 18B-1001.1 must be paid by the wine shipper permittee. The taxes on malt beverages and wine shall be paid only once on the same beverages. The tax shall be paid on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the ~~wholesaler or importer.~~wholesaler, importer, or wine shipper permittee. When excise taxes are paid on wine or malt beverages, the ~~wholesaler or importer~~wholesaler, importer, or wine shipper permittee shall submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report shall indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply."

SECTION 11. G.S. 105-113.84 reads as rewritten:

"**§ 105-113.84. Report of resident brewery, resident winery, ~~or~~ nonresident ~~vendor.~~vendor, or wine shipper permittee.**

A resident brewery, resident winery, ~~and~~ nonresident ~~vendor~~ vendor, and wine shipper permittee must file a monthly report with the Secretary. The report must list the amount of beverages delivered to North Carolina ~~wholesalers and importers~~wholesalers, importers, and purchasers under G.S. 18B-1001.1 during the month. The report is due by the 15th day of the month following the month covered by the report. The report must be filed on a form approved by the Secretary and must contain the information required by the Secretary."

SECTION 12. G.S. 105-164.3(9) reads as rewritten:

"(9) Engaged in business. – Maintaining, occupying or using permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, any office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business, for the selling or delivering of tangible personal property for storage, use or consumption in this State, or permanently or temporarily, directly or through a subsidiary, having any representative, agent, salesman, canvasser or solicitor operating in this State in such selling or delivering, and the fact that any corporate retailer, agent or subsidiary engaged in business in this State may not be legally domesticated or qualified to do business in this State is immaterial. It also means maintaining in this State, either permanently

or temporarily, directly or through a subsidiary, tangible personal property for the purpose of lease or rental. It also means making a mail order sale, as defined in this section, if one of the conditions listed in G.S. 105-164.8(b) is met. It also means the direct shipment of wine to a purchaser in this State by a wine shipper permittee under G.S. 18B-1001.1."

SECTION 13. G.S. 105-164.8(b) reads as rewritten:

"(b) Mail Order Sales. – A retailer who makes a mail order sale is engaged in business in this State and is subject to the tax levied under this Article if at least one of the following conditions is met:

(1) The retailer is a corporation engaged in business under the laws of this State or a person domiciled in, a resident of, or a citizen of, this ~~State;~~State.

(2) The retailer maintains retail establishments or offices in this State, whether the mail order sales thus subject to taxation by this State result from or are related in any other way to the activities of such establishments or ~~offices;~~offices.

(3) The retailer has representatives in this State who solicit business or transact business on behalf of the retailer, whether the mail order sales thus subject to taxation by this State result from or are related in any other way to such solicitation or transaction of ~~business;~~business.

(4) Repealed by Session Laws 1991, c. 45, s. 16.

(5) The retailer, by purposefully or systematically exploiting the market provided by this State by any media-assisted, media-facilitated, or media-solicited means, including direct mail advertising, distribution of catalogs, computer-assisted shopping, television, radio or other electronic media, telephone solicitation, magazine or newspaper advertisements, or other media, creates nexus with this ~~State;~~State.

(6) Through compact or reciprocity with another jurisdiction of the United States, that jurisdiction uses its taxing power and its jurisdiction over the retailer in support of this State's taxing ~~power; or~~power.

(7) The retailer consents, expressly or by implication, to the imposition of the tax imposed by this Article. For purposes of this subdivision, evidence that a retailer engaged in the activity described in subdivision (5) shall be prima facie evidence that the retailer consents to the imposition of the tax imposed by this Article.

(8) The retailer is a holder of a wine shipper permit issued by the ABC Commission pursuant to G.S. 18B-1001.1."

SECTION 14. This act becomes effective October 1, 2003.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ House Committee Substitute for
S.B. 668 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ALCOHOLIC BEVERAGE CONTROL COMMISSION TO ISSUE WINE SHIPPERS PERMITS TO ALLOW THE DIRECT SHIPMENT OF WINES TO RESIDENTS OF NORTH CAROLINA AND TO ESTABLISH A MECHANISM FOR COLLECTING THE TAXES DUE ON WINE SHIPPED TO NORTH CAROLINA, AND TO INCREASE THE CEILING THAT A SMALL BREWERY MAY PRODUCE WITHOUT BEING REQUIRED TO GO THROUGH A MALT BEVERAGE DISTRIBUTOR.

☐ 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 the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 819

Short Title:	Use of State Prop./Blount St. Historic Dist.	(Public)
Sponsors:	Senator Rand.	
Referred to:	State Government, Local Government, and Veterans' Affairs.	

April 3, 2003

A BILL TO BE ENTITLED

AN ACT REGARDING THE USE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT.

Whereas, the North Carolina Capital Planning Commission adopted a master plan for the State government complex in Raleigh; and

Whereas, recommendations in the master plan for the Blount Street Historic District include: (i) the introduction of residential land uses, (ii) infill along Blount Street with structures equal to the quality of existing structures, (iii) the systematic removal of most State offices from the existing structures, and (iv) the adaptive reuse for private residences of structures previously used for State office space; and

Whereas, implementation of the master plan will result in (i) the moving of State offices to more efficient structures, (ii) the preservation of historical structures and the historic district, and (iii) the revitalization of the area consistent with the principles of smart growth development; and

Whereas, the adaptation of property in this area to mixed residential and business use should be accomplished by the private sector and not by State government; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Modification of the Capital Area Master Plan to provide for the sale of certain properties. – Prior to May 1, 2004, the Department of Administration and the Capital Planning Commission shall modify the Capital Area Master Plan for State Government to provide for the sale to private or public entities of State-owned properties within and adjacent to the Blount Street Historic District, an area bordered by North Person Street, Jones Street, North Wilmington Street, and Peace Street, except for the Leonidas Lafayette Polk House, on Blount Street, which shall be excluded from the sales provisions hereof. The sales shall take place at such times as the Department of Administration determines that land is no longer needed for State purposes and that it is in the best interest of the State that the land be sold.

SECTION 1.(b) Preservation or conservation agreements required on all sales. – The sale of property in this area shall be subject to preservation or conservation agreements as defined in G.S. 121-35 that ensure that the use of the property is consistent with the historic and architectural character of the district. The Historic Preservation Foundation of North Carolina, Inc., shall be a party to all preservation or conservation agreements entered into pursuant to this act. The Historic Preservation Foundation of North Carolina, Inc., is authorized to enforce such agreements in accordance with G.S. 121-39.

SECTION 1.(c) Procedures for the sale of properties. – Due to (i) the significant architectural, archaeological, artistic, cultural, or historical associations of these properties, (ii) the properties' relationship to other property that is significant for architectural, archaeological, artistic, cultural, or historical associations, and (iii) the requirement that a preservation agreement or conservation agreement as defined in G.S. 121-35 is placed in the deed conveying said property from the State, these properties shall be sold by private negotiation and sale, and all such sales shall be approved by the State Property Office.

When a property available for sale is not to be sold and used as a private residence, advertisement of the availability of that property for sale shall occur at least 45 days prior to any private negotiations for the sale of that property. Also, an announcement of the terms of the proposed sale and an opportunity for public comment on the proposed sale shall occur at least 45 days prior to the sale.

When a property available for sale is to be sold and used as a private residence, advertisement of the availability of that property for sale shall occur at least 45 days prior to any private negotiations for the sale of that property. The property may then be sold without a 45-day public comment period.

The Department of Administration shall use the services of the Historic Preservation Foundation of North Carolina, Inc., to assist it in the administration of this act.

SECTION 2. Use of the net proceeds of sales. – The net proceeds of any sale made in accordance with this act shall be handled in the following priority order:

(1) The funds shall be used in accordance with the provisions of any trust or other instrument of title under which title to the real property was acquired by the State. The term "net proceeds" means the gross amount received from the sale of any such property less any expenses incurred incident to that sale, subject to regulations adopted by the Governor and approved by the Council of State.

(2) The next ten million dollars ($10,000,000) of the funds shall be placed in a special trust fund in the Department of State Treasurer, hereinafter to be held in trust and used solely for the upkeep, repair, and maintenance of State-owned properties not to be sold hereunder and located within the Blount Street Historic District. The State Treasurer, as custodian of the special trust fund, shall authorize the use of interest earned by the special trust fund only for such purposes approved by the Governor and the Secretary of Cultural Resources. The State

Treasurer shall authorize the use of the principal only as authorized by the General Assembly and approved by the Governor and the Secretary of Cultural Resources.

(3) The remainder of the funds shall be deposited in the General Fund.

SECTION 3.(a) Establishment of the Blount Street Historic District Oversight Committee. – The Blount Street Historic District Oversight Committee is established in the Office of the Governor.

SECTION 3.(b) Membership of the Committee. – The Committee shall consist of six members appointed as follows:

(1) Two members appointed by the Governor, one of whom shall be a person with experience in urban planning;

(2) Two members appointed by the President Pro Tempore of the Senate, one of whom shall be a person with experience in historic preservation; and

(3) Two members appointed by the Speaker of the House of Representatives, one of whom shall be a resident of Historic Oakwood in Raleigh.

In making initial appointments to the Committee, the appointing officers shall designate one appointee to serve for a term of four years ending July 1, 2007, and one a term of six years ending July 1, 2009. Subsequent terms shall be for four years. A member shall continue to serve until the member's successor is appointed. A vacancy shall be filled for the remainder of the term by the officer who made the original appointment.

In making all appointments, the appointing officer shall consider the unique historic and architectural nature of the area and shall appoint people who are dedicated to preserving it.

SECTION 3.(c) Purpose of the Committee. – The purpose of the Committee shall be to monitor the implementation of this act.

SECTION 4. Implementation plan for this act. – Prior to September 1, 2003, the Department of Administration shall submit to the Blount Street Historic District Oversight Committee a plan for the implementation of this act and a schedule for implementation of the plan. The plan shall provide for the sale of any property that is vacant for more than three months. The plan may also provide for the sale of property in separate parcels.

SECTION 5. G.S. 143B-79 reads as rewritten:

"**§ 143B-79.** Executive Mansion Fine Arts Committee – creation, powers and duties.

There is hereby created the Executive Mansion Fine Arts Committee. The Executive Mansion Fine Arts Committee shall have the following functions and duties:

(1) To advise the Secretary of Cultural Resources on the preservation and maintenance of the Executive Mansion located at 200 North Blount Street, Raleigh, North Carolina;

(2) To encourage gifts and objects of art, furniture and articles of historical value for furnishing the Executive Mansion, and advise the

Secretary of Cultural Resources on major changes in the furnishings of the Mansion;

(3) To make recommendations to the Secretary of Cultural Resources concerning major renovations necessary to preserve and maintain the structure;

(4) To aid the Secretary of Cultural Resources in keeping a complete list of all gifts and articles received together with their history and value;

(4a) To advise the Secretary of Cultural Resources on the use of funds from the special trust fund held in trust by the State Treasurer for the upkeep, repair, and maintenance of State-owned property located within the Blount Street Historic District to the extent that such funds are to be used for the upkeep, repair, and maintenance of the Executive Mansion. These funds shall not be expended without the approval of the Committee;

(5) No gifts or articles shall be accepted for the Executive Mansion without the approval of the Committee;

(6) The Committee shall advise the Secretary of Cultural Resources upon any matter the Secretary may refer to it; and

(7) The Committee may dispose of property held in the Executive Mansion after consultation with a review committee comprised of one person from the Executive Mansion Fine Arts Committee, appointed by its chairman; one person from the Department of Administration appointed by the Secretary of Administration; and two qualified professionals from the Department of Cultural Resources, Division of Archives and History, appointed by the Secretary of Cultural Resources. Upon request of the Executive Mansion Fine Arts Committee, the review committee will view proposed items for disposition and make a recommendation to the North Carolina Historical Commission who will make a final decision. The Historical Commission must consider whether the disposition is in the best interest of the State of North Carolina. If such property is sold, (i) if the records with regard to the property reflect that it was acquired by the State by gift or devise the net proceeds of each such sale shall be deposited in the State Treasury to the credit of the Executive Mansion, Special Fund, and shall be used only for the purchase, conservation, restoration or repair of other property for use in the Executive Mansion and; (ii) if the records with regard to the property reflect that the property was acquired by the State by purchase with appropriated funds or do not show the manner of acquisition, the net proceeds of such sale shall be deposited in the General Fund."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 819
PROPOSED HOUSE COMMITTEE SUBSTITUTE S819-PCS65305-LB-65

Short Title: Use of State Prop./Blount St. Historic Dist. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT REGARDING THE SALE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT.

Whereas, the North Carolina Capital Planning Commission adopted a master plan for the State government complex in Raleigh; and

Whereas, recommendations in the master plan for the Blount Street Historic District include: (i) the introduction of residential land uses, (ii) infill along Blount Street with structures equal to the quality of existing structures, (iii) the systematic removal of most State offices from the existing structures, and (iv) the adaptive reuse for private residences of structures previously used for State office space; and

Whereas, implementation of the master plan will result in (i) the moving of State offices to more efficient structures, (ii) the preservation of historical structures and the historic district, and (iii) the revitalization of the area consistent with the principles of smart growth development; and

Whereas, the adaptation of property in this area to mixed residential and business use should be accomplished by the private sector and not by State government; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Modification of the Capital Area Master Plan to provide for the sale of certain properties. – Prior to May 1, 2004, the Department of Administration and the Capital Planning Commission shall modify the Capital Area Master Plan for State Government to provide for the sale to private or public entities of State-owned properties within and adjacent to the Blount Street Historic District, an area bordered by North Person Street, Jones Street, North Wilmington Street, and Peace Street, except for the Governor's Mansion, the Archives and History Building, the State Records Center, the Bath Building, and the Leonidas Lafayette Polk House, which shall be excluded from the sales provisions hereof. The Department of Administration is authorized to sell any such property pursuant to Chapter 146 of the General Statutes, and such sale shall

take place at the time the Department determines that a property is no longer needed for State purposes and that it is in the best interest of the State to sell that property.

SECTION 1.(b) Preservation or conservation agreements required on all sales. – The sale of property in this area shall be subject to preservation or conservation agreements as defined in G.S. 121-35 that ensure that the use of the property is consistent with the historic and architectural character of the district.

SECTION 1.(c) Procedures for the sale of properties. – Due to (i) the significant architectural, archaeological, artistic, cultural, or historical associations of these properties, (ii) the properties' relationship to other property that is significant for architectural, archaeological, artistic, cultural, or historical associations, and (iii) the requirement that a preservation agreement or conservation agreement as defined in G.S. 121-35 is placed in the deed conveying said property from the State, these properties shall be sold by private negotiation and sale, and all such sales shall be approved by the State Property Office.

Property sold pursuant to this act shall be sold in accordance with the procedures set forth in G.S. 146-27 through G.S. 146-29.

SECTION 1.(d) Funds to implement the sales process. – Of the funds available to the Department of Administration, the Department may use up to three hundred thousand dollars ($300,000) to implement the provisions of this act.

SECTION 2. Use of the net proceeds of sales. – The net proceeds of any sale made in accordance with this act shall be handled in the following priority order:

(1) In accordance with the provisions of any trust or other instrument of title under which title to the real property was acquired by the State. The term "net proceeds" means the gross amount received from the sale of any such property less any expenses incurred incident to that sale, subject to regulations adopted by the Governor and approved by the Council of State.

(2) To reimburse the Department of Administration for any funds expended pursuant to Section 1(d) of this act.

(3) For the relocation of displaced State offices and for the upkeep, repair, and maintenance of the Executive Mansion. Authorized relocation expenses include ancillary facilities such as parking. Funds used under this subdivision for leasing space are only available for five years. If fifteen million dollars ($15,000,000) or more is received, then ten million dollars ($10,000,000) of the funds shall be placed in a special trust fund in the Department of State Treasurer, hereinafter to be held in trust and used solely for the upkeep, repair, and maintenance of the Executive Mansion. If less than fifteen million dollars ($15,000,000) is received, then two-thirds of the funds shall be used for the Executive Mansion as provided in this subdivision. The State Treasurer, as custodian of the special trust fund, shall authorize the use of interest earned by the special trust fund only for such purposes approved by the Executive Mansion Fine Arts Committee and the Secretary of Cultural Resources. The State Treasurer shall authorize the use of the

principal only as authorized by the General Assembly and approved by the Executive Mansion Fine Arts Committee. The State Treasurer shall promptly report expenditures from the special trust fund to the General Assembly.

(4) The remainder not needed under subdivisions (1) through (3) of this subsection shall be placed in a separate special trust fund in the Department of State Treasurer for the upkeep, repair, and maintenance of State-owned properties other than the Executive Mansion that are located within the Blount Street Historic District and are not sold under this act. The State Treasurer, as custodian of the special trust fund, shall authorize the use of interest earned by the separate special trust fund only for such purposes approved by the Secretary of Cultural Resources. The State Treasurer shall authorize the use of the principal only as authorized by the General Assembly. The State Treasurer shall promptly report expenditures from the separate special trust fund to the General Assembly.

(5) The remainder not needed under subdivisions (1) through (4) of this subsection shall be placed in the General Fund.

SECTION 3.(a) Establishment of the Blount Street Historic District Oversight Committee. – The Blount Street Historic District Oversight Committee is established in the Office of the Governor.

SECTION 3.(b) Membership of the Committee. – The Committee shall consist of eight members appointed as follows:

(1) The State Historic Preservation Officer, or a person designated by that officer, ex officio.

(2) Two members appointed by the Governor, one of whom shall be a person with experience in urban planning.

(3) Two members appointed by the President Pro Tempore of the Senate, one of whom shall be a person with experience in historic preservation.

(4) Two members appointed by the Speaker of the House of Representatives, one of whom shall be a resident of Historic Oakwood in Raleigh.

(5) One member, appointed by the Mayor of the City of Raleigh.

In making initial appointments to the Committee, the appointing officers shall designate one appointee to serve for a term of four years ending July 1, 2007, and one appointee to serve a term of six years ending July 1, 2009. Subsequent terms shall be for four years. A member shall continue to serve until the member's successor is appointed. A vacancy resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

In making all appointments, the appointing officer shall consider the unique historic and architectural nature of the area and shall appoint people who are dedicated to preserving it.

The Governor may remove any member of the Committee from office in accordance with the provisions of G.S. 143B-16.

A majority of the Committee shall constitute a quorum for the transaction of business. The Governor shall appoint the chair and vice-chair from among the Committee's membership. The State Historic Preservation Officer shall serve as secretary of the Committee. The members of the Committee shall serve without pay and without expense allowance.

SECTION 3.(c) Purpose of the Committee. – The purpose of the Committee shall be to monitor the implementation of this act.

SECTION 4. Implementation plan for this act. – Prior to September 1, 2004, the Department of Administration shall submit to the Blount Street Historic District Oversight Committee a plan for the implementation of this act and a schedule for implementation of the plan. The plan may provide for the sale of property in separate parcels or in its entirety.

SECTION 5. G.S. 143B-79 reads as rewritten:

"**§ 143B-79.** Executive Mansion Fine Arts Committee – creation, powers and duties.

There is hereby created the Executive Mansion Fine Arts Committee. The Executive Mansion Fine Arts Committee shall have the following functions and duties:

(1) To advise the Secretary of Cultural Resources on the preservation and maintenance of the Executive Mansion located at 200 North Blount Street, Raleigh, North Carolina;

(2) To encourage gifts and objects of art, furniture and articles of historical value for furnishing the Executive Mansion, and advise the Secretary of Cultural Resources on major changes in the furnishings of the Mansion;

(3) To make recommendations to the Secretary of Cultural Resources concerning major renovations necessary to preserve and maintain the structure;

(4) To aid the Secretary of Cultural Resources in keeping a complete list of all gifts and articles received together with their history and value;

(4a) To advise the Secretary of Cultural Resources on the use of funds from the special trust fund held in trust by the State Treasurer for the upkeep, repair, and maintenance of State-owned property located within the Blount Street Historic District to the extent that such funds are to be used for the upkeep, repair, and maintenance of the Executive Mansion. These funds shall not be expended without the approval of the Committee;

(5) No gifts or articles shall be accepted for the Executive Mansion without the approval of the Committee;

(6) The Committee shall advise the Secretary of Cultural Resources upon any matter the Secretary may refer to it; and

(7) The Committee may dispose of property held in the Executive Mansion after consultation with a review committee comprised of one person from the Executive Mansion Fine Arts Committee, appointed

by its chairman; one person from the Department of Administration appointed by the Secretary of Administration; and two qualified professionals from the Department of Cultural Resources, Division of Archives and History, appointed by the Secretary of Cultural Resources. Upon request of the Executive Mansion Fine Arts Committee, the review committee will view proposed items for disposition and make a recommendation to the North Carolina Historical Commission who will make a final decision. The Historical Commission must consider whether the disposition is in the best interest of the State of North Carolina. If such property is sold, (i) if the records with regard to the property reflect that it was acquired by the State by gift or devise the net proceeds of each such sale shall be deposited in the State Treasury to the credit of the Executive Mansion, Special Fund, and shall be used only for the purchase, conservation, restoration or repair of other property for use in the Executive Mansion and; (ii) if the records with regard to the property reflect that the property was acquired by the State by purchase with appropriated funds or do not show the manner of acquisition, the net proceeds of such sale shall be deposited in the General Fund."

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

VISITOR REGISTRATION SHEET

Rules — 7/8/03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Ben Kuhn	H.H York McDaniels & Hicks
Michelle Frazier	NC Bar Ass'n
Barbara Conaway	MFSS
Cam Cole	BPMHL
Mark Francis	NCSBA
Molly Ryan	NCSBA
Brenda Shedlock	CCPS
Sharol Stephens	DENR
Michael Houser	NCAE
Lisa Correll	
Donna Pigott	NCVAN
John Gray	Rep. Miner
Adam Hildemere	NCASA
Tim Mistr	N C Home Builders
Rick Zechini	NC Assoc. of REALTORS
Henry Jones	Attorney - Raleigh
C. Meares	Rep. Kiser
Mark Dixon	Capitol Group
Rev. Mark Creech	CAL
Jim Wilson	NCRA - Retail
Michael Crowell	NC Beer & Wine Wholesalers
Susan Valaur	Nationwide
Jim Ayers	Ayers Associates
George Mittapo	DOA
John McAlister	Duke Energy
Tom Mahood	Ayers Group
Fran Perry	Capitol Group

VISITOR REGISTRATION SHEET

Rules — 7/8/03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Steve Mitchell	Novartis Pharmaceuticals Corp.
John Bowdish	AstraZeneca
Brian Shanks	" "
Bobby Page	~~STOC Property~~
Jaha Kamaguet	NCSOS
Monsa Rowland	DCR
Julie Allen	NC Statewatch
John Mattucci	Gov Office
ERIC TJALMA	STATE PROPERTY
[illegible]	CWMTF
Lisa Page	Conservation Council
Koz Sennett	NRCA
[illegible]	[illegible]
Patrice Rankin	NCACC
[illegible]	SBE
[illegible]	NCTR
JOHN GOODMAN	MERCER & ASSOC.
DAVID BARNES	Poyner Spruill LLP
BILL SCOGGIN	ECLH
KEN McHONE	Alley Associates, INC
[illegible]	EC
Tony Adams	NCOAA
BRIAN LEWIS	Planned Parenthood
EDDIE CALDWELL	Hofer + Caldwell, PA
MIKE ROBERTSON	NCALE
[illegible]	NC Beer & Wine Wholesalers
[illegible]	ECWS

VISITOR REGISTRATION SHEET

Rules — 7/8/03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Elizabeth Dalton	Bond & Assoc.
Benson	
Ronald Williams	NCHBA
Anne Wilson	
Jim Johnson	FRD
Susan Harrison	LCR&S
Deanne Winnier	NCSBA

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 9, 2003
1:05 P.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

SENATE BILL 819 – AN ACT REGARDING THE USE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT

COMMITTEE SUBSTITUTE FOR SENATE BILL 965 – AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT CLEAR PROCEEDS OF ALL CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY ARE REMITTED TO THE CIVIL PENALTY AND FORFEITURE FUND AND FAITHFULLY USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS

COMMITTEE SUBSTITUTE FOR SENATE BILL 568 – AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO MAKE THE SUPERINTENDENT OF PUBLIC INSTRUCTION AN APPOINTEE OF THE GOVERNOR AND TO MAKE CORRESPONDING STATUTORY CHANGES

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

July 9, 2003

The Committee on Rules, Calendar and Operations of the House met on July 9, 2003 at 1:05 p.m. in Room 421 of the Legislative Office Building. All members of the committee were present.

The following bills were considered:

SENATE BILL 819 – AN ACT REGARDING THE USE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT. The bill was considered on June 3rd, and no vote was taken. Discussion continued on a new proposed House committee substitute. Representative Ross was recognized to speak on the bill. Her remarks were generally the same as those she made at the June 3rd meeting. Bobby Poole, General Real Estate Manager of the State Property Office. was then recognized and spoke in favor of the bill. Representative Owens objected to the proceeds from the sale of the Blount Street property being used for the upkeep, repair and maintenance of the Executive Mansion. He stated that ample money is available for this purpose and sent forward an amendment. Following discussion, he withdrew that amendment and sent forward another amendment (copy attached) and moved for its adoption. The motion passed. He then moved that the amendment be incorporated into a new House committee substitute, that the new committee substitute be given a favorable report, unfavorable to the original bill. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 965 – AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT CLEAR PROCEEDS OF ALL CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY ARE REMITTED TO THE CIVIL PENALTY AND FORFEITURE FUND AND FAITHFULLY USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS. A proposed House committee substitute was offered, and Representative Crawford moved for its adoption. Without objection, the chairman so ordered. Dianna Jessup, staff attorney, explained that the differences between the proposed committee substitute and the original bill were mostly stylistic. Section 4, however, changes when the next statewide election would be held. Senator Dalton was then recognized to explain the bill. He stated that the bill calls for a vote on a constitutional amendment to clarify the disposition of civil fines and forfeitures. Representative Luebke moved for a favorable report for the proposed House committee substitute, unfavorable to the Senate committee substitute. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 568 – AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO MAKE THE SUPERINTENDENT OF PUBLIC INSTRUCTION AN APPOINTEE OF THE GOVERNOR AND TO MAKE CORRESPONDING STATUTORY CHANGES. Senator Gulley, sponsor, was recognized and stated that he thinks the bill would improve accountability in state

government. He asked for a favorable report. Representative Luebke opposed the bill. Joanne Norris, representing the Public School Forum; Leanne Winner, speaking for the North Carolina School Boards Association; and Linda Suggs, speaking for the North Carolina State Board of Education, supported the bill. Michael Hauser, representing the North Carolina Association of Educators, spoke in opposition.
No vote was taken.

The meeting adjourned at 1:50 p.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 819

Short Title:	Use of State Prop./Blount St. Historic Dist.	(Public)
Sponsors:	Senator Rand.	
Referred to:	State Government, Local Government, and Veterans' Affairs.	

April 3, 2003

A BILL TO BE ENTITLED

AN ACT REGARDING THE USE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT.

Whereas, the North Carolina Capital Planning Commission adopted a master plan for the State government complex in Raleigh; and

Whereas, recommendations in the master plan for the Blount Street Historic District include: (i) the introduction of residential land uses, (ii) infill along Blount Street with structures equal to the quality of existing structures, (iii) the systematic removal of most State offices from the existing structures, and (iv) the adaptive reuse for private residences of structures previously used for State office space; and

Whereas, implementation of the master plan will result in (i) the moving of State offices to more efficient structures, (ii) the preservation of historical structures and the historic district, and (iii) the revitalization of the area consistent with the principles of smart growth development; and

Whereas, the adaptation of property in this area to mixed residential and business use should be accomplished by the private sector and not by State government; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Modification of the Capital Area Master Plan to provide for the sale of certain properties. – Prior to May 1, 2004, the Department of Administration and the Capital Planning Commission shall modify the Capital Area Master Plan for State Government to provide for the sale to private or public entities of State-owned properties within and adjacent to the Blount Street Historic District, an area bordered by North Person Street, Jones Street, North Wilmington Street, and Peace Street, except for the Leonidas Lafayette Polk House, on Blount Street, which shall be excluded from the sales provisions hereof. The sales shall take place at such times as the Department of Administration determines that land is no longer needed for State purposes and that it is in the best interest of the State that the land be sold.

SECTION 1.(b) Preservation or conservation agreements required on all sales. – The sale of property in this area shall be subject to preservation or conservation agreements as defined in G.S. 121-35 that ensure that the use of the property is consistent with the historic and architectural character of the district. The Historic Preservation Foundation of North Carolina, Inc., shall be a party to all preservation or conservation agreements entered into pursuant to this act. The Historic Preservation Foundation of North Carolina, Inc., is authorized to enforce such agreements in accordance with G.S. 121-39.

SECTION 1.(c) Procedures for the sale of properties. – Due to (i) the significant architectural, archaeological, artistic, cultural, or historical associations of these properties, (ii) the properties' relationship to other property that is significant for architectural, archaeological, artistic, cultural, or historical associations, and (iii) the requirement that a preservation agreement or conservation agreement as defined in G.S. 121-35 is placed in the deed conveying said property from the State, these properties shall be sold by private negotiation and sale, and all such sales shall be approved by the State Property Office.

When a property available for sale is not to be sold and used as a private residence, advertisement of the availability of that property for sale shall occur at least 45 days prior to any private negotiations for the sale of that property. Also, an announcement of the terms of the proposed sale and an opportunity for public comment on the proposed sale shall occur at least 45 days prior to the sale.

When a property available for sale is to be sold and used as a private residence, advertisement of the availability of that property for sale shall occur at least 45 days prior to any private negotiations for the sale of that property. The property may then be sold without a 45-day public comment period.

The Department of Administration shall use the services of the Historic Preservation Foundation of North Carolina, Inc., to assist it in the administration of this act.

SECTION 2. Use of the net proceeds of sales. – The net proceeds of any sale made in accordance with this act shall be handled in the following priority order:

(1) The funds shall be used in accordance with the provisions of any trust or other instrument of title under which title to the real property was acquired by the State. The term "net proceeds" means the gross amount received from the sale of any such property less any expenses incurred incident to that sale, subject to regulations adopted by the Governor and approved by the Council of State.

(2) The next ten million dollars ($10,000,000) of the funds shall be placed in a special trust fund in the Department of State Treasurer, hereinafter to be held in trust and used solely for the upkeep, repair, and maintenance of State-owned properties not to be sold hereunder and located within the Blount Street Historic District. The State Treasurer, as custodian of the special trust fund, shall authorize the use of interest earned by the special trust fund only for such purposes approved by the Governor and the Secretary of Cultural Resources. The State

Treasurer shall authorize the use of the principal only as authorized by the General Assembly and approved by the Governor and the Secretary of Cultural Resources.

(3) The remainder of the funds shall be deposited in the General Fund.

SECTION 3.(a) Establishment of the Blount Street Historic District Oversight Committee. – The Blount Street Historic District Oversight Committee is established in the Office of the Governor.

SECTION 3.(b) Membership of the Committee. – The Committee shall consist of six members appointed as follows:

(1) Two members appointed by the Governor, one of whom shall be a person with experience in urban planning;

(2) Two members appointed by the President Pro Tempore of the Senate, one of whom shall be a person with experience in historic preservation; and

(3) Two members appointed by the Speaker of the House of Representatives, one of whom shall be a resident of Historic Oakwood in Raleigh.

In making initial appointments to the Committee, the appointing officers shall designate one appointee to serve for a term of four years ending July 1, 2007, and one a term of six years ending July 1, 2009. Subsequent terms shall be for four years. A member shall continue to serve until the member's successor is appointed. A vacancy shall be filled for the remainder of the term by the officer who made the original appointment.

In making all appointments, the appointing officer shall consider the unique historic and architectural nature of the area and shall appoint people who are dedicated to preserving it.

SECTION 3.(c) Purpose of the Committee. – The purpose of the Committee shall be to monitor the implementation of this act.

SECTION 4. Implementation plan for this act. – Prior to September 1, 2003, the Department of Administration shall submit to the Blount Street Historic District Oversight Committee a plan for the implementation of this act and a schedule for implementation of the plan. The plan shall provide for the sale of any property that is vacant for more than three months. The plan may also provide for the sale of property in separate parcels.

SECTION 5. G.S. 143B-79 reads as rewritten:

"**§ 143B-79.** Executive Mansion Fine Arts Committee – creation, powers and duties.

There is hereby created the Executive Mansion Fine Arts Committee. The Executive Mansion Fine Arts Committee shall have the following functions and duties:

(1) To advise the Secretary of Cultural Resources on the preservation and maintenance of the Executive Mansion located at 200 North Blount Street, Raleigh, North Carolina;

(2) To encourage gifts and objects of art, furniture and articles of historical value for furnishing the Executive Mansion, and advise the

Secretary of Cultural Resources on major changes in the furnishings of the Mansion;

(3) To make recommendations to the Secretary of Cultural Resources concerning major renovations necessary to preserve and maintain the structure;

(4) To aid the Secretary of Cultural Resources in keeping a complete list of all gifts and articles received together with their history and value;

(4a) To advise the Secretary of Cultural Resources on the use of funds from the special trust fund held in trust by the State Treasurer for the upkeep, repair, and maintenance of State-owned property located within the Blount Street Historic District to the extent that such funds are to be used for the upkeep, repair, and maintenance of the Executive Mansion. These funds shall not be expended without the approval of the Committee;

(5) No gifts or articles shall be accepted for the Executive Mansion without the approval of the Committee;

(6) The Committee shall advise the Secretary of Cultural Resources upon any matter the Secretary may refer to it; and

(7) The Committee may dispose of property held in the Executive Mansion after consultation with a review committee comprised of one person from the Executive Mansion Fine Arts Committee, appointed by its chairman; one person from the Department of Administration appointed by the Secretary of Administration; and two qualified professionals from the Department of Cultural Resources, Division of Archives and History, appointed by the Secretary of Cultural Resources. Upon request of the Executive Mansion Fine Arts Committee, the review committee will view proposed items for disposition and make a recommendation to the North Carolina Historical Commission who will make a final decision. The Historical Commission must consider whether the disposition is in the best interest of the State of North Carolina. If such property is sold, (i) if the records with regard to the property reflect that it was acquired by the State by gift or devise the net proceeds of each such sale shall be deposited in the State Treasury to the credit of the Executive Mansion, Special Fund, and shall be used only for the purchase, conservation, restoration or repair of other property for use in the Executive Mansion and; (ii) if the records with regard to the property reflect that the property was acquired by the State by purchase with appropriated funds or do not show the manner of acquisition, the net proceeds of such sale shall be deposited in the General Fund."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 819
PROPOSED HOUSE COMMITTEE SUBSTITUTE S819-PCS65329-LB-79

Short Title: Use of State Prop./Blount St. Historic Dist. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT REGARDING THE SALE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT.

Whereas, the North Carolina Capital Planning Commission adopted a master plan for the State government complex in Raleigh; and

Whereas, recommendations in the master plan for the Blount Street Historic District include: (i) the introduction of residential land uses, (ii) infill along Blount Street with structures equal to the quality of existing structures, (iii) the systematic removal of most State offices from the existing structures, and (iv) the adaptive reuse for private residences of structures previously used for State office space; and

Whereas, implementation of the master plan will result in (i) the moving of State offices to more efficient structures, (ii) the preservation of historical structures and the historic district, and (iii) the revitalization of the area consistent with the principles of smart growth development; and

Whereas, the adaptation of property in this area to mixed residential and business use should be accomplished by the private sector and not by State government; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) Modification of the Capital Area Master Plan to provide for the sale of certain properties. – Prior to May 1, 2004, the Department of Administration and the Capital Planning Commission shall modify the Capital Area Master Plan for State Government to provide for the sale to private or public entities of State-owned properties within and adjacent to the Blount Street Historic District, an area bordered by North Person Street, Jones Street, North Wilmington Street, and Peace Street, except for the Governor's Mansion, the Archives and History Building, the State Records Center, the Bath Building, and the Leonidas Lafayette Polk House, which shall be excluded from the sales provisions hereof. The Department of Administration is authorized to sell any such property pursuant to Chapter 146 of the General Statutes, and such sale shall

take place at the time the Department determines that a property is no longer needed for State purposes and that it is in the best interest of the State to sell that property.

SECTION 1.(b) Preservation or conservation agreements required on all sales. – The sale of property in this area shall be subject to preservation or conservation agreements as defined in G.S. 121-35 that ensure that the use of the property is consistent with the historic and architectural character of the district.

SECTION 1.(c) Procedures for the sale of properties. – Due to (i) the significant architectural, archaeological, artistic, cultural, or historical associations of these properties, (ii) the properties' relationship to other property that is significant for architectural, archaeological, artistic, cultural, or historical associations, and (iii) the requirement that a preservation agreement or conservation agreement as defined in G.S. 121-35 is placed in the deed conveying said property from the State, these properties shall be sold by private negotiation and sale, and all such sales shall be approved by the State Property Office.

Property sold pursuant to this act shall be sold in accordance with the procedures set forth in G.S. 146-27 through G.S. 146-29.

SECTION 1.(d) Funds to implement the sales process. – Of the funds available to the Department of Administration, the Department may use up to three hundred thousand dollars ($300,000) to implement the provisions of this act.

SECTION 2. Use of the net proceeds of sales. – The net proceeds of any sale made in accordance with this act shall be handled in the following priority order:

(1) In accordance with the provisions of any trust or other instrument of title under which title to the real property was acquired by the State. The term "net proceeds" means the gross amount received from the sale of any such property less any expenses incurred incident to that sale, subject to regulations adopted by the Governor and approved by the Council of State.

(2) To reimburse the Department of Administration for any funds expended pursuant to Section 1(d) of this act.

(3) For the relocation of displaced State offices as provided in this subdivision and for the upkeep, repair, and maintenance of the Executive Mansion. Authorized relocation expenses include ancillary facilities such as parking. Relocation shall only be to other State-owned office space, or to leased space under a lease whose term does not exceed five years, including any renewals. Funds used under this subdivision for leasing space are only available for five years. If fifteen million dollars ($15,000,000) or more is received, then ten million dollars ($10,000,000) of the funds shall be placed in a special trust fund in the Department of State Treasurer, hereinafter to be held in trust and used solely for the upkeep, repair, and maintenance of the Executive Mansion. If less than fifteen million dollars ($15,000,000) is received, then two-thirds of the funds shall be used for the Executive Mansion as provided in this subdivision. The State Treasurer, as custodian of the special trust fund, shall authorize the use of interest

earned by the special trust fund only for such purposes as approved by the Executive Mansion Fine Arts Committee. The Executive Mansion Fine Arts Committee shall report to the Joint Legislative Commission on Governmental Operations any expenditures within 30 days of approving them. The State Treasurer shall authorize the use of the principal only as authorized by the General Assembly. The State Treasurer shall promptly report expenditures from the special trust fund to the Joint Legislative Commission on Governmental Operations.

(4) The remainder not needed under subdivisions (1) through (3) of this section up to five million dollars ($5,000,000) shall be placed in a separate special trust fund in the Department of State Treasurer for the upkeep, repair, and maintenance of State-owned properties other than the Executive Mansion that are located within the Blount Street Historic District and are not sold under this act. The State Treasurer, as custodian of the special trust fund, shall authorize the use of interest earned by the separate special trust fund only for such purposes approved by the General Assembly. The State Treasurer shall authorize the use of the principal only as authorized by the General Assembly. The State Treasurer shall promptly report expenditures from the separate special trust fund to the Joint Legislative Commission on Governmental Operations.

(5) The remainder not needed under subdivisions (1) through (4) of this section shall be placed in the General Fund.

SECTION 3.(a) Establishment of the Blount Street Historic District Oversight Committee. – The Blount Street Historic District Oversight Committee is established in the Office of the Governor.

SECTION 3.(b) Membership of the Committee. – The Committee shall consist of eight members appointed as follows:

(1) The State Historic Preservation Officer, or a person designated by that officer, ex officio.

(2) Two members appointed by the Governor, one of whom shall be a person with experience in urban planning.

(3) Two members appointed by the President Pro Tempore of the Senate, one of whom shall be a person with experience in historic preservation.

(4) Two members appointed by the Speaker of the House of Representatives, one of whom shall be a resident of Historic Oakwood in Raleigh.

(5) One member, appointed by the Mayor of the City of Raleigh.

In making initial appointments to the Committee, the appointing officers shall designate one appointee to serve for a term of four years ending July 1, 2007, and one appointee to serve a term of six years ending July 1, 2009. Subsequent terms shall be for four years. A member shall continue to serve until the member's successor is appointed.

A vacancy resulting from the resignation of a member or otherwise shall be filled in the same manner in which the original appointment was made, and the term shall be for the balance of the unexpired term.

In making all appointments, the appointing officer shall consider the unique historic and architectural nature of the area and shall appoint people who are dedicated to preserving it.

The Governor may remove any member of the Committee from office in accordance with the provisions of G.S. 143B-16.

A majority of the Committee shall constitute a quorum for the transaction of business. The Governor shall appoint the chair and vice-chair from among the Committee's membership. The State Historic Preservation Officer shall serve as secretary of the Committee. The members of the Committee shall serve without pay and without expense allowance.

SECTION 3.(c) Purpose of the Committee. – The purpose of the Committee shall be to monitor the implementation of this act.

SECTION 4. Implementation plan for this act. – Prior to September 1, 2004, the Department of Administration shall submit to the Blount Street Historic District Oversight Committee a plan for the implementation of this act and a schedule for implementation of the plan. The plan may provide for the sale of property in separate parcels or in its entirety.

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(2) To encourage gifts and objects of art, furniture and articles of historical value for furnishing the Executive Mansion, and advise the Secretary of Cultural Resources on major changes in the furnishings of the Mansion;

(3) To make recommendations to the Secretary of Cultural Resources concerning major renovations necessary to preserve and maintain the structure;

(4) To aid the Secretary of Cultural Resources in keeping a complete list of all gifts and articles received together with their history and value;

(4a) To advise the Secretary of Cultural Resources on the use of funds from the special trust fund held in trust by the State Treasurer for the upkeep, repair, and maintenance of State-owned property located within the Blount Street Historic District to the extent that such funds are to be used for the upkeep, repair, and maintenance of the Executive Mansion. These funds shall not be expended without the approval of the Committee;

(5) No gifts or articles shall be accepted for the Executive Mansion without the approval of the Committee;

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(7) The Committee may dispose of property held in the Executive Mansion after consultation with a review committee comprised of one person from the Executive Mansion Fine Arts Committee, appointed by its chairman; one person from the Department of Administration appointed by the Secretary of Administration; and two qualified professionals from the Department of Cultural Resources, Division of Archives and History, appointed by the Secretary of Cultural Resources. Upon request of the Executive Mansion Fine Arts Committee, the review committee will view proposed items for disposition and make a recommendation to the North Carolina Historical Commission who will make a final decision. The Historical Commission must consider whether the disposition is in the best interest of the State of North Carolina. If such property is sold, (i) if the records with regard to the property reflect that it was acquired by the State by gift or devise the net proceeds of each such sale shall be deposited in the State Treasury to the credit of the Executive Mansion, Special Fund, and shall be used only for the purchase, conservation, restoration or repair of other property for use in the Executive Mansion and; (ii) if the records with regard to the property reflect that the property was acquired by the State by purchase with appropriated funds or do not show the manner of acquisition, the net proceeds of such sale shall be deposited in the General Fund."

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

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 819 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) OWENS
Sen.)

moves to amend the bill on page 2, line 30

(~~) WHICH CHANGES THE TITLE~~

by through page 3, line 22, by deleting the lines;

and in page 3, line 23, by deleting "(1) through (4)" and substituting "(1) and (2)" & and by deleting "(5)" and substituting "(3)";

and in page 4, lines 21, through page 5, line 26, by deleting the lines, and renumbering the remaining sections accordingly.

SIGNED W. C. Owens Jr.

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.B. 819 A BILL TO BE ENTITLED AN ACT REGARDING THE SALE OF STATE-OWNED PROPERTY IN THE BLOUNT STREET HISTORIC DISTRICT.

☐ 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 the House committee substitute bill, unfavorable as to the original bill.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S **2**

SENATE BILL 965
Judiciary II Committee Substitute Adopted 4/16/03

Short Title: Amend Constitution/Sch. Fines & Forfeitures. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT CLEAR PROCEEDS OF ALL CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY ARE REMITTED TO THE CIVIL PENALTY AND FORFEITURE FUND AND FAITHFULLY USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of Article IX of the North Carolina Constitution reads as rewritten:

"**Sec. 7. County school fund.**

All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all ~~penalties and forfeitures and of all~~ criminal penalties, criminal forfeitures, and criminal fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools."

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

"**Sec. 7A. Civil Penalty and Forfeiture Fund.**

All monies belonging to the Civil Penalty and Forfeiture Fund and the clear proceeds of all civil penalties, civil forfeitures, and civil fines collected by a State agency shall belong to and remain in the Civil Penalty and Forfeiture Fund and shall be faithfully appropriated by the General Assembly to the counties and used exclusively for maintaining free public schools as provided by statute."

SECTION 3. G.S. 115C-437 reads as rewritten:

"**§ 115C-437. Allocation of revenues to the local school administrative unit by the county.**

Revenues accruing to the local school administrative unit by virtue of Article IX, Sec. 7, of the Constitution and taxes levied by or on behalf of the local school

administrative unit pursuant to a local act or G.S. 115C-501 to 115C-511 shall be remitted to the school finance officer by the officer having custody thereof within 10 days after the close of the calendar month in which the revenues were received or collected. The clear proceeds of all ~~penalties and forfeitures and of all~~ criminal penalties, criminal forfeitures, and criminal fines collected for any breach of the penal laws of the State, as referred to in Article IX, Sec. 7 of the Constitution, shall include the full amount of all criminal penalties, criminal forfeitures or criminal fines collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected. Revenues appropriated to the local school administrative unit by the board of county commissioners from general county revenues shall be made available to the school finance officer by ~~such~~ procedures ~~as may be~~ that are mutually agreeable to the board of education and the board of county commissioners, but if no ~~such~~ agreement is reached, these funds shall be remitted to the school finance officer by the county finance officer in monthly installments sufficient to meet its lawful expenditures from the county appropriation until the county appropriation to the local school administrative unit is exhausted. Each installment shall be paid not later than 10 days after the close of each calendar month. When revenue has been appropriated to the local school administrative unit by the board of county commissioners from funds ~~which~~ that carry specific restrictions binding upon the county as recipient, the board of commissioners ~~must~~ shall inform the local school administrative unit in writing of those restrictions."

SECTION 4. G.S. 115C-457.1 reads as rewritten:

"**§ 115C-457.1. Creation of Fund; administration.**

(a) There is created the Civil Penalty and Forfeiture Fund. The Fund shall consist of the clear proceeds of all civil ~~penalties and civil forfeitures~~penalties, civil forfeitures, and civil fines that are collected by a State agency and are payable to the ~~County School Fund~~ Civil Penalty and Forfeiture Fund pursuant to Article IX, ~~Section 7~~ Section 7A of the Constitution.

(b) The Fund shall be administered by the Office of State Budget and Management. The Fund and all interest accruing to the Fund shall be faithfully used exclusively for maintaining free public schools."

SECTION 5. G.S. 115C-457.2 reads as rewritten:

"**§ 115C-457.2. Remittance of ~~moneys~~ monies to the Fund.**

The clear proceeds of all civil ~~penalties and civil forfeitures~~penalties, civil forfeitures, and civil fines that are collected by a State agency and are payable to the ~~County School Fund~~ Civil Penalty and Forfeiture Fund pursuant to Article IX, ~~Section 7~~ Section 7A of the Constitution shall be remitted to the Office of State Budget and Management by the officer having custody of the funds within 10 days after the close of the calendar month in which the revenues were received or collected. Notwithstanding any other law, all funds which are civil penalties or civil forfeitures within the meaning of Article IX, ~~Section 7~~Section 7A of the Constitution shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of ~~such~~ these funds include the full amount of all ~~such penalties and forfeitures~~ civil penalties, civil forfeitures, and civil

fines collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected."

SECTION 6. The amendments set out in Section 1 and Section 2 of this act shall be submitted to the qualified voters of the State at a statewide general election on November 4, 2003, 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 to provide that clear proceeds of all civil penalties, civil forfeitures, and civil fines collected by a State agency are remitted to the Civil Penalty and Forfeiture Fund and faithfully used exclusively for maintaining free public schools as provided by statute."

SECTION 7. If a majority of votes cast on the question are in favor of the amendments set out in Section 1 and Section 2 of this act, the State Board of Elections shall certify the amendments to the Secretary of State. The Secretary of State shall enroll the amendments so certified among the permanent records of that office. The amendments set out in Section 1 and Section 2 of this act shall become effective July 1, 2004.

SECTION 8. Sections 3, 4, and 5 of this act become effective only if the voters approve the constitutional amendments set out in Section 1 and Section 2 of this act. If the voters approve the constitutional amendments, Sections 3, 4, and 5 of this act shall become effective July 1, 2004.

SECTION 9. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 965

Judiciary II Committee Substitute Adopted 4/16/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S965-PCS35342-LB-88

Short Title: Amend Constitution/Sch. Fines & Forfeitures. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT THE GENERAL ASSEMBLY MAY PLACE THE CLEAR PROCEEDS OF CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY IN A STATE FUND TO BE USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of Article IX of the North Carolina Constitution reads as rewritten:

"**Sec. 7. County school ~~fund.~~fund; State fund for certain moneys.**

(a) ~~All~~ Except as provided in subsection (b) of this section, all moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

(b) The General Assembly may place in a State fund the clear proceeds of all civil penalties, forfeitures, and fines which are collected by State agencies and which belong to the public schools pursuant to subsection (a) of this section. Moneys in such State fund shall be faithfully appropriated by the General Assembly, on a per pupil basis, to the counties or to local school units, to be used exclusively for maintaining free public schools."

SECTION 2. G.S. 115C-457.1 reads as rewritten:

"**§ 115C-457.1. Creation of Fund; administration.**

(a) There is created the Civil Penalty and Forfeiture Fund. The Fund shall consist of the clear proceeds of all civil ~~penalties and civil forfeitures~~penalties, civil forfeitures, and civil fines that are collected by a State agency and ~~are payable to the County School~~

~~Fund~~ that the General Assembly is authorized to place in a State fund pursuant to Article IX, ~~Section 7~~ Section 7(b) of the Constitution.

(b) The Fund shall be administered by the Office of State Budget and Management. The Fund and all interest accruing to the Fund shall be faithfully used exclusively for maintaining free public schools."

SECTION 3. G.S. 115C-457.2 reads as rewritten:

"**§ 115C-457.2. Remittance of moneys to the Fund.**

The clear proceeds of all civil ~~penalties and civil forfeitures~~penalties, civil forfeitures, and civil fines that are collected by a State agency and ~~are payable to the County School Fund~~ that the General Assembly is authorized to place in a State fund pursuant to Article IX, ~~Section 7~~ Section 7(b) of the Constitution shall be remitted to the Office of State Budget and Management by the officer having custody of the funds within 10 days after the close of the calendar month in which the revenues were received or collected. Notwithstanding any other law, ~~all funds which are civil penalties or civil forfeitures within the meaning of Article IX, Section 7 of the Constitution~~all such funds shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of ~~such~~ these funds include the full amount of all ~~such penalties and forfeitures~~ civil penalties, civil forfeitures, and civil fines collected under authority conferred by the State, diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected."

SECTION 4. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the next statewide election, primary or otherwise, 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 to provide that the General Assembly may place the clear proceeds of civil penalties, civil forfeitures, and civil fines collected by a State agency in a State fund to be used exclusively for maintaining free public schools."

SECTION 5. 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. The amendment set out in Section 1 of this act shall become effective July 1, 2004.

SECTION 6. Sections 2 and 3 of this act become effective only if the voters approve the constitutional amendment set out in Section 1 of this act. If the voters approve the constitutional amendment, Sections 2 and 3 of this act shall become effective July 1, 2004.

SECTION 7. This act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 965 A BILL TO BE ENTITLED AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT CLEAR PROCEEDS OF ALL CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY ARE REMITTED TO THE CIVIL PENALTY AND FORFEITURE FUND AND FAITHFULLY USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 568

Judiciary I Committee Substitute Adopted 4/17/03

Short Title: Superintendent of Pub. Instruction Appointed. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO MAKE THE SUPERINTENDENT OF PUBLIC INSTRUCTION AN APPOINTEE OF THE GOVERNOR AND TO MAKE CORRESPONDING STATUTORY CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Section 4(2) of Article IX of the North Carolina Constitution reads as rewritten:

"(2) **Superintendent of Public Instruction.** The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education. The Superintendent shall be appointed by the Governor."

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

"(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 and every four years thereafter, at the same time and places as members of the General Assembly are 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."

SECTION 3. G.S. 115C-18 reads as rewritten:

"**§ 115C-18. ~~Election~~ Appointment of Superintendent of Public Instruction.**

The Superintendent of Public Instruction shall be appointed by the Governor. ~~elected by the qualified voters of the State in 1972 and every four years thereafter at the same time and places as members of the General Assembly are elected. His term of office shall be four years and shall commence on the first day of January next after election and continue until his successor is elected and qualified.~~

~~If the office of the Superintendent of Public Instruction 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 that occurs more than 30 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in Article III, Sec. 7 of the Constitution of North Carolina. When a vacancy occurs in the office 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. Upon the occurrence of a vacancy in the office for any of the causes stated herein, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to Article III, Sec. 7 of the Constitution of North Carolina to fill the vacancy and is qualified.~~

~~The time of the election of the Superintendent of Public Instruction shall be in accordance with the provisions of Article 1 of Subchapter I of Chapter 163 of the General Statutes.~~

~~The election, term and induction into office of the Superintendent of Public Instruction shall be in accordance with the provisions of G.S. 147-4.~~"

SECTION 4. G.S. 147-3(c) reads as rewritten:

"(c) The general civil executive officers of this State are as follows:

(1) A Governor;
(2) A Lieutenant Governor;
(3) Private secretary for the Governor;
(4) A Secretary of State;
(5) An Auditor;
(6) A Treasurer;
(7) An Attorney General;
~~(8) A Superintendent of Public Instruction;~~
(9) The members of the Governor's Council;
(10) A Commissioner of Agriculture;
(11) A Commissioner of Labor;
(12) A Commissioner of Insurance."

SECTION 5. G.S. 147-4 reads as rewritten:

"**§ 147-4. Executive officers – election; term; induction into office.**

The executive department shall consist of a Governor, a Lieutenant Governor, a Secretary of State, an Auditor, a Treasurer, ~~a Superintendent of Public Instruction,~~ an Attorney General, a Commissioner of Agriculture, a Commissioner of Insurance, and a Commissioner of Labor, who shall be elected for a term of four years, by the qualified electors of the State, at the same time and places, and in the same manner, as members of the General Assembly are elected. Their term of office shall commence on the first day of January next after their election and continue until their successors are elected and qualified. The persons having the highest number of votes, respectively, shall be declared duly elected, but if two or more be equal and highest in votes for the same office, then one of them shall be chosen by joint ballot of both houses of the General Assembly. Contested elections shall be determined by a joint ballot of both houses of the General Assembly in such manner as shall be prescribed by law."

SECTION 6. G.S. 147-11.1 reads as rewritten:

"**§ 147-11.1. Succession to office of Governor; Acting Governor.**

(a) Lieutenant Governor. –

(1) The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.

(2) During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting Governor. The further order of succession as Acting Governor shall be prescribed by law.

(b) President of Senate, Speaker of the House and Other Officers. –

(1) If, by reason of failure to qualify, death, resignation, or removal from office, there is neither a Governor nor a Lieutenant Governor to discharge the powers and duties of the office of Governor, then the President of the Senate shall, upon his resignation as President of the Senate and as Senator, become Governor.

(2) If, at the time when under subdivision (1) of this subsection the President of the Senate is to become Governor, there is no President of the Senate, or the President of the Senate fails to qualify as Governor, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative, become Governor.

(3) If, at the time when under subdivision (2) of this subsection the Speaker of the House of Representatives is to become Governor, there is no Speaker of the House of Representatives, or the Speaker of the House of Representatives fails to qualify as Governor, then that officer of the State of North Carolina who is highest on the following list, and who is not under disability to serve as Governor, shall, upon his resignation of the office which places him in the order of succession, become Governor: Secretary of State, Auditor, Treasurer, ~~Superintendent of Public Instruction,~~ Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance.

(c) Acting Governor Generally. –

(1) If, by reason of absence from the State or physical or mental incapacity, there is neither a Governor nor a Lieutenant Governor qualified to discharge the powers and duties of the office of Governor, then the President of the Senate shall become Acting Governor.

(2) If, at the time when under subdivision (1) of this subsection the President of the Senate is to become Acting Governor, there is no President of the Senate, or the President of the Senate fails to qualify

as Acting Governor, then the Speaker of the House of Representatives shall become Acting Governor.

(3) If, at the time when under subdivision (2) of this subsection the Speaker of the House of Representatives is to become Acting Governor, there is no Speaker of the House of Representatives, or the Speaker of the House of Representatives fails to qualify as Acting Governor, then that officer of the State of North Carolina who is highest on the following list, and who is not under disability to serve as Acting Governor, shall become Acting Governor: Secretary of State, Auditor, Treasurer, ~~Superintendent of Public Instruction,~~ Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance.

(d) Governor Serving under Subsection (c). – An individual serving as Acting Governor under subsection (c) of this section shall continue to act for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified, except that:

(1) If his tenure as Acting Governor is founded in whole or in part upon the absence of both the Governor and Lieutenant Governor from the State, then he shall act only until the Governor or Lieutenant Governor returns to the State; and

(2) If his tenure as Acting Governor is founded in whole or in part upon the physical or mental incapacity of the Governor or Lieutenant Governor, then he shall act only until the removal of the incapacity of the Governor or Lieutenant Governor.

(e) Officers to Which Subsections (b), (c) and (d) Applicable. – Subsections (b), (c), and (d) of this section shall apply only to such officers as are eligible to the office of Governor under the Constitution of North Carolina, and only to officers who are not under impeachment by the House of Representatives at the time they are to become Governor or Acting Governor.

(f) Compensation of Acting Governor. – During the period that any individual serves as Acting Governor under subsection (c) of this section, his compensation shall be at the rate then provided by law in the case of the Governor."

SECTION 7. G.S. 163-1 is amended by deleting the entries in the table for "Superintendent of Public Instruction".

SECTION 8. G.S. 163-8 reads as rewritten:

"**§ 163-8. Filling vacancies in State executive offices.**

If the office of Governor or Lieutenant Governor shall become vacant, the provisions of G.S. 147-11.1 shall apply. If the office of any of the following officers shall be vacated by death, resignation, or otherwise than by expiration of term, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified: Secretary of State, Auditor, Treasurer, ~~Superintendent of Public Instruction,~~ Attorney General, Commissioner of Agriculture, Commissioner of Labor, and Commissioner of Insurance. Each such vacancy shall be filled by election at the first election for members of the General Assembly 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 four-year term: Provided, that when a vacancy occurs in any of the offices 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.

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 acting officer to perform the duties of that office until a person is appointed or elected pursuant to this section and Article III, Section 7 of the State Constitution, to fill the vacancy and is qualified."

SECTION 9. G.S. 163-278.27(b) reads as rewritten:

"(b) Whenever the Board has knowledge of or has reason to believe there has been a violation of any section of this Article, it shall report that fact, together with accompanying details, to the following prosecuting authorities:

(1) In the case of a candidate for nomination or election to the State Senate or State House of Representatives: report to the district attorney of the prosecutorial district in which the candidate for nomination or election resides;

(2) In the case of a candidate for nomination or election to the office of Governor, Lieutenant Governor, Secretary of State, State Auditor, State Treasurer, ~~State Superintendent of Public Instruction,~~ State Attorney General, State Commissioner of Agriculture, State Commissioner of Labor, State Commissioner of Insurance, and all other State elective offices, Justice of the Supreme Court, Judge of the Court of Appeals, judge of a superior court, judge of a district court, and district attorney of the superior court: report to the district attorney of the prosecutorial district in which Wake County is located;

(3) In the case of an individual other than a candidate, including, without limitation, violations by members of political committees, referendum committees or treasurers: report to the district attorney of the prosecutorial district in which the individual resides; and

(4) In the case of a person or any group of individuals: report to the district attorney or district attorneys of the prosecutorial district or districts in which any of the officers, directors, agents, employees or members of the person or group reside."

SECTION 10. The amendments set out in Sections 1 and 2 of this act shall be submitted to the qualified voters of the State at a statewide general election on November 4, 2003, 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 to make the Superintendent of Public Instruction an appointee of the Governor."

SECTION 11. If a majority of votes cast on the question are in favor of the amendments set out in Sections 1 and 2 of this act, the State Board of Elections shall certify the amendments to the Secretary of State. The Secretary of State shall enroll the amendments so certified among the permanent records of that office. The amendments set out in Sections 1 and 2 of this act shall become effective the earlier of January 1, 2005, and the date that a vacancy occurs in the office of Superintendent of Public Instruction. The amendments set out in Sections 1 and 2 of this act shall also apply to the 2004 election.

SECTION 12. Sections 3 through 9 of this act become effective only if the voters approve the constitutional amendments set out in Sections 1 and 2 of this act. If the voters approve the constitutional amendments, Sections 3 through 9 of this act shall become effective on the earlier of January 1, 2005, and the date that a vacancy occurs in the office of Superintendent of Public Instruction. If the voters approve the constitutional amendments, Sections 3 through 9 of this act shall also apply to the 2004 election.

SECTION 13. This act is effective when it becomes law.

SENATE BILL 568:
Superintendent of Pub. Instruction Appointed.

BILL ANALYSIS

Committee:	House Rules	**Introduced by:**	Senator Gulley
Date:	July 9, 2003	**Summary by:**	William R. Gilkeson
Version:	Second Edition		Staff Attorney

SUMMARY: Senate Bill 568 would propose to the voters a constitutional amendment to make the State Superintendent of Public Instruction an appointee of the Governor, rather than an elected member of the Council of State. The referendum on the amendment would be held November 4, 2003, the same day that many cities have their municipal elections. If the voters approved the amendment, there would be no election for Superintendent in 2004, and the first appointed Superintendent would be named in 2005, unless the office became vacant earlier.

CURRENT LAW: The North Carolina Constitution provides for a State Board of Education with 13 members: the Lieutenant Governor, the State Treasurer, and 11 members to be appointed by the Governor and confirmed by the General Assembly. The Constitution gives the State Board the duty to "supervise and administer the free public school system and the educations funds provided for its support, . . ."

The Constitution also provides for an elected Superintendent of Public Instruction, whose job is to be "the secretary and chief administrative officer of the State Board of Education." The Superintendent is a member of the Council of State. The Superintendent is to be elected for a four-year term at the same time as the Governor.

BILL ANALYSIS: Senate Bill 568 would propose to the voters a Constitutional Amendment to make the Superintendent of Public Instruction an office appointed by the Governor. Legislative confirmation would not be required. *Sections 1 and 2 of the bill.*

The referendum would be held November 4, 2003. That is the same day that many cities have their municipal elections, but in unincorporated parts of the State there will not necessarily be another election that day. *Section 10.*

The language on the ballot would be FOR or AGAINST "*Constitutional amendments to make the Superintendent of Public Instruction an appointee of the Governor.*" *Section 10.*

If approved by the voters, the amendments would be effective January 1, 2005, or whenever the office of Superintendent becomes vacant, whichever is earlier. *Section 11.*

The remaining sections of the bill are statutory conforming changes.

VISITOR REGISTRATION SHEET

RULES — 9 JUL 03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
[illegible]	Public School Forum
Linda Suggs	SBE
Ann McArthur	Governor's Office
Donna Rosefield	DCR
[illegible]	CWMTF
Susan Harrison	WCPSS
BRIAN SHANK	ASTRAZENECA
Lee-Ann Col	LCGR
[illegible]	[illegible]
[illegible]	Hunton & Williams
John McHugh	Gov office
Molly Ryan	NCSBA
[illegible]	NC Rail Trails
[illegible]	STATE PROPERTY OFFICE
Bob Poole	State Property Office
[illegible]	[illegible] Electric Cities
DAVID BARNES	Poyner & Spruill LLP
ELLIS HANKINS	NCLM
Tom DAVIS	GUIRST
Michelle Frazier	NC Bar Ass'n
Barbara Cansler	MFSS
[illegible]	NCMS
[illegible]	NCRA - Red Oak
EDDIE CALDWELL	Hafer & Caldwell, P.A.
CASANDRA SKINNER	CCPS
[illegible]	Smith Anderson
[illegible]	Bone & Associates

VISITOR REGISTRATION SHEET

7/9/03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
CHRISTOPHER MEARS	REP. KISER
Carolyn Justice (east)	Rep.
[illegible]	Capitol Drugs
Paula A. Wolf.	Covenant w/ NC's Children
[illegible]	" " "
REBECCA 6 PARKER	NC JUSTICE CENTER
RICK ZECHINI	NC ASSOC. OF REALTORS (R)
Andy Ellen	NCRMA
Martha [illegible]	NCDAICS
[illegible]	[illegible]
MICHAEL CROWELL	LAWYER, RALEIGH
Leanne Winner	NCSBA
Beau Mills	ARCA
Evelyn Hawthorne	DHGR
Jim Dolan	FRD
[illegible]	NCFPC
[illegible]	NC Beach
SEN WIB GURLEY	NC SENATE
BILL HALE	JORDAN PRICE
KATHIE AUSTIN	FRD
John McAlister	Duke Energy
[illegible]	VMCIC

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 15, 2003
8:40 A.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL 1194 – AN ACT TO CREATE THE "E-NC" AUTHORITY TO CONTINUE THE WORK OF THE RURAL INTERNET ACCESS AUTHORITY

SENATE BILL 805 AN ACT TO PROVIDE FOR THE CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS WITHIN STATE GOVERNMENT, AS RECOMMENDED BY THE GOVERNOR'S COMMISSION TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS ON STATE SPENDING

COMMITTEE SUBSTITUTE FOR SENATE BILL 831 – AN ACT TO PROVIDE FOR IMPROVED STAGGERED TERMS OF THE MEMBERS OF THE CLEAN WATER MANAGEMENT FUND BOARD OF TRUSTEES, TO INCREASE THE NUMBER OF MEMBERS OF THE BOARD, AND TO MAKE APPOINTMENTS TO THE BOARD

COMMITTEE SUBSTITUTE FOR SENATE BILL 317 – AN ACT PROVIDING FOR A TWO-YEAR MORATORIUM ON ANNEXATIONS INTO THE COUNTY OF CABARRUS BY MUNICIPALITIES LOCATED PRIMARILY OUTSIDE THE COUNTY

COMMITTEE SUBSTITUTE FOR SENATE 561 – AN ACT TO ELIMINATE THE REQUIREMENT THAT NOTICES OF LEGISLATIVE MEETINGS BE POSTED ON THE PRESS ROOM DOOR AND REPLACING IT WITH A REQUIREMENT OF ELECTRONIC POSTING

HOUSE RESOLUTION 1336 – A HOUSE RESOLUTION TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

July 15, 2003

The Committee on Rules, Calendar and Operations of the House met on July 15, 2003 at 8:40 a.m. in Room 421 of the Legislative Office Building. The following members were present: Representative Culpepper, Chairman; Hackney, Vice Chairman; Brubaker, Church, Crawford, Gorman, Hill, Justus, Miller, Owens, Setzer, Sherrill and Yongue.

The following bills were considered:

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL 1194 – AN ACT TO CREATE THE "E-NC" AUTHORITY TO CONTINUE THE WORK OF THE RURAL INTERNET ACCESS AUTHORITY. The bill was back from the Senate on the issue of concurrence. Representative Tolson, sponsor, was recognized and asked that the committee recommend that the House concur with the Senate committee substitute. Representative Brubaker had concerns about the bill and made a motion that the committee recommend that the House do not concur and that conferees be appointed. The motion carried.

SENATE BILL 805 – AN ACT TO PROVIDE FOR THE CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS WITHIN STATE GOVERNMENT, AS RECOMMENDED BY THE GOVERNOR'S COMMISSION TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS ON STATE SPENDING. Senator Rand, sponsor, was recognized and withdrew the bill from consideration. He stated that the bill should be sent to a study commission, directing that a report be made by February 15, 2004. The chairman complied with the request and withdrew the bill.

COMMITTEE SUBSTITUTE FOR SENATE BILL 831 – AN ACT TO PROVIDE FOR IMPROVED STAGGERED TERMS OF THE MEMBERS OF THE CLEAN WATER MANAGEMENT FUND BOARD OF TRUSTEES, TO INCREASE THE NUMBER OF MEMBERS OF THE BOARD, AND TO MAKE APPOINTMENTS TO THE BOARD. A proposed House committee substitute was offered, and Representative Crawford moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. The chairman noted the appointments made by Speaker Black and Speaker Morgan. George Givens, staff attorney, stated that the bill increases the number of members on the Board of Trustees, makes specific staggered terms of the members, makes appointments upon the recommendation of the President Pro Tempore of the Senate and the Speakers, and changes the effective date. Representative Owens made a motion that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 317 – AN ACT PROVIDING FOR A TWO-YEAR MORATORIUM ON ANNEXATIONS INTO THE COUNTY OF CABARRUS BY MUNICIPALITIES LOCATED PRIMARILY OUTSIDE THE COUNTY. A proposed House committee substitute changing the title to AN ACT TO PROVIDE FOR A TWO-YEAR MORATORIUM ON ANNEXATIONS INTO THE COUNTY OF CABARRUS

BY MUNICIPALITIES LOCATED PRIMARILY OUTSIDE THE COUNTY AND TO ADD TERRITORY TO THE ECONOMIC DEVELOPMENT ZONE WHERE THERE IS A MORATORIUM ON ANNEXATION, and Representative Setzer moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Senator Hartsell, sponsor, was recognized and recommended the proposed House committee substitute. A technical amendment was offered by Representative Yongue who moved for its adoption. The motion passed. Representative Brubaker moved that the amendment be incorporated into another proposed House committee substitute and that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute.

COMMITTEE SUBSTITUTE FOR SENATE 561 – AN ACT TO ELIMINATE THE REQUIREMENT THAT NOTICES OF LEGISLATIVE MEETINGS BE POSTED ON THE PRESS ROOM DOOR AND REPLACING IT WITH A REQUIREMENT OF ELECTRONIC POSTING. A proposed House committee substitute changing the title to AN ACT TO ELIMINATE THE REQUIREMENT THAT NOTICE OF LEGISLATIVE MEETINGS BE POSTED ON THE PRESS ROOM DOOR; TO SUBSTITUTE A REQUIREMENT OF MAILING AND ELECTRONIC POSTING OF THE MEETING NOTICE, AND TO REQUIRE APPOINTING AUTHORITIES TO PROVIDE ADDITIONAL INFORMATION REGARDING APPOINTEES TO CERTAIN STATE COMMISSIONS, COUNCILS, COMMITTEES, AND BOARDS. Representative Brubaker moved for adoption of the proposed House committee substitute for the purpose of discussion. Without objection, the chairman so ordered. Dianna Jessup, staff attorney, was recognized and explained the proposed committee substitute. Representative Gorman moved that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion passed.

HOUSE RESOLUTION 1336 – A HOUSE RESOLUTION TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES. A proposed committee substitute was offered, and Representative Yongue moved for its adoption. The motion passed. The chairman requested Representative Gorman to preside so that he, as sponsor, could present the proposed committee substitute. He stated that Estelle Lee and James Daniels were named as the persons to be elected. He moved that the resolution not be adopted, but the committee substitute resolution be adopted.

The meeting adjourned at 9:05 a.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 5

HOUSE BILL 1194

Committee Substitute Favorable 4/24/03
Third Edition Engrossed 4/30/03
Senate Information Technology Committee Substitute Adopted 6/26/03
Fifth Edition Engrossed 7/8/03

Short Title: Establish e-NC Authority. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE THE "E-NC" AUTHORITY TO CONTINUE THE WORK OF THE RURAL INTERNET ACCESS AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 2F. e-NC Initiative.

"**§ 143B-437.44. Legislative findings.**

The General Assembly finds that:

(1) The North Carolina Rural Internet Advisory Authority (RIAA) was created by the General Assembly in S.L. 2000-149 and, in large measure, successfully accomplished the goals set forth for the RIAA and then dissolved as required by law.

(2) An organized effort must continue to ensure that the citizens of North Carolina keep pace with the ever faster technological changes in telecommunications and information networks in order to assure the economic competitiveness of North Carolina with special focus on rural and urban distressed areas.

(3) Affordable, high-speed Internet access is a key competitive factor for economic development and quality of life in the New Economy of the global marketplace.

(4) High-speed Internet access and the broadband applications it delivers are the necessary platforms that will support development of emerging technology-based sectors of great economic promise, for example, biotechnology and nanotechnology, as well as the continued competitiveness of traditional industries.

(5) The intent of the e-NC Authority is to continue and conclude the work of the North Carolina Rural Internet Access Authority, as specified in G.S. 143B-347.47.

"**§ 143B-437.45. Definitions.**

The following definitions apply in this Part:

(1) Authority. – The e-NC Authority.

(2) Commission. – The governing body of the Authority.

(3) High-speed broadband Internet access. – Internet access with transmission speeds that are consistent with requirements for high-speed broadband Internet access as defined by the Federal Communications Commission from time to time.

(4) Rural county. – A county with a density of fewer than 250 people per square mile based on the 2000 United States decennial census.

(5) Distressed urban areas. – Areas where at least one of the following requirements is met: (i) more than ten percent (10%) of children enrolled in public schools meet the requirements for the Food Stamp Program of the United States Department of Agriculture, (ii) ten percent (10%) of the citizens meet the TANF guidelines of the United States Department of Health and Human Services, or (iii) twenty-five percent (25%) of the children in the public school district meet the requirements for a federal government-sponsored free lunch.

(6) Regional Partnerships. – As defined in G.S. 143B-437.21(6).

"**§ 143B-437.46. e-NC Authority.**

(a) Creation. – The e-NC Authority is created within the Department of Commerce for organizational and budgetary purposes only, and the Commission shall exercise all of its statutory authority under this Part independent of the control of the Department of Commerce. The functions of the Secretary of Commerce are ministerial and shall be performed only pursuant to the direction and policy of the Commission.

The purpose of the Authority is to manage, oversee, promote, and monitor efforts to provide rural counties and distressed urban areas with high-speed broadband Internet access. The Authority shall also serve as the central rural and urban distressed areas Internet access policy planning body of the State and shall communicate and coordinate with State, regional, and local agencies and private entities in order to continue the development and facilitation of a coordinated Internet access policy for the citizens of North Carolina.

(b) Commission. – The Authority shall be governed by a Commission. The Commission shall consist of nine voting members and six voting ex officio members, as follows:

(1) Three members appointed by the Governor.

(2) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(3) Three members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(4) Six ex officio, voting members to include the Secretary of Commerce, the State Chief Information Officer, the President of the North Carolina Rural Economic Development Center, Inc., the Executive Director of the North Carolina Justice and Community Development Center, the Executive Director of the North Carolina League of Municipalities, the Executive Director of the North Carolina Association of County Commissioners, or their designees.

It is the intent of the General Assembly that the appointing authorities, in making appointments, shall consider members who represent the geographic, gender, and racial diversity of the State, members who represent rural counties, members who represent distressed urban areas, members who represent the regional partnerships, and members who represent the communications industry. For the purpose of this subsection, the term "communications industry" includes local telephone exchange companies, rural telephone cooperatives, Internet service providers, commercial wireless communications carriers, cable television companies, satellite companies, and other communications businesses.

(c) Oath. – As the holder of an office, each member of the Commission shall take the oath required by Section 7 of Article VI of the North Carolina Constitution before assuming the duties of a Commission member.

(d) Terms; Commencement; Staggering. – Except as provided in subsection (f) of this section, all terms of office shall commence on January 1, 2004. Each appointing officer shall designate one appointee to serve a one-year term. Members may serve up to four consecutive one-year terms. The appointing officers shall designate their remaining appointees to serve three-year terms. Members may serve up to two consecutive three-year terms.

(e) Chair. – The Governor shall designate one of the members appointed by the Governor as the Chair of the Commission.

(f) Vacancies. – All members of the Commission shall remain in office until their successors are appointed and qualify. A vacancy in an appointment made by the Governor shall be filled by the Governor for the remainder of the unexpired term. A vacancy in an appointment made by the General Assembly shall be filled in accordance with G.S. 120-122. A person appointed to fill a vacancy shall qualify in the same manner as a person appointed for a full term.

(g) Removal of Commission Members. – The Governor may remove any member of the Commission for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13(d). The Governor or the person who appointed a member may remove the member for using improper influence in accordance with G.S. 143B-13(c).

(h) Compensation of the Commission. – No part of the revenues or assets of the Authority shall inure to the benefit of or be distributable to the members of the Commission or officers or other private persons. The members of the Commission shall

receive no salary for their services but may receive per diem and allowances in accordance with G.S. 138-5.

(i) Staff. – The North Carolina Rural Economic Development Center, Inc., shall provide administrative and professional staff support for the Authority under contract.

(j) Conflicts of Interest. – Members of the Authority shall comply with the provisions of G.S. 14-234 prohibiting conflicts of interest. In addition, if any member, officer, or employee of the Authority is interested either directly or indirectly, or is an officer or employee of or has an ownership interest in any firm or corporation, not including units of local government, interested directly or indirectly, in any contract with the Authority, the member, officer, or employee shall disclose the interest to the Commission, which shall set forth the disclosure in the minutes of the Commission. The member, officer, or employee having an interest may not participate on behalf of the Authority in the authorization of any contract.

"**§ 143B-437.47. Powers, duties, and goals of the Authority.**

(a) Powers. – The Authority shall have the following powers:

(1) To employ, contract with, direct, and supervise all personnel and consultants.

(2) To apply for, accept, and utilize grants, contributions, and appropriations in order to carry out its duties and goals as defined in this Part.

(3) To enter into contracts and to provide support and assistance to local governments, nonprofit entities, for-profit entities, regional partnerships, and business and technology centers in carrying out its duties and goals under this Part.

(4) To review and recommend changes in all laws, rules, programs, and policies of this State or any agency or subdivision thereof to further the goals of rural and distressed urban area Internet access.

(b) Duties. – The Authority shall have the following duties:

(1) To monitor and safeguard the investments made and contracts negotiated by the Rural Internet Access Authority in carrying out its functions under S.L. 2000-149 until such time as all contracts negotiated by the RIAA are complete.

(2) To maintain a web site with accurate, current, and complete information about the availability of present telecommunications and Internet services with periodic updates on the deployment of new telecommunications and broadband Internet services, as well as information on public access sites and digital literacy training programs in North Carolina.

(3) To continue efforts to ensure that high-speed broadband Internet access remains available to every citizen of North Carolina at affordable prices in rural counties and urban distressed areas.

(4) To attract and coordinate funding of federal, foundation, and corporate dollars for regional and Statewide technology initiatives and to assist local government, including e-communities (the 85 rural counties and

the Eastern Band of the Cherokee who have completed the e-communities process), in obtaining grants to further enhance their technology infrastructure.

(5) To propose funding from other appropriate sources for incentives without technology bias for the private sector to make necessary investments to achieve the Authority's goals and objectives.

(6) To provide leadership, coordination, and support for grassroots efforts targeting technology-based economic development.

(7) To provide leadership, coordination, and support for telecommunications policy assessment as it relates to providing high-speed Internet access in rural counties and urban distressed areas.

(8) To promote collaborative technology projects, programs, and activities that reflect comprehensive efforts to develop technology-based economic development initiatives that utilize high-speed broadband Internet as a platform.

(9) To encourage replicable and scalable Internet applications in government, health care, education, and business that will assist the communities of North Carolina to remain competitive with respect to knowledge of, and use of, as well as affordable access to the high-speed Internet.

(10) To promote the use of constitutionally valid protective actions to limit the electronic distribution of material that is considered obscene, as defined by G.S. 14-190.1(b), to children via the Internet.

(d) Limitations. – The Authority shall not have the power of eminent domain or the power to levy any tax, or to impose any charge, surcharge, or fees on telephone or telecommunications services..

(e) Reports. – The Authority shall submit quarterly reports to the Governor, the Joint Select Committee on Information Technology, and the Joint Legislative Commission on Governmental Operations. The reports shall summarize the Authority's activities during the quarter and contain any information about the Authority's activities that is requested by the Governor, the Committee, or the Commission."

SECTION 2. G.S. 120-123 is amended by adding a new subdivision to read:

"(77) The e-NC Authority created in Part 2F of Article 10 of Chapter 143B of the General Statutes."

SECTION 3. Section 5 of S.L. 2000-149 reads as rewritten:

"**SECTION 5.** This act is effective when it becomes law. The North Carolina Rural Internet Access Authority created in this act is dissolved effective December 31, 2003. This act is repealed effective December 31, 2003. Part 2E of Article 10 of Chapter 143B of the General Statutes and G.S. 120-123(71), as enacted by this act, are repealed effective ~~December 1, 2003.~~December 31, 2003."

SECTION 4. Sections 1 and 2 of this act become effective December 31, 2003, with the e-NC Authority hereby designated as the successor entity of the Rural Internet Access Authority that will dissolve on that date, as provided by Section 5 of S.L. 2000-149. The remainder of this act is effective when it becomes law. The e-NC

Authority created in this act is dissolved effective December 31, 2006. This act is repealed effective December 31, 2006. Part 2F of Article 10 of Chapter 143B of the General Statutes and G.S. 120-123(77), as enacted by this act, are repealed effective December 31, 2006.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Senate Committee Substitute for
H.B. 1194 A BILL TO BE ENTITLED AN ACT TO CREATE THE "E-NC" AUTHORITY TO CONTINUE THE WORK OF THE RURAL INTERNET ACCESS 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

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

☒ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 805

Short Title:	Consolidate Administrative Functions.	(Public)
Sponsors:	Senator Rand.	
Referred to:	State Government, Local Government, and Veterans' Affairs.	

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS WITHIN STATE GOVERNMENT, AS RECOMMENDED BY THE GOVERNOR'S COMMISSION TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS ON STATE SPENDING.

The General Assembly of North Carolina enacts:

SECTION 1. The Governor's Commission to Promote Government Efficiency and Savings on State Spending has recommended that administrative and support functions of State government be consolidated in areas of high concentration of State facilities, modeled after similar measures taken recently for State facilities in the Morganton area. To that end, The University of North Carolina (through the Office of the President), the Judicial Branch (through the Administrative Office of the Courts), the Executive Branch (through the Department of Administration), the Legislative Branch (through the Legislative Services Office), the Community College System (through the President's Office), and the Department of Public Instruction shall develop a plan to consolidate administrative functions in areas of high concentrations of State facilities. That plan shall be presented to the General Assembly no later than May 1, 2004.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 831

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/17/03

Short Title: Clean Water Mgt. Trust Fund Board Terms. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR IMPROVED STAGGERED TERMS OF THE MEMBERS OF THE CLEAN WATER MANAGEMENT FUND BOARD OF TRUSTEES, TO INCREASE THE NUMBER OF MEMBERS OF THE BOARD, AND TO MAKE APPOINTMENTS TO THE BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-145.5 reads as rewritten:

"**§ 113-145.5. Clean Water Management Trust Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.**

(a) Board of Trustees Established. – There is established the Clean Water Management Trust Fund Board of Trustees. The Clean Water Management Trust Fund Board of Trustees shall be ~~independent, but for administrative purposes shall be~~ administratively located ~~under~~ within the Department of Environment and Natural ~~Resources.~~Resources but shall be independent of the Department.

(b) Membership. – The Clean Water Management Trust Fund Board of Trustees shall be composed of ~~18 members. Six members shall be appointed by the Governor, six by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, and six by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.~~21 members appointed to four-year terms as follows:

(1) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.

(2) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.

(3) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by four.

(4) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by four.

(5) One member appointed by the Governor to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.

(6) One member appointed by the Governor to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.

(7) One member appointed by the Governor to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.

(8) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.

(9) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.

(10) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that are evenly divisible by four.

(11) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.

(12) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.

(13) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.

(14) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.

(15) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.

(16) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by four.

(17) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by four.

(18) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.

(19) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.

(20) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.

(21) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.

(b1) Qualifications. – The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution. Persons appointed shall be knowledgeable in at least one of the following areas:

(1) Acquisition and management of natural areas.
(2) Conservation and restoration of water quality.
(3) Wildlife and fisheries habitats and resources.
(4) Environmental management.

(c) ~~Initial Appointments.~~ Chair. ~~– Each appointing officer shall designate two of the officer's initial appointments to serve two-year terms, two to serve four-year terms, and two to serve six-year terms. Thereafter, all appointments shall be for four years, subject to reappointment. All initial appointments shall be made on or before January 1, 1997.~~ The Governor shall appoint one ~~Trustee~~ member to serve as Chair of the ~~Board.~~Board of Trustees.

(d) Vacancies. – ~~If a vacancy occurs, other than by the expiration of term, of a member subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives or the President Pro Tempore of the Senate, the vacancy shall be filled in accordance with G.S. 120-122. All other vacancies shall be filled by the appointing official in the original manner.~~An appointment to fill a vacancy on the Board of Trustees created by the resignation, removal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in

appointments made by the General Assembly shall be filled as provided in G.S. 120-122.

(e) Frequency of Meetings. – The Board of Trustees shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members.

(e1) Quorum. – A majority of the membership of the Board of Trustees constitutes a quorum for the transaction of business.

(f) Per Diem and Expenses. ~~The Trustees~~ Each member of the Board of Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund.

(g) Meeting Facilities. – The Secretary of Environment and Natural Resources shall provide meeting facilities for the Board of Trustees and its staff as requested by the Chair."

SECTION 2. In order to alter the schedule of staggered terms of four years for the Board of Trustees of the Clean Water Management Trust Fund so that, as nearly as possible, the same number of terms will expire each year and to provide for an orderly transition in membership of the Board of Trustees to the terms specified in G.S. 113-145.5, as amended by Section 1 of this act, the following provisions shall apply:

(1) Philip A. Baddour shall serve in the position established by G.S. 113-145.5(b)(1) through 1 July 2007.

(2) Joseph M. Hester, Jr. shall serve in the position established by G.S. 113-145.5(b)(2) through 1 July 2007.

(3) John McMillan shall serve in the position established by G.S. 113-145.5(b)(3) through 1 July 2008.

(4) Robert Stanley Vaughan shall serve in the position established by G.S. 113-145.5(b)(4) through 1 July 2008.

(5) Edwin G. Wilson, Jr. shall serve in the position established by G.S. 113-145.5(b)(5) through 1 July 2005.

(6) The Governor shall appoint a member to serve in the position established by G.S. 113-145.5(b)(6) through 1 July 2006.

(7) The Governor shall appoint a member to serve in the position established by G.S. 113-145.5(b)(7) through 1 July 2006.

(8) Alex MacFadyen of Wake County is appointed to the position established by G.S. 113-145.5(b)(8) to serve through 1 July 2007.

(9) Johnnie Mosley shall serve in the position established by G.S. 113-145.5(b)(9) through 1 July 2007.

(10) William E. Hollan, Jr. shall serve in the position established by G.S. 113-145.5(b)(10) through 1 July 2004.

(11) William J. Brooks, III shall serve in the position established by G.S. 113-145.5(b)(11) through 1 July 2005.

(12) Dickson McLean, Jr. shall serve in the position established by G.S. 113-145.5(b)(12) through 1 July 2005.

(13) Claudette Weston shall serve in the position established by G.S. 113-145.5(b)(13) through 1 July 2006.

(14) Jerry W. Wright shall serve in the position established by G.S. 113-145.5(b)(14) through 1 July 2006.

(15) C. Leroy Smith shall serve in the position established by G.S. 113-145.5(b)(15) through 1 July 2003. The 2003 General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint a person to serve in the position established by G.S. 113-145.5(b)(15) through 1 July 2007.

(16) Charles R. Wakild shall serve in the position established by G.S. 113-145.5(b)(16) through 1 July 2004.

(17) Karen Cragnolin shall serve in the position established by G.S. 113-145.5(b)(17) through 1 July 2004.

(18) Robert Dare Howard shall serve in the position established by G.S. 113-145.5(b)(18) through 1 July 2005.

(19) Margaret B. Markey shall serve in the position established by G.S. 113-145.5(b)(19) through 1 July 2005.

(20) Allen Holt Gwyn shall serve in the position established by G.S. 113-145.5(b)(20) through 1 July 2006.

(21) The 2003 General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint a person to serve in the position established by G.S. 113-145.5(b)(21) through 1 July 2006.

SECTION 3. This act becomes effective 30 June 2003.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 831

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/17/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S831-PCS65339-RT-66

Short Title: Clean Water Mgt. Trust Fund Board Terms. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR IMPROVED STAGGERED TERMS OF THE MEMBERS OF THE CLEAN WATER MANAGEMENT FUND BOARD OF TRUSTEES, TO INCREASE THE NUMBER OF MEMBERS OF THE BOARD, AND TO MAKE APPOINTMENTS TO THE BOARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113-145.5 reads as rewritten:

"**§ 113-145.5. Clean Water Management Trust Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.**

(a) Board of Trustees Established. – There is established the Clean Water Management Trust Fund Board of Trustees. The Clean Water Management Trust Fund Board of Trustees shall be ~~independent, but for administrative purposes shall be~~ administratively located ~~under~~ within the Department of Environment and Natural ~~Resources.~~Resources but shall be independent of the Department.

(b) Membership. – The Clean Water Management Trust Fund Board of Trustees shall be composed of ~~18 members. Six members shall be appointed by the Governor, six by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, and six by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.~~21 members appointed to four-year terms as follows:

(1) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.

(2) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
(3) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by four.
(4) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by four.
(5) One member appointed by the Governor to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
(6) One member appointed by the Governor to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
(7) One member appointed by the Governor to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
(8) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
(9) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.
(10) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that are evenly divisible by four.
(11) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
(12) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.
(13) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.
(14) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.

(15) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by four.

(16) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by four.

(17) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by four.

(18) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.

(19) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by four.

(20) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.

(21) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by two years those years that are evenly divisible by four.

(b1) Qualifications. – The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution. Persons appointed shall be knowledgeable in at least one of the following areas:

(1) Acquisition and management of natural areas.
(2) Conservation and restoration of water quality.
(3) Wildlife and fisheries habitats and resources.
(4) Environmental management.

(c) ~~Initial Appointments.~~ Chair. ~~– Each appointing officer shall designate two of the officer's initial appointments to serve two-year terms, two to serve four-year terms, and two to serve six-year terms. Thereafter, all appointments shall be for four years, subject to reappointment. All initial appointments shall be made on or before January 1, 1997.~~ The Governor shall appoint one ~~Trustee~~ member to serve as Chair of the ~~Board.~~Board of Trustees.

(d) Vacancies. – ~~If a vacancy occurs, other than by the expiration of term, of a member subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives or the President Pro Tempore of the Senate, the vacancy shall be filled in accordance with G.S. 120-122. All other vacancies~~

~~shall be filled by the appointing official in the original manner.~~An appointment to fill a vacancy on the Board of Trustees created by the resignation, removal, disability, or death of a member shall be for the balance of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled as provided in G.S. 120-122.

(e) Frequency of Meetings. – The Board of Trustees shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members.

(e1) Quorum. – A majority of the membership of the Board of Trustees constitutes a quorum for the transaction of business.

(f) Per Diem and Expenses. ~~The Trustees~~ Each member of the Board of Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund.

(g) Meeting Facilities. – The Secretary of Environment and Natural Resources shall provide meeting facilities for the Board of Trustees and its staff as requested by the Chair."

SECTION 2. In order to alter the schedule of staggered terms of four years for the Clean Water Management Trust Fund Board of Trustees so that, as nearly as possible, the same number of terms will expire each year and to provide for an orderly transition in membership of the Board of Trustees to the terms specified in G.S. 113-145.5, as amended by Section 1 of this act, the following provisions shall apply:

(1) Philip A. Baddour shall serve in the position established by G.S. 113-145.5(b)(1) through 1 July 2007.

(2) Joseph M. Hester, Jr. shall serve in the position established by G.S. 113-145.5(b)(2) through 1 July 2007.

(3) John McMillan shall serve in the position established by G.S. 113-145.5(b)(3) through 1 July 2008.

(4) Robert Stanley Vaughan shall serve in the position established by G.S. 113-145.5(b)(4) through 1 July 2008.

(5) Edwin G. Wilson, Jr. shall serve in the position established by G.S. 113-145.5(b)(5) through 1 July 2005.

(6) The Governor shall appoint a member to serve in the position established by G.S. 113-145.5(b)(6) through 1 July 2006.

(7) The Governor shall appoint a member to serve in the position established by G.S. 113-145.5(b)(7) through 1 July 2006.

(8) Alex MacFadyen of Wake County is appointed to the position established by G.S. 113-145.5(b)(8) to serve through 1 July 2007.

(9) Johnnie Mosley shall serve in the position established by G.S. 113-145.5(b)(9) through 1 July 2007.

(10) William E. Hollan, Jr. shall serve in the position established by G.S. 113-145.5(b)(10) through 1 July 2004.

(11) William J. Brooks, III shall serve in the position established by G.S. 113-145.5(b)(11) through 1 July 2005.

(12) Dickson McLean, Jr. shall serve in the position established by G.S. 113-145.5(b)(12) through 1 July 2005.

(13) Claudette Weston shall serve in the position established by G.S. 113-145.5(b)(13) through 1 July 2006.

(14) Jerry W. Wright shall serve in the position established by G.S. 113-145.5(b)(14) through 1 July 2006.

(15) Clarence Leroy Smith shall serve in the position established by G.S. 113-145.5(b)(15) through 1 July 2003. Clarence Leroy Smith of Pitt County is reappointed to serve in the position established by G.S. 113-145.5(b)(15) through 1 July 2007.

(16) Charles R. Wakild shall serve in the position established by G.S. 113-145.5(b)(16) through 1 July 2003. Anthony T. Lathrop of Mecklenburg County is appointed to serve in the position established by G.S. 113-145.5(b)(16) through 1 July 2008.

(17) Edmond John Maguire III of Wake County is appointed to serve in the position established by G.S. 113-145.5(b)(17) through 1 July 2008.

(18) Robert Dare Howard shall serve in the position established by G.S. 113-145.5(b)(18) through 1 July 2005.

(19) Margaret B. Markey shall serve in the position established by G.S. 113-145.5(b)(19) through 1 July 2005.

(20) Allen Holt Gwyn shall serve in the position established by G.S. 113-145.5(b)(20) through 1 July 2003. Ronald L. Smith of Carteret County is appointed to serve in the position established by G.S. 113-145.5(b)(20) through 1 July 2006.

(21) Karen Cragnolin shall serve in the position established by G.S. 113-145.5(b)(21) through 1 July 2003. Karen Cragnolin of Buncombe County is reappointed to serve in the position established by G.S. 113-145.5(b)(21) through 1 July 2006.

SECTION 3. This act is effective retroactively to 1 July 2003 except that this act is effective retroactively to 31 December 2002 with respect to the term of any person named in Section 2 of this act whose term as a member of the Clean Water Management Trust Fund Board of Trustees would have expired on 31 December 2002 if this act had not become law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 831 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR IMPROVED STAGGERED TERMS OF THE MEMBERS OF THE CLEAN WATER MANAGEMENT FUND BOARD OF TRUSTEES, TO INCREASE THE NUMBER OF MEMBERS OF THE BOARD, AND TO MAKE APPOINTMENTS TO THE BOARD.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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, unfavorable as to Senate committee substitute bill.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 317
Finance Committee Substitute Adopted 5/14/03

Short Title: Cabarrus Annexation Moratorium. (Local)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR A TWO-YEAR MORATORIUM ON ANNEXATIONS INTO THE COUNTY OF CABARRUS BY MUNICIPALITIES LOCATED PRIMARILY OUTSIDE THE COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. No municipality located primarily outside of Cabarrus County may adopt under Article 4A of Chapter 160A of the General Statutes any annexation ordinance, resolution of consideration, or resolution of intent, as to any territory in Cabarrus County.

SECTION 2. This act is effective when it becomes law, and expires June 30, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 317
Finance Committee Substitute Adopted 5/14/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S317-CSST-50 [v.6]

6/18/2003 9:22:34 AM

Short Title: Cabarrus Annexation Moratorium. (Local)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A TWO-YEAR MORATORIUM ON ANNEXATIONS INTO THE COUNTY OF CABARRUS BY MUNICIPALITIES LOCATED PRIMARILY OUTSIDE THE COUNTY AND TO ADD TERRITORY TO THE ECONOMIC DEVELOPMENT ZONE WHERE THERE IS A MORATORIUM ON ANNEXATION.

The General Assembly of North Carolina enacts:

SECTION 1. Except for an annexation agreement pursuant to Part 6 of Article 4A of Chapter 160A, no municipality located primarily outside of Cabarrus County may adopt any annexation ordinance, resolution of consideration, or resolution of intent under Article 4A of Chapter 160A of the General Statutes as to the following described territory in Cabarrus County:

(1) That territory located west of the Rocky River.

(2) That territory located south of Highway 24/27 and east of the Rocky River.

SECTION 2. Section 1 of S.L. 2000-7 reads as rewritten:

"Section 1. No annexation ordinance shall be adopted under Part 2 or 3 of Article 4A of Chapter 160A of the General Statutes nor any incorporation act shall be enacted by the General Assembly as to any or all of the following described territory prior to June 30, 2010:

Tract 1:

Beginning at a nail and cap in the intersection of centerlines for US Highway #601 and NC State Road #1119 (Wallace Road), a corner of the Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1758 Page 235), said beginning point being located N33°-13'-32"E-3,864.92' from NCGS Monument "Kiser"(Grid Coordinates: N536,271.92 feet; El,546,207.01 feet) (Combined Grid Factor = 0.999851569); thence from the point of the beginning and

with the property line of Midland Industrial Park and the centerline of US Highway #601 the following (4) courses and distances, (1) S33°-31'-36"W - 23.13' to a railroad spike, (2) S32°-35'-59"W - 29.95' to a nail and cap, (3) S32°-44'-27"W - 574.41' to a point, (4) S32°-58'-24"W - 1719.80' to a point in the centerline of US Highway #601, the northeast corner of Corning Incorporated (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1758 Page 240); thence with the Corning Incorporated Property Line the following (9) courses and distances, (1) S32°-58'-24"W - 229.80' to a nail and cap, (2) N66°-03'-45"W - 50.23' to a 5/8" rebar, (3) S32°-56'-23"W - 1,628.41' to a concrete monument, (4) S32°-21'-17"W - 35.84' to a concrete monument, (5) S32°-55'-31"W - 591.41' to a concrete monument, (6) S64°-25'-16"E - 49.59' to a 5/8" rebar, (7) with the arc of a circular curve to the left, having a radius of 3,127.0' a distance of 551.05', and a chord distance and bearing S27°-59'-25"W - 550.34' to a point, (8) S21°-55'-46"W - 215.04' to a point, (9) S21°-35'-34"W - 369.74' to a point in the centerline of US Highway #601, the northeast corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1793 Page 22); thence with the centerline of US HIghway #601 and the property line of the Midland Industrial Park the following (2) courses and distances (1) S21°-34'-23"W - 233.73' to a point, (2) S21°-27'-48"W - 700.05' to a point in the centerline of US Highway #601; thence N71°-52'-10"W(passing irons at 50.22' and 436.37') for a total of 823.33' to an iron pin, said iron pin being the northeast corner of the property owned by Midland Industrial Park (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1686 Page 313); thence with the property line of Midland Industrial Park the following (6) courses and distances (1) S21°-33'-31"W - 17.42' to an iron pin, (2) S27°-16'-50"W - 1134.60' to iron pin, (3) N72°-14'-53"W - 154.76' to an iron pin, (4) N 52°-37'-30"W 1021.85' to a railroad iron, (5) N45°-59'-15"W - 228.96' to an iron pin, (6) N36°-35'-34"E - 739.91' to a nail, said nail being the southwest corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1793 Page 22); thence with the property line of Midland Industrial Park N16°-09'-42"E - 1,126.41' to a 1 1/2" OT Iron Pipe, said 1 1/2" OT Iron Pipe being the southwest corner of the property owned by Corning Incorporated (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1758 Page 240); thence with the property line of Corning Incorporated the following (8) courses and distances (1) N16°-32'-58"E - 1,166.94' to an iron pin, (2) N06°-09'-53"E - 154.65' to an iron pin, (3) S78°-05'-55"E - 918.49' to an iron pin, (4) N03°-11'-46"W - 606.49' to a concrete monument, (5) N03°-11'-50"W - 455.25' to a concrete monument, (6) S75°-17'-59"E - 698.98' to concrete monument, (7) N28°-19'-00"E - 839.70' to a concrete monument, (8) N28°-26'-05"E - 182.50' to an iron pin, said iron pin being the southwest corner of the property owned by the BOC Group, Inc. (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 2476 Page 13); thence with the property line of The BOC Group, Inc. property the following (2) courses and distances (1) N28°-43'-57"E - 21.15' to an iron pipe, (2) N30°-08'-05"E - 1,107.12' to an iron pin, said iron pin being the southwest corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1758 Page 235; thence with the property line of Midland Industrial Park N30°-08'-05"E - 498.50' to a railroad spike in

the centerline of NC State Road #1119 (Wallace Road), said railroad spike being a point in the southern property line of McGee Brothers, Inc., (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 2097 Page 237) thence with the McGee Brothers, Inc. Property line and the centerline of Wallace Road S74°-55'-16"W - 28.98' to a nail and cap in the centerline of Wallace Road, said nail and cap being the southeast corner of the property owned by McGee Brothers, Inc. (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1845 Page 30) thence with the property line of McGee Brothers, Inc. the following (2) courses and distances (1) S75°-55'-53"W - 116.87' to a nail and cap in the centerline of Wallace Road, (2) N01°-59'-43"W - 580.41' to an iron, said iron being the southwest corner of the property owned by McGee Brothers, Inc. (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1870 Page 281) thence with the following (2) courses and distances (1) N01°-59'-43"W - 907.00' to an iron, (2) N01°-59'-43"W - 569.70' to an iron, said iron being a corner in the southern property line of the property owned by McGee Brothers, Inc. (Deed recorded in Cabarrus County Register of Deeds in Deed Book 1870 Page 277) thence with the property line of McGee Brothers, Inc. the following (4) courses and distances (1)S82°-37'-48"W - 537.64' to an iron pin, (2) N64°-33'-35"W - 261.87' to an iron Pipe, (3) N62°-37'-54"E - 332.08' to an iron pipe, (4) N49°-08'-49"W - 526.15' to a pk nail in the centerline of the Norfolk Southern Railroad, said pk being located 930.00 feet west of Mile Post 369 as measured along said Railroad centerline and being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 498 Page 7) thence with the property line of Midland Industrial Park the following (6) courses and distances (1) N49°-08'-49"W - 169.61' to an iron pin, (2) N32°E - 1254' to a stone, (3) N22°E 1683' to a large Black Oak, (4) S58°E - 511.5' to a stone, (5) S30°W - 66' to a stone, (6) S33°E - 1864' to an iron stake, said iron stake being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1877 Page 245) thence with the property line of Midland Industrial Park the following (3) courses and distances (1) N51°-38'E - 427.3' to an iron stake on the south bank of the north fork of Muddy Creek, (2) S72°-28'E - 360.2' to an iron stake located 25" north from the channel of Muddy Creek, (3) S21°-52'W - 272.8" to an axle on the bank of Muddy Creek, said axle being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 563 Page 52) thence with the property line of Midland Industrial Park the following (3) courses and distances (1) S73°-14'-10"E - 1245.10' to an iron pin, (2) S19°-31'-28"W - 247.88' to a pk nail in the centerline of a paved drive, (3) N73°-15'-32"W - 637.28' to a point in the centerline of Muddy Creek (passing an iron pin at 622.51'), said point being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 1877 Page 245) thence down the centerline of Muddy Creek and the property line of Midland Industrial Park the following (11) courses and distances (1) S07°-56'-54"E - 85.40' to a point, (2) S11°-54'-39"E - 54.25' to a point, (3) S19°-40'-09"E - 59.15' to a point, (4) S38°-30'-32"E - 105.00' to a point, (5) S01°-50'-11"W - 67.10' to a point, (6) S07°-27'-46"E - 133.88' to a point, (7) S01°-14'-09"E - 97.95' to a point, (8) S25°-18'-49"W - 129.28' to a point, (9) S08°-39'-17"W - 60.00' to a point, (10)

S11°-23'- 11"W - 187.54' to a point, (11) S39°-54'-47"E - 75.37' to a pk nail in the centerline of the Norfolk Southern Railway track and the centerline of Muddy Creek, said pk nail being a corner of the property owned by Midland Industrial Park (Deed recorded in the Cabarrus County Register of Deeds in Deed Book 531 Page 338) thence down the centerline of Muddy Creek and with the property line of the Midland Industrial Park to the intersection of the centerline of US Highway #601; thence with the centerline of US Highway #601 to the point of beginning, containing 608.63 acres plus or minus.

Tract 2:

Lying and being in Number Ten (10) Township, Cabarrus County, North Carolina, and adjoining the property of Homer J. Wallace, Marvin Widenhouse and Edward F. Wallace, and being a part of the J.F. Wallace Estate, and described as follows:

BEGINNING at an iron stake near the south edge of a County Road leading to U.S. Highway No. 601, a corner of Homer J. Wallace in the line of Edward F. Wallace (said iron stake being S. 80-40 W. 197.0 feet from an iron stake, a corner of R.A. Brooks, Homer J. Wallace and Edward F. Wallace), and running thence with the line of Homer J. Wallace, N. 0-26 W. 2090.4 feet to an iron stake; thence S. 77-43 W. 42.0 feet to a stone, an old corner of Marvin Widenhouse; thence with the line of Marvin Widenhouse, S. 84-29 W. 365.3 feet to an iron stake, a new corner; thence a new line, S. 0-26 E. (passing an iron stake at 2077.3 feet) 2112.3 feet to an iron stake in the south edge of the County Road and in the line of Edward F. Wallace; thence with his line, N. 80-40 E. 407.0 feet to the BEGINNING, containing 19.45 acres, more or less, but EXCEPTING OUT OF SAID TRACT, a three (3) acre tract conveyed in 1985 from the Grantor to Loni Garmon Marshall and husband Robert Alan Marshall."

SECTION 4. Section 1 of this act is effective when it becomes law, and expires June 30, 2005. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 317 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) Younge
Sen.)

1 moves to amend the bill on page 4, line 25
2 ( ) WHICH CHANGES THE TITLE
3 by _____
4 deleting "SECTION 4." and
5 _____
6 substituting "SECTION 3."
7 _____
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 317 A BILL TO BE ENTITLED AN ACT PROVIDING FOR A TWO-YEAR MORATORIUM ON ANNEXATIONS INTO THE COUNTY OF CABARRUS BY MUNICIPALITIES LOCATED PRIMARILY OUTSIDE THE 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 561
Judiciary I Committee Substitute Adopted 4/9/03

Short Title: Legislative Meeting Notice Procedure. (Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE REQUIREMENT THAT NOTICES OF LEGISLATIVE MEETINGS BE POSTED ON THE PRESS ROOM DOOR AND REPLACING IT WITH A REQUIREMENT OF ELECTRONIC POSTING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-318.14A(b) reads as rewritten:

"(b) Reasonable public notice of all meetings of commissions, committees, and standing subcommittees of the General Assembly shall be given. For purposes of this subsection, "reasonable public notice" includes, but is not limited to:

(1) Notice given openly at a session of the Senate or of the House; or

(2) Notice ~~posted on the press room door of the State Legislative Building in Raleigh and~~ delivered or sent by electronic mail to the Legislative Services ~~Office.~~ Office, and the following actions taken by the appropriate legislative staff:

a. Posting on the General Assembly web site;

b. Sending notice by electronic mail to the legislative press accounts on the General Assembly domain; and

c. Sending notice by electronic mail to those who have requested notice by electronic mail.

G.S. 143-318.12 shall not apply to meetings of commissions, committees, and standing subcommittees of the General Assembly."

SECTION 2. This act becomes effective 30 days after it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 561

Judiciary I Committee Substitute Adopted 4/9/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S561-PCS65336-RA-2

Short Title: Notice of Leg. Mtg. & Comm. & Bd. Appointees. (Public)

Sponsors:

Referred to:

March 27, 2003

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE REQUIREMENT THAT NOTICE OF LEGISLATIVE MEETINGS BE POSTED ON THE PRESS ROOM DOOR; TO SUBSTITUTE A REQUIREMENT OF MAILING AND ELECTRONIC POSTING OF THE MEETING NOTICE, AND TO REQUIRE APPOINTING AUTHORITIES TO PROVIDE ADDITIONAL INFORMATION REGARDING APPOINTEES TO CERTAIN STATE COMMISSIONS, COUNCILS, COMMITTEES, AND BOARDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-318.14A(b) reads as rewritten:

"(b) Reasonable public notice of all meetings of commissions, committees, and standing subcommittees of the General Assembly shall be given. For purposes of this subsection, "reasonable public notice" includes, but is not limited to:

(1) Notice given openly at a session of the Senate or of the House; or

(2) Notice ~~posted on the press room door of the State Legislative Building in Raleigh and delivered~~ mailed or sent by electronic mail to those who have requested notice, and to the Legislative Services ~~Office.~~ Office, which shall post the notice on the General Assembly web site.

G.S. 143-318.12 shall not apply to meetings of commissions, committees, and standing subcommittees of the General Assembly."

SECTION 2. G.S. 143-47.7 reads as rewritten:

"**§ 143-47.7. Notice and record of appointment required.**

(a) Within ~~60~~ 30 days after acceptance of appointment by a person appointed to public office, the appointing authority shall file written notice of ~~such~~ the appointment with the Governor, the Secretary of State, the ~~State~~ Legislative Library, the State Library, and the State Controller. For the purposes of this section, a copy of the letter from the appointing ~~authority~~ authority, a copy of the properly executed notice of

appointment as set forth in subsection (c) of this section, or a copy of the properly executed Commission of Appointment shall be sufficient to be filed if ~~such~~ the copy contains the information required in subsection (b) of this section.

(b) The notice required by this Article shall ~~state the name and office of the appointing authority, the public office to which the appointment is made, the name and address of the appointee, a citation of the law pursuant to which the appointment is made, the date of the appointment, and the term of the appointment~~ contain the following information:

(1) The name and office of the appointing authority;
(2) The public office to which the appointment is made;
(3) The name and address of the appointee;
(4) The county of residence of the appointee;
(5) The citation to the law or other authority authorizing the appointment;
(6) The specific statutory qualification for the public office to which the appointment is made, if applicable;
(7) The name of the person the appointee replaces, if applicable;
(8) The date the term of the appointment begins; and
(9) The date the term of the appointment ends.

(c) The following form may be used to comply with the requirements of this section:

'NOTICE OF APPOINTMENT

Notice is given that _____ is hereby appointed to the following
Name
public office:

Public Office: _____

Citation to Law or Other Authority Authorizing the Appointment:
_____

Specific Statutory Qualification for the Public Office, if Applicable:
_____

Address of the Appointee: _____
_____
_____

County of Residence of the Appointee: _____

Date Term of Appointment Begins: _____

Date Term of Appointment Ends: _____

Name of Person the Appointee Replaces, if applicable:

_____

_____ _____

Date of Appointment Signature

_____

Office of Appointing Authority

Distribution:

Governor
Secretary of State
Legislative Library
State Library
State Controller' "

SECTION 3. G.S. 143-47.8 is repealed.

SECTION 4. G.S. 143-47.7, as amended by Section 2 of this act, applies only to appointments made after this act becomes effective.

SECTION 5. This act becomes effective 30 days after it becomes law.

SENATE BILL 561:
Notice of Leg. Mtg. & Comm. & Bd. Appointees

BILL ANALYSIS

Committee:	House Rules	**Introduced by:**	Sen. Rand
Date:	July 10, 2003	**Summary by:**	Dianna Jessup
Version:	PCS 65336-RA-2		Committee Counsel

SUMMARY: ***Senate Bill 561 would change the law regarding what constitutes reasonable public notice of meetings of the General Assembly and what information is required to be given by the appointing authority about an appointee to a State commission, council, committee or board. The act would become effective 30 days after it becomes law. The PCS rewrites Section 1 and adds Sections 2, 3 and 4 concerning appointments.***

CURRENT LAW: Current law requires that "reasonable public notice" be given of all meetings of commissions, committees, and standing subcommittees of the General Assembly. Reasonable public notice includes either notice given openly at a session of the Senate or House, or notice posted on the pressroom door at the Legislative Building and delivered to the Legislative Services Office. Current practice is to give notice of meetings on the floor of the Senate or House and/or by electronic mail.

Current law also requires that notice of certain appointments to certain state commissions, councils, committees and boards be filed with the Governor, the Secretary of State, the Legislative Library, the State Library, and the State Controller. A person whose appointment has not been noticed cannot receive subsistence, per diem compensation, or travel allowances.

BILL ANALYSIS: Under Section 1 of the bill, the current method of giving notice of meetings on the chambers' floors would still be considered "reasonable public notice". The present alternative method of giving notice by posting it on the pressroom door would be changed to provide that the notice could be mailed or sent by electronic mail to those requesting it, and this method would be considered "reasonable public notice". The alternative method would still require that notice also be given to the Legislative Services Office and confirm in law the present practice of posting these notices on the General Assembly's website.

Section 2 of the bill would:

- Require that notice of appointments be made within 30 days of acceptance by the appointee rather than the present 60 days;
- Require that the appointing authority provide the county of residence of the appointee, the person the appointee replaces, if applicable; and the specific statutory qualification for the public office to which the appointment is made, if applicable, and makes clarifying changes;
- Provides a notice of appointment form that may be used by the appointing authority in providing the required notice.

Section 3 of the bill would eliminate an outdated provision dealing with existing appointments codified when the statute was originally enacted in 1979.

Section 4 of this bill would specify that the new information requirement for appointees applies only to those appointments made after this bill becomes effective.

EFFECTIVE DATE: The bill would become effective 30 days after it becomes law. *S561-SMSW-001*

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 561 A BILL TO BE ENTITLED AN ACT TO ELIMINATE THE REQUIREMENT THAT NOTICES OF LEGISLATIVE MEETINGS BE POSTED ON THE PRESS ROOM DOOR AND REPLACING IT WITH A REQUIREMENT OF ELECTRONIC POSTING.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE RESOLUTION 1336

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

July 14, 2003

A HOUSE RESOLUTION TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

Be it resolved by the House of Representatives:

SECTION 1. This resolution is effective upon adoption.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE RESOLUTION 1336
PROPOSED COMMITTEE SUBSTITUTE H1336-CSSF-26 [v.1]

7/14/2003 8:43:34 PM

Sponsors:

Referred to:

July 14, 2003

A HOUSE RESOLUTION ELECTING ESTELLE LEE AND JAMES DANIELS TO THE STATE BOARD OF COMMUNITY COLLEGES.

Be it resolved by the House of Representatives:

SECTION 1. The following persons are elected to the State Board of Community Colleges for terms of six years beginning July 1, 2003:

(1) Estelle Lee.

(2) James Daniels.

SECTION 2. This resolution is effective upon adoption.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.R. 1336 A HOUSE RESOLUTION TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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 not be adopted, but the committee substitute resolution be adopted.

03/19/03

VISITOR REGISTRATION SHEET

Rules — July 15, 03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Ken McHan	Alley Associates, Inc.
Paul Pulley	Pulley, Watson
Elizabeth Dalton	Bone & Associates — Sprint
[illegible]	AT&T
[illegible] Horne	NCMS
BRIAN SHANK	AZ
Amy Ivey	Office of Governor
John McMillan	MF&S
Pam Wescott	Sprint
Kim Hibbard	NCLM
JOHN LONG	MARTIN MARIETTA
[illegible]	Sprint
Dwight Allen	NC Telephone Coalition
Dana Simpson	NC Telephone Coalition
Cam Cree	BPMHL
[illegible] Holman	CUMTC
Andy Ellen	NCRMA
ANN LOFE	OUHS
John Bowdish	Verizon
John McHugh	Gov Office
Henry Lancaster	LCA
REV. MARK CREECH	CAL
[illegible]	NCFPC
Tim Minin	NC Home Builders
[illegible]	N.C. SENATE
Jessica Dandy	Concerned NC's children
[illegible]	Capitol Group

VISITOR REGISTRATION SHEET

Rules — July 15, 03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Jerry Wilson	Red Oak
John Preskenac	NCASA
Dean Plunkett	NCBWUA
Rob Ousley	NC State Watch
RICK ZECHINI	NC Assoc. of REACTORS
Hal Miller	NCACCT
Joe Perry	Capitol Group
Tom Ford	Entergy
DAVID BARNES	Poyner + Spruill LLP

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 16, 2003
8:45 A.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE RESOLUTION 1332 – A HOUSE RESOLUTION URGING STATE AND LOCAL AGENCIES TO ADDRESS ISSUES RELATING TO THE HEPATITIC C VIRUS

COMMITTEE SUBSTITUTE FOR SENATE BILL 35 – AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO USE THE PORTION OF CONTRACT MAINTENANCE RESURFACING FUNDS ALLOCATED TO WIDENING EXISTING NARROW PAVEMENTS SCHEDULES FOR RESURFACING TO BE USED TO WIDEN ANY EXISTING NARROW PAVEMENTS AND TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO USE HIGHWAY TRUST FUND SECONDARY ROAD PAVING FUNDS ALLOCATED TO EACH COUNTY FOR THE ADDITIONAL PURPOSE OF SAFETY IMPROVEMENTS ON PAVED AND UNPAVED ROADS IN THE SAME COUNTY, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE

SENATE JOINT RESOLUTION 327 – A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENT OF JOSEPH A SMITH, JR., AS COMMISSIONER OF BANKS

COMMITTEE SUBSTITUTE FOR SENATE BILL 750 – AN ACT TO INCREASE THE CEILING THAT A SMALL BREWERY MAY PRODUCE WITHOUT BEING REQUIRED TO GO THROUGH A MALT BEVERAGE DISTRIBUTOR

COMMITTEE SUBSTITUTE FOR SENATE BILL 751 – AN ACT TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE NORTH CAROLINA FOOE, DRUG AND COSMETIC ACT

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

July 16, 2003

The Committee on Rules, Calendar and Operations of the House met on July 16, 2003 at 8:45 a.m. in Room 421 of the Legislative Office Building. The following members were present: Representative Culpepper, Chairman; Hackney, Vice Chairman; Crawford, Gorman, Justus, LaRoque, Miller, Owens, Sherrill and Yongue.

The following bills were considered:

HOUSE RESOLUTION 1332 – A HOUSE RESOLUTION URGING STATE AND LOCAL AGENCIES TO ADDRESS ISSUES RELATING TO THE HEPATITIS C VIRUS. A proposed committee substitute was offered, and Representative Sherrill moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Dianna Jessup, staff attorney, was asked to speak on the proposed committee substitute. She stated that it updates some of the statistics in the original resolution and urges local health departments, and state agencies and institutions to work collaboratively to address the national health crisis associated with Hepatitis C. Representative Hackney moved that the proposed committee substitute resolution be given a favorable report, unfavorable to the original resolution. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 35 – AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO USE THE PORTION OF CONTRACT MAINTENANCE RESURFACING FUNDS ALLOCATED TO WIDENING EXISTING NARROW PAVEMENTS SCHEDULED FOR RESURFACING TO BE USED TO WIDEN ANY EXISTING NARROW PAVEMENTS AND TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO USE HIGHWAY TRUST FUND SECONDARY ROAD PAVING FUNDS ALLOCATED TO EACH COUNTY FOR THE ADDITIONAL PURPOSE OF SAFETY IMPROVEMENTS ON PAVED AND UNPAVED ROADS IN THE SAME COUNTY, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE. A proposed House committee substitute changing the title to AN ACT TO AUTHORIZE CLOVER GARDEN CHARTER SCHOOL TO ELECT TO PARTICIPATE IN THE NORTH CAROLINA TEACHER' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN, TO AUTHORIZE THE STATE BOARD OF EDUCATION TO GRANT OR RENEW CHARTERS FOR CHARTER SCHOOLS FOR PERIODS UP TO TEN YEARS, TO REQUIRE THE STATE BOARD OF EDUCATION TO REVIEW THE OPERATIONS OF CHARTER SCHOOLS AT LEAST EVERY FIVE YEARS, AND TO MODIFY THE AUTHORITY OF THE DUPLIN BOARD OF COUNTY COMMISSIONERS TO REQUIRE THE REGISTER OF DEEDS IN THE COUNTY NOT TO ACCEPT ANY DEED TRANSFERRING REAL PROPERTY FOR REGISTRATION UNLESS THE COUNTY TAX COLLECTOR CERTIFIES THAT NO DELINQUENT TAXES ARE DUE ON THAT PROPERTY was offered, and Representative Gorman moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. The chairman explained that the Senate committee substitute is no longer needed because its companion House bill (House Bill 22) has been ratified and is law. Representative Allred now desires to use the

Senate committee substitute as a vehicle to assist a charter school in his area. Drupti Chauahn, staff attorney, explained Section 1 of the proposed committee substitute, and Giles Perry, staff attorney, explained Sections 2 and 3. Representative Gorman moved that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion passed.

SENATE JOINT RESOLUTION 327- A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENT OF JOSEPH A. SMITH, JR., AS COMMISSIONER OF BANKS. Paul Stock, representing the North Carolina Bankers Association, and Kevin Howell, Legislative Counsel to Governor Easley, spoke in favor of the resolution. Representative Owens made a motion that the resolution be given a favorable report, which motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 750 –AN ACT TO INCREASE THE CEILING THAT A SMALL BREWERY MAY PRODUCE WITHOUT BEING REQUIRED TO GO THROUGH A MALT BEVERAGE DISTRIBUTOR. A proposed House committee substitute was offered, and Representative Crawford moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Senator Hagan, sponsor, was recognized the proposed committee substitute. She stated that it changes the limitation a small brewery can produce from 310,000 gallons (10,000 barrels) a day to 40,000 barrels. Representative Owens moved that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 751 – AN ACT TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE NORTH CAROLINA FOOD, DRUG AND COSMETIC ACT. A proposed House committee substitute was offered, and Representative Owens moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Senator Hagan, sponsor, was recognized and stated that the proposed committee substitute makes technical changes and changes the effective date. Representative Hackney moved that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. Martha Glass with the Department of Agriculture spoke in favor of the bill. The motion passed.

The meeting adjourned at 9:05 a.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE RESOLUTION 1332

Sponsors: Representative Wright.

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

June 18, 2003

A HOUSE RESOLUTION URGING STATE AND LOCAL AGENCIES TO ADDRESS ISSUES RELATING TO THE HEPATITIS C VIRUS.

Whereas, Hepatitis C virus infection is the most common chronic blood borne viral infection in the United States; and

Whereas, Hepatitis C virus infection is a life-threatening disease that the Centers for Disease Control and Prevention conservatively estimate infects four million persons in the United States; and

Whereas, there were approximately 41,000 newly infected Hepatitis C patients per year as of 1998; and

Whereas, Hepatitis C infections accounted for approximately 25,000 deaths per year in 1998 and is predicted to cause 30,000 annual deaths within 10 years; and

Whereas, Hepatitis C infection is three to four times more prevalent in the United States than HIV/AIDS, and approximately one-third of all HIV infected persons are co-infected with HCV; and

Whereas, 85 percent of Hepatitis C virus-infected persons are chronically infected; and

Whereas, infected individuals serve as a source of transmission to others; and

Whereas, very few of those infected with Hepatitis C virus are aware that they are infected, since symptoms often do not develop until 10 to 20 years after the infection is contracted; and

Whereas, infected individuals who are unaware that they are infected are unlikely to take precautions to prevent the spread or exacerbation of their infection; and

Whereas, no vaccine is available for Hepatitis C virus, but treatments are available to slow the progression of the infection; and

Whereas, between 3.6 and 3.8 million of the four million people who are infected with Hepatitis C are receiving no treatment; and

Whereas, Hepatitis C is now the leading cause of liver disease, placing infected individuals at elevated risk for chronic liver disease, liver cancer, and other Hepatitis C virus-related disease, such as Type II diabetes, autoimmune diseases, and other life-threatening conditions that can lead to liver failure; and

Whereas, data suggests that 15 to 20% of people with Hepatitis C will develop cirrhosis of the liver within five years of contracting the virus, and up to 25% may develop cirrhosis in 10 to 20 years; and

Whereas, Hepatitis C is the cause for one-third of liver transplants, which cost approximately $280,000 each; and

Whereas, annually, the costs associated with liver transplants for Hepatitis C are nearly 300 million dollars; and

Whereas, alcohol consumption is an important contributing factor in the progression of chronic liver disease among persons with Hepatitis C virus infections; and

Whereas, conservative estimates now place the cost of lost-productivity and medical care arising from Hepatitis C virus infection in the United States to be in excess of 600 million dollars annually; and such cost will undoubtedly increase without education and prevention efforts; Now, therefore,

Be it resolved by the House of Representatives:

SECTION 1. The House of Representatives urges local health departments and other State agencies and institutions to work collaboratively to address the national health crisis associated with Hepatitis C virus through the following measures:

(1) Recommending implementation of prevention and education activities by State and local public health programs to counsel and screen persons at risk for Hepatitis C virus infection.

(2) Recommending the monitoring and evaluation of the infection rate of Hepatitis C.

(3) Recommending that publicly funded programs ensure that Hepatitis C related treatments are made available to persons of all ages.

(4) Recommending implementation of outreach and community-based programs to educate health care professionals concerning diagnosis, medical management, and prevention by relying upon information recently released by the Centers for Disease Control and Prevention.

SECTION 2. This resolution is effective upon adoption.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE RESOLUTION 1332
PROPOSED COMMITTEE SUBSTITUTE H1332-CSST-59 [v.1]

7/14/2003 3:04:06 PM

Sponsors:

Referred to:

June 18, 2003

A HOUSE RESOLUTION URGING STATE AND LOCAL AGENCIES TO ADDRESS ISSUES RELATING TO THE HEPATITIS C VIRUS.

Whereas, Hepatitis C virus infection is the most common chronic blood borne viral infection in the United States; and

Whereas, Hepatitis C virus infection is a life-threatening disease that the Centers for Disease Control and Prevention conservatively estimate infects 3.9 million persons in the United States; and

Whereas, there were approximately 41,000 newly infected Hepatitis C virus patients in 1998, and approximately 25,000 newly infected patients in 2001; and

Whereas, Hepatitis C virus infections account for approximately 8,000 to 10,000 deaths each year in the United States because of Hepatitis C virus associated chronic liver disease; and

Whereas, Hepatitis C virus infection is three to four times more prevalent in the United States than HIV/AIDS, and approximately one-quarter of all HIV infected persons are co-infected with Hepatitis C virus; and

Whereas, an estimated 69 percent of Hepatitis C virus-infected persons are chronically infected; and

Whereas approximately 75 percent to 85 percent of persons with acute infection from Hepatitis C virus will develop chronic infection; and

Whereas, infected individuals serve as a source of transmission to others; and

Whereas, very few of those infected with Hepatitis C virus are aware that they are infected, as an estimated 80 percent of persons have no signs or symptoms; and

Whereas, infected individuals who are unaware that they are infected are unlikely to take precautions to prevent the spread or exacerbation of their infection; and

Whereas, no vaccine is available for Hepatitis C virus, but treatments are available to slow the progression of the infection; and

Whereas, alcohol consumption is an important contributing factor in the progression of chronic liver disease among persons with Hepatitis C virus infections; and

Whereas, Hepatitis C virus is now the leading cause of liver disease, placing infected individuals at elevated risk for chronic liver disease, liver cancer, and other Hepatitis C virus-related disease, such as Type II diabetes, autoimmune diseases, and other life-threatening conditions that can lead to liver failure; and

Whereas, data suggests that 15 to 20% of people with Hepatitis C virus will develop cirrhosis of the liver within five years of contracting the virus, and up to 25% may develop cirrhosis in 10 to 20 years; and

Whereas, Hepatitis C virus is the cause for one-third of liver transplants, which cost approximately $280,000 each; and

Whereas, annually, the costs associated with liver transplants for Hepatitis C virus are nearly $300,000,000; and

Whereas, conservative estimates now place the cost of lost-productivity and medical care arising from Hepatitis C virus infection in the United States to be in excess of $600,000,000 annually; and such cost will undoubtedly increase without education and prevention efforts; Now, therefore,

Be it resolved by the House of Representatives:

SECTION 1. The House of Representatives urges local health departments and other State agencies and institutions to work collaboratively to address the national health crisis associated with Hepatitis C virus through the following measures:

(1) Recommending implementation of prevention and education activities by State and local public health programs to counsel and screen persons at risk for Hepatitis C virus infection.

(2) Recommending the monitoring and evaluation of the infection rate of Hepatitis C virus.

(3) Recommending that publicly funded programs ensure that Hepatitis C virus related treatments are made available to persons of all ages.

(4) Recommending implementation of outreach and community-based programs to educate health care professionals concerning diagnosis, medical management, and prevention by relying upon information recently released by the Centers for Disease Control and Prevention.

SECTION 2. This resolution is effective upon adoption.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1332 A HOUSE RESOLUTION URGING STATE AND LOCAL AGENCIES TO ADDRESS ISSUES RELATING TO THE HEPATITIS C VIRUS.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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 [redacted] committee substitute resolution be adopted, unfavorable to original resolution.

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 35*

Transportation Committee Substitute Adopted 3/19/03

Short Title: DOT Resurfacing/Secondary Road Fund Use. (Public)

Sponsors:

Referred to:

February 13, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO USE THE PORTION OF CONTRACT MAINTENANCE RESURFACING FUNDS ALLOCATED TO WIDENING EXISTING NARROW PAVEMENTS SCHEDULED FOR RESURFACING TO BE USED TO WIDEN ANY EXISTING NARROW PAVEMENTS AND TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO USE HIGHWAY TRUST FUND SECONDARY ROAD PAVING FUNDS ALLOCATED TO EACH COUNTY FOR THE ADDITIONAL PURPOSE OF SAFETY IMPROVEMENTS ON PAVED AND UNPAVED ROADS IN THE SAME COUNTY, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 136-44.16 reads as rewritten:

"**§ 136-44.16. Resurfaced roads may be widened.**

Of the contract maintenance resurfacing program funds appropriated by the General Assembly to the Department of Transportation, an amount not to exceed fifteen percent (15%) of the Board of Transportation's allocation of these funds may be used for widening existing narrow ~~pavements that are scheduled for resurfacing.~~pavements."

SECTION 2. G.S. 136-182 reads as rewritten:

"**§ 136-182. Supplement for secondary road construction.**

Funds are allocated from the Trust Fund to increase allocations for secondary road construction made under G.S. 136-44.2A so that all State-maintained unpaved secondary roads with a traffic vehicular equivalent of at least 50 vehicles a day can be paved by the ~~1998-99~~ 2009-2010 fiscal year. This supplement shall be discontinued when the Department of Transportation certifies that, with funds available from sources other than the Trust Fund, all State-maintained unpaved secondary roads, regardless of their traffic vehicular equivalent, can be paved during the following six years. If all the State-maintained roads in a county have been paved under G.S. 136-44.7, except those that have unavailable rights-of-way or for which environmental permits cannot be

approved to allow for paving, then the funds may be used for safety improvements on the paved or unpaved secondary roads in that county. If the supplement is discontinued before the Trust Fund terminates, the funds that would otherwise be allocated under this section shall be added to the allocation from the Trust Fund for projects of the Intrastate System."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 35*

Transportation Committee Substitute Adopted 3/19/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S35-CSRW-63 [v.5]

7/15/2003 9:00:57 PM

Short Title: Charter Schools/Deed Registration. (Public)

Sponsors:

Referred to:

February 13, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CLOVER GARDEN CHARTER SCHOOL TO ELECT TO PARTICIPATE IN THE NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR MEDICAL PLAN, TO AUTHORIZE THE STATE BOARD OF EDUCATION TO GRANT OR RENEW CHARTERS FOR CHARTER SCHOOLS FOR PERIODS UP TO TEN YEARS, TO REQUIRE THE STATE BOARD OF EDUCATION TO REVIEW THE OPERATIONS OF CHARTER SCHOOLS AT LEAST EVERY FIVE YEARS, AND TO MODIFY THE AUTHORITY OF THE DUPLIN BOARD OF COUNTY COMMISSIONERS TO REQUIRE THE REGISTER OF DEEDS IN THE COUNTY NOT TO ACCEPT ANY DEED TRANSFERRING REAL PROPERTY FOR REGISTRATION UNLESS THE COUNTY TAX COLLECTOR CERTIFIES THAT NO DELINQUENT TAXES ARE DUE ON THAT PROPERTY.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the time limitations contained in G.S. 135-40.3A(b), the board of directors of Clover Garden Charter School in Alamance County may elect to become a participating employing unit in the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan in accordance with Article 3 of Chapter 135 of the General Statutes. The election authorized by this section shall be made no later than 30 days after the effective date of this act and shall be made in accordance with all other requirements of G.S. 135-40.3A.

SECTION 2. G.S. 115C-238.29D(d) reads as rewritten:

"(d) The State Board of Education may grant the initial charter for a period not to exceed ~~five~~ 10 years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed ~~five~~ 10 years each. The State Board of Education shall review the operations of each charter school at least once every five years to

ensure that the school is meeting the expected academic, financial, and governance standards.

A material revision of the provisions of a charter application shall be made only upon the approval of the State Board of Education.

It shall not be considered a material revision of a charter application and shall not require the prior approval of the State Board for a charter school to increase its enrollment during the charter school's second year of operation and annually thereafter (i) by up to ten percent (10%) of the school's previous year's enrollment or (ii) in accordance with planned growth as authorized in the charter. Other enrollment growth shall be considered a material revision of the charter application, and the State Board may approve such additional enrollment growth of greater than ten percent (10%) only if the State Board finds that:

(1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment;

(2) The charter school has commitments for ninety percent (90%) of the requested maximum growth;

(3) The board of education of the local school administrative unit in which the charter school is located has had an opportunity to be heard by the State Board of Education on any adverse impact the proposed growth would have on the unit's ability to provide a sound basic education to its students;

(4) The charter school is not currently identified as low-performing;

(5) The charter school meets generally accepted standards of fiscal management; and

(6) It is otherwise appropriate to approve the enrollment growth."

SECTION 3. G.S. 161-31, as amended by S.L. 2003-72 and S.L. 2003-189, reads as rewritten:

"(a) Tax Certification. – The board of commissioners of a county may, by resolution, require the register of deeds not to accept any deed transferring real property for registration unless the county tax collector has certified that no delinquent ad valorem county taxes, ad valorem municipal taxes, or other taxes with which the collector is charged are a lien on the property described in the deed. The county commissioners may describe the form the certification must take in its resolution.

(a1) Exception to Tax Certification. – If a board of county commissioners adopts a resolution pursuant to subsection (a) of this section, notwithstanding the resolution, the register of deeds shall accept without certification a deed submitted for registration under the supervision of a closing attorney and containing this statement on the deed: 'This instrument prepared by: _____, a licensed North Carolina attorney. Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.

(b) Applicability. – This section applies only to Alleghany, Anson, Beaufort, Bertie, Cabarrus, Camden, Carteret, Cherokee, Chowan, Clay, Cleveland, Currituck, Davidson, Duplin, Durham, Forsyth, Gaston, Gates, Graham, Granville, Harnett, Haywood, Henderson, Hertford, Hyde, Iredell, Jackson, Lee, Macon, Madison, Martin,

Montgomery, Northampton, Pasquotank, Perquimans, Person, Pitt, Polk, Rockingham, Rowan, Rutherford, Stanly, Swain, Transylvania, Vance, Warren, Washington, and Yadkin Counties."

SECTION 4. Section 2 of this act is effective when it becomes law and applies to charters granted or renewed on or after that date. The remainder of this act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **Rules, Calendar and Operations of the House**.

☒ Committee Substitute for

S.B. 35 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO USE THE PORTION OF CONTRACT MAINTENANCE RESURFACING FUNDS ALLOCATED TO WIDENING EXISTING NARROW PAVEMENTS SCHEDULED FOR RESURFACING TO BE USED TO WIDEN ANY EXISTING NARROW PAVEMENTS AND TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO USE HIGHWAY TRUST FUND SECONDARY ROAD PAVING FUNDS ALLOCATED TO EACH COUNTY FOR THE ADDITIONAL PURPOSE OF SAFETY IMPROVEMENTS ON PAVED AND UNPAVED ROADS IN THE SAME COUNTY, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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 2003

S 1

SENATE JOINT RESOLUTION 327

Sponsors:	Senator Soles.
Referred to:	Commerce.

March 10, 2003

A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENT OF JOSEPH A. SMITH, JR. AS COMMISSIONER OF BANKS.

Whereas, under provisions of G.S. 53-92, appointment by the Governor of the Commissioner of Banks is subject to confirmation by the General Assembly by joint resolution; and

Whereas, the term of the present Commissioner of Banks will end on March 31, 2003; and

Whereas, the Governor has submitted to the presiding officers of the House of Representatives and the Senate the name of his appointee to fill the term of Commissioner of Banks which will begin April 1, 2003, and expire March 31, 2007; Now, therefore,

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

SECTION 1. The appointment of Joseph A. Smith, Jr. as Commissioner of Banks for a term expiring March 31, 2007, is confirmed.

SECTION 2. This resolution is effective upon ratification.

SENATE BILL 327: Confirmation of Joseph A. Smith, Jr., Commissioner of Banks.

BILL ANALYSIS

Committee:	House Financial Institutions	**Introduced by:**	Sen. R.C. Soles
Date:	March 25, 2003	**Summary by:**	O. Walker Reagan, Committee Co-Counsel
Version:	First Edition		

SUMMARY: ***Senate Joint Resolution 327 confirms the appointment of Mr. Joseph A. Smith, Jr. as Commissioner of Banks for a four-year term that expires March 31, 2007. The resolution is effective upon ratification.***

CURRENT LAW: Mr. Smith was appointed by the Governor to serve as Commissioner of Banks for the unexpired term of Hal Lingerfelt that expires on March 31, 2003. This appointment for a four-year term is subject to confirmation by the General Assembly. The Commissioner of Banks is paid $104,523 per year.

The Commissioner of Banks regulates and supervises banking activities under Chapter 53 and savings institutions activities under Chapter 54B of the North Carolina General Statutes. The primary responsibilities of this office are to insure safe and conservative management of the banks, savings and loan associations, and savings banks under its supervision taking into consideration the interest of the financial institutions' depositors, creditors, shareholders, and the public in their relations with such financial institutions. The North Carolina Banking Commission adopts rules to provide direction and supervision of the Commissioner of Banks as he enforces the rules of the Commission and the financial institution laws of North Carolina. The Banking Commission may review the actions of the Commissioner of Banks.

The Office of the Commissioner of Banks, together with the North Carolina Banking Commission, is responsible for the regulation of every state chartered bank, savings and loan association, savings bank or corporation transacting the business of banking in North Carolina, as well as registration/licensing of various financial institutions operating in North Carolina. These financial institutions include:

1. Check-cashers,
2. Consumer finance companies,
3. Mortgage bankers and mortgage brokers,
4. Money transmitters,
5. Refund anticipation lenders,
6. Bank holding companies, and
7. Reverse mortgage lenders.

Attached to this summary is a copy of the Governor's appointment letter, Mr. Smith's resume, and a letter from the State Ethics Board concerning Mr. Smith's Statement of Economic Interest.

S327-SMRU-002

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.J.R. 327 A JOINT RESOLUTION PROVIDING FOR CONFIRMATION OF THE APPOINTMENT OF JOSEPH A SMITH, JR. AS COMMISSIONER OF BANKS.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 750

Commerce Committee Substitute Adopted 4/23/03

Short Title: Increase Permit Limit for Breweries. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CEILING THAT A SMALL BREWERY MAY PRODUCE WITHOUT BEING REQUIRED TO GO THROUGH A MALT BEVERAGE DISTRIBUTOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1104 reads as rewritten:

"**§ 18B-1104. Authorization of brewery permit.**

The holder of a brewery permit may:

(1) Manufacture malt beverages;

(2) Purchase malt, hops and other ingredients used in the manufacture of malt beverages;

(3) Sell, deliver and ship malt beverages in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that malt beverages may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State;

(4) Receive malt beverages manufactured by the permittee in some other state for transshipment to dealers in other states;

(5) Furnish or sell marketable malt beverage products, or packages which do not conform to the manufacturer's marketing standards, if State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State;

(6) Give its products to its employees and guests for consumption on its premises;

(7) In areas where the sale is legal, sell the brewery's malt beverages at the brewery upon receiving a permit under G.S. 18B-1001(1). The brewery also may obtain a malt beverage wholesaler permit to sell, deliver, and ship at wholesale only malt beverages manufactured by the brewery. The authorization of this subdivision applies to a brewery

that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than ~~310,000 gallons~~ 50,000 barrels of malt beverages produced by it per year.

A sale or gift under subdivision (5) or (6) shall not be considered a retail or wholesale sale under the ABC laws."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 750
Commerce Committee Substitute Adopted 4/23/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S750-CSRW-62 [v.4]

7/15/2003 8:41:24 PM

Short Title: Permit Limit for Breweries. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE CEILING THAT A SMALL BREWERY MAY PRODUCE WITHOUT BEING REQUIRED TO GO THROUGH A MALT BEVERAGE DISTRIBUTOR.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1104 reads as rewritten:

"**§ 18B-1104. Authorization of brewery permit.**

The holder of a brewery permit may:

(1) Manufacture malt beverages;

(2) Purchase malt, hops and other ingredients used in the manufacture of malt beverages;

(3) Sell, deliver and ship malt beverages in closed containers to wholesalers licensed under this Chapter as authorized by the ABC laws, except that malt beverages may be sold to exporters and nonresident wholesalers only when the purchase is not for resale in this State;

(4) Receive malt beverages manufactured by the permittee in some other state for transshipment to dealers in other states;

(5) Furnish or sell marketable malt beverage products, or packages which do not conform to the manufacturer's marketing standards, if State taxes have been or will be paid, to its employees for the use of the employees or their families and guests in this State;

(6) Give its products to its employees and guests for consumption on its premises;

(7) In areas where the sale is legal, sell the brewery's malt beverages at the brewery upon receiving a permit under G.S. 18B-1001(1). The brewery also may obtain a malt beverage wholesaler permit to sell,

deliver, and ship at wholesale only malt beverages manufactured by the brewery. The authorization of this subdivision applies to a brewery that sells, to consumers at the brewery, to wholesalers, to retailers, and to exporters, fewer than ~~310,000 gallons~~ 40,000 barrels, as defined in G.S. 81A-9, of malt beverages produced by it per year.

A sale or gift under subdivision (5) or (6) shall not be considered a retail or wholesale sale under the ABC laws."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 750 A BILL TO BE ENTITLED AN ACT TO INCREASE THE CEILING THAT A SMALL BREWERY MAY PRODUCE WITHOUT BEING REQUIRED TO GO THROUGH A MALT BEVERAGE DISTRIBUTOR.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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, unfavorable as to Senate committee substitute bill.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 751

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/22/03

Short Title: Civil Penalties/Food, Drug and Cosmetics. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE NORTH CAROLINA FOOD, DRUG AND COSMETIC ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-124.1. Civil penalties.**

(a) The Commissioner may assess a civil penalty of not more than two thousand dollars ($2,000) against any person who violates a provision of this Article or any rule promulgated thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. No penalty shall be assessed unless the person has been given written notice of the violation and has been given a reasonable period of time in which to correct the violation; provided that a person shall not be entitled to a period of time to correct a violation before a penalty is assessed when the violation is likely to cause physical injury or illness.

(b) Training and management practices implemented for the purpose of complying with this Article shall be a mitigating factor in the assessment of a civil penalty.

(c) The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 2. This act is effective when it becomes law and applies to violations of Article 12 of Chapter 106 of the General Statutes occurring on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 751

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/22/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S751-PCS35352-SW-59

Short Title: Civil Penalties/Food, Drug and Cosmetics. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE TO IMPOSE CIVIL PENALTIES FOR VIOLATIONS OF THE NORTH CAROLINA FOOD, DRUG AND COSMETIC ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12 of Chapter 106 of the General Statutes is amended by adding a new section to read:

"**§ 106-124.1. Civil penalties.**

(a) The Commissioner may assess a civil penalty of not more than two thousand dollars ($2,000) against any person who violates a provision of this Article or any rule adopted pursuant to this Article. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation.

(b) Prior to assessing a civil penalty, the Commissioner shall give the person written notice of the violation and a reasonable period of time in which to correct the violation. However, the Commissioner shall not be required to give a person time to correct a violation before assessing a penalty if the Commissioner determines the violation is likely to cause future physical injury or illness.

(c) The Commissioner shall consider the training and management practices implemented by the person for the purpose of complying with this Article as a mitigating factor when determining the amount of the civil penalty.

(d) The Commissioner shall remit the clear proceeds of civil penalties assessed pursuant to this section to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 2. This act becomes effective December 1, 2003, and applies to violations of Article 12 of Chapter 106 of the General Statutes occurring on or after that date.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 751 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE COMMISSIONER OF AGRICULTURE TO IMPOSE CIVIL PENALTIES FOR VIOALTIONS OF THE NORTH CAROLINA FOOD, DRUG AND COSMETIC 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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, unfavorable as to Senate committee substitute bill.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Name of Committee _____ Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Rob Dugglow	NC state water
Elizabeth Dalton	Bone & Associates
Ken Melton	Pizza Hut
JACK COZORT	PAPA Joe's
[illegible]	WCPSS
ROB [illegible]	HHS
Steve Woodson	NCFB
Andy Ellen	NCRMA
Paul H Stock	NCBA
ANN [illegible]	OWASA
Cam Cover	BPMHC
Michael Houser	NCAE
BILL RUSTIN	ACP
Jessica Dandy	Coalition w/ NC's children
Colleen Kochanek	Hafer & Caldwell, P.A.
Steve Wall	Conservation Council
PRESTON HOWARD	NCIC
RICK ZECHINI	NC Assoc. of REALTORS®
Tim Minton	NC Home Builders
Henry Soares	Attorney - Raleigh
Dana Simpson	Smith Anderson
Adam Stallings	Hunton & Williams
[illegible]	Capitol Group
[illegible]	RedOak-YCRA
John [illegible]	NCFPC
Brooke Everley	NCFPC
Janne McEachern	NCFPC

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 18, 2003
10:10 A.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE BILL 164 – AN ACT RELATING TO THE 111TH HOUSE DISTRICT

SENATE BILL 61 – AN ACT TO SIMPLIFY THE PROCEDURE FOR CALCULATING TUITION FOR MILITARY PERSONNEL AND THEIR DEPENDENTS

COMMITTEE SUBSTITUTE FOR SENATE JOINT RESOLUTION 416 – A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL 1182 – AN ACT TO EXPAND THE USURY EXEMPTION

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL 1028 – AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO ADOPT TEMPORARY AND PERMANENT RULES TO ESTABLISH A GENERAL PERMIT FOR THE CONSTRUCTION OF RIPRAP SILLS FOR WETLAND ENHANCEMENT AND SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS, TO PROHIBIT THE CONSTRUCTION OF PERMANENT EROSION CONTROL STRUCTURES IN OCEAN SHORELINES, AND TO PROVIDE THAT TEMPORARY EROSION CONTROL STRUCTURES IN OCEAN SHORELINES SHALL BE LIMITED TO SANDBAGS

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 867 – AN ACT TO CREATE THE OFFENSE OF ARSON OR OTHER UNLAWFUL BURNINGS THAT RESULT IN SERIOUS INJURY TO A FIREFIGHTER

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

July 18, 2003

The Committee on Rules, Calendar and Operations of the House met on July 18, 2003 at 10:10 a.m. in Room 421 of the Legislative Office Building. The following members were present: Representative Culpepper, Chairman; Hackney, Vice Chairman; Brubaker, Crawford, Gorman; Hill, Justus, LaRoque, Luebke, McComas, Miller, Owens, Setzer and Yongue.

The following bills were considered:

HOUSE BILL 164 – AN ACT RELATING TO THE 111TH HOUSE DISTRICT. A proposed committee substitute changing the title to AN ACT TO CLARIFY AN ANNEXATION ACT APPLICABLE TO THE CITY OF KINGS MOUNTAIN was offered, and Representative Setzer moved for its adoption for the purposed of discussion, and without objection the chairman so ordered. Representative Moore, sponsor, was recognized and asked that the committee support the bill. The chairman stated that the bill needs to go to the Finance Committee and asked for a motion. Representative Hill moved that the proposed committee substitute be given a favorable report, and be re-referred to the Finance Committee, unfavorable to the original bill. The motion passed.

SENATE BILL 61 – AN ACT TO SIMPLIFY THE PROCEDURE FOR CALCULATING TUITION FOR MILITARY PERSONNEL AND THEIR DEPENDENTS. A proposed House committee substitute changing the title to AN ACT TO BRING STATE LAW INTO COMPLIANCE WITH RECENTLY ADOPTED FEDERAL REGULATIONS CONCERNING THE EFFECT OF VIOLATION OF RAILROAD CROSSING SAFETY AND OTHER STATE LAWS ON COMMERCIAL DRIVERS LICENSES, AND REQUIRING A NEW "S" ENDORSEMENT FOR PERSONS OPERATING SCHOOL BUSES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION-OVERSIGHT COMMITTEE, AND TO AUTHORIZE A STUDY OF THE NEED FOR A MOPED IDENTIFICATION TAG PROGRAM was offered, and Representative Crawford moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. Representative Crawford, was recognized and moved that the proposed House committee substitute be given a favorable report, unfavorable to the original bill. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE JOINT RESOLUTION 416 – A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES. A proposed House committee substitute was offered, and Representative Justus moved for its adoption. Without objection, the chairman so ordered. The proposed committee substitute changed the date of the election. Representative Brubaker moved that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute joint resolution. The motion passed.

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL 1182 – AN ACT TO EXPAND THE USURY EXEMPTION. Representative Goodwin, sponsor, was recognized to explain the committee substitute. He stated that the bill in essence concerns jobs and consumer protection, specifically as it relates to those institutions that deal with credit cards and home equity loans. He further stated that the banking industry and other business interests and consumer protection groups are in favor of the bill. Representative Brubaker moved that the committee recommend that the House concur with the Senate committee substitute. Paul Stock, representing the North Carolina Bankers Association, spoke in favor of the bill, and the motion passed.

SENATE COMMITTEE SUBSTITUTE FOR HOUSE BILL 1028 – AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO ADOPT TEMPORARY AND PERMANENT RULES TO ESTABLISH A GENERAL PERMIT FOR THE CONSTRUCTION OF RIPRAP SILLS FOR WETLAND ENHANCEMENT AND SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS, TO PROHIBIT THE CONSTRUCTION OF PERMANENT EROSION CONTROL STRUCTURES IN OCEAN SHORELINES, AND TO PROVIDE THAT TEMPORARY EROSION CONTROL STRUCTURES IN OCEAN SHORELINES SHALL BE LIMITED TO SANDBAGS. The chairman stated that the bill was before the Rules Committee because the Senate had added Section 3, which he thought was a substantial revision to the House bill. Pricey Harrison, representing the Coastal Management Division of the Department of Environment and Natural Resources, spoke in favor of the bill. Representative Hackney moved that the committee recommend that the House concur with the Senate committee substitute, which motion passed.

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 867 – AN ACT TO CREATE THE OFFENSE OF ARSON OR OTHER UNLAWFUL BURNINGS THAT RESULT IN SERIOUS INJURY TO A FIREFIGHTER. A proposed House committee substitute was offered, and Representative Goodwin moved for its adoption for the purpose of discussion, which motion passed. The chairman then offered an amendment. Representative Gorman had concerns about the amendment, and suggested that the first amendment be perfected. Following a lengthy discussion, Representative Hackney offered a perfecting amendment and moved for its adoption. The motion passed. He further moved that the amendments be incorporated into House committee substitute #2 and that it be given a favorable report, unfavorable to House committee substitute #1. The motion passed.

The meeting adjourned at 10:45 a.m.

Bill Culpepper

Representative Bill Culpepper
Chairman

Dorothy C. Crocker

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

H 1

HOUSE BILL 164

Short Title:	111th House District Local Act-4.	(Local)
Sponsors:	Representative Moore.	
Referred to:	Rules, Calendar, and Operations of the House.	

March 3, 2003

A BILL TO BE ENTITLED

AN ACT RELATING TO THE 111TH HOUSE DISTRICT.

The General Assembly of North Carolina enacts:

SECTION 1. This act relates only to the 111th House District.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 164
PROPOSED COMMITTEE SUBSTITUTE H164-PCS30417-LBx-91

Short Title: Kings Mountain Annexation Clarification. (Local)

Sponsors:

Referred to:

March 3, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AN ANNEXATION ACT APPLICABLE TO THE CITY OF KINGS MOUNTAIN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 3 of S.L. 2003-241 reads as rewritten:

"**SECTION 3.** This act applies only the City of Kings Mountain and does not affect the statutory authority of the City of Shelby to annex property in accordance with Chapter 160A of the General Statutes. This act is effective when it becomes law."

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 164 A BILL TO BE ENTITLED ~~AN ACT~~ AN ACT RELATING TO THE 111TH HOUSE DISTRICT.

☐ 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 the committee substitute bill, ☒ which changes the title, unfavorable as to the original 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 61

Short Title:	Military Personnel/Tuition.	(Public)
Sponsors:	Senators Rand; Foxx and Shaw.	
Referred to:	Education/Higher Education.	

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY THE PROCEDURE FOR CALCULATING TUITION FOR MILITARY PERSONNEL AND THEIR DEPENDENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-143.3 reads as rewritten:

"**§ 116-143.3. Tuition of personnel in the armed services.**

(a) For purposes of this section the term "armed services" shall mean the United States Air Force, Army, Coast Guard, Marine Corps, and Navy; the North Carolina National Guard; and any Reserve Component of the foregoing. The term "abode" shall mean the place where a person actually lives, whether temporarily or permanently; the term "abide" shall mean to live in a given place.

(b) Any member of the armed services ~~qualifying for admission~~ and any dependent relative of the member who is admitted to an institution of higher education as defined in G.S. 116-143.1(a)(3) ~~but not qualifying as a resident for tuition purposes under G.S. 116-143.1 shall be charged the out-of-State tuition rate; provided, that the out-of-State tuition shall be forgiven to the extent that the out-of-State tuition rate exceeds any amounts payable to the institution or the service member by the service member's employer by reason of enrollment pursuant to such admission~~ while ~~the member is~~ abiding in this State incident to active military ~~duty, plus the amount that represents the percentage of the out-of-State tuition rate paid to the institution or the service member by the service member's employer multiplied by the in-State tuition rate and then subtracted from the in-State tuition rate. Any member of the armed services who does not qualify for any payment by the member's employer shall be eligible to be charged the in-State tuition rate and shall pay the full amount of the in-State tuition rate.~~ duty is eligible to be charged the in-State tuition rate. Furthermore, any member of the armed services who resides outside of the State and who registers for a course delivered through distance learning is eligible to be charged the in-State tuition rate.

(c) ~~Any dependent relative of a member of the armed services who is abiding in this State incident to active military duty, as defined by the Board of Governors of The~~

~~University of North Carolina and by the State Board of Community Colleges while sharing the abode of that member shall be eligible to be charged the in-State tuition rate, if the dependent relative qualifies for admission to an institution of higher education as defined in G.S. 116-143.1(a)(3).~~ The dependent relatives shall comply with the requirements of the Selective Service System, if applicable, in order to be accorded this benefit. In the event the member of the armed services removes his or her abode from North Carolina during an academic year, the dependent relative shall continue to be eligible for the in-State tuition rate during the remainder of that academic year.

(d) The burden of proving entitlement to the benefit of this section shall lie with the applicant therefor.

(e) A person charged less than the out-of-State tuition rate solely by reason of this section shall not, during the period of receiving that benefit, qualify for or be the basis of conferring the benefits of G.S. 116-143.1(g), (h), (i), (j), (k), or (l)."

SECTION 2. This act is effective when it becomes law and applies to the 2003-2004 academic year and each year thereafter.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 61
PROPOSED HOUSE COMMITTEE SUBSTITUTE S61-PCS35354-RW-69

Short Title: CDL Changes/Study Moped Tag Identification. (Public)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO BRING STATE LAW INTO COMPLIANCE WITH RECENTLY ADOPTED FEDERAL REGULATIONS CONCERNING THE EFFECT OF VIOLATION OF RAILROAD CROSSING SAFETY AND OTHER STATE LAWS ON COMMERCIAL DRIVERS LICENSES, AND REQUIRING A NEW "S" ENDORSEMENT FOR PERSONS OPERATING SCHOOL BUSES, AS RECOMMENDED BY THE JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE, AND TO AUTHORIZE A STUDY OF THE NEED FOR A MOPED IDENTIFICATION TAG PROGRAM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 20-4.01(41a) reads as rewritten:

"(41a) Serious Traffic Violation. – A conviction of one of the following offenses when operating a commercial motor vehicle:

a. Excessive speeding, involving a single charge of any speed 15 miles per hour or more above the posted speed limit.
b. Careless and reckless driving.
c. A violation of any State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident.
d. Improper or erratic lane changes.
e. Following the vehicle ahead too closely.
f. Driving a commercial motor vehicle without obtaining a commercial drivers license.
g. Driving a commercial motor vehicle without a commercial drivers license in the driver's possession.
h. Driving a commercial motor vehicle without the proper class of commercial drivers license or endorsements for the specific

vehicle group being operated or for the passenger or type of cargo being transported."

SECTION 2. G.S. 20-17.4 is amended by adding a new subsection to read:

"(k) Disqualification for Railroad Grade Crossing Offenses. – Any person convicted of a violation of G.S. 20-142.1 through G.S. 20-142.5, when the driver is operating a commercial motor vehicle, shall be disqualified from driving a commercial motor vehicle as follows:

(1) A person is disqualified for a period of 60 days if convicted of a first violation of a railroad grade crossing offense listed in this subsection.

(2) A person is disqualified for a period of 120 days if convicted during any three-year period of a second violation of any combination of railroad grade crossing offenses listed in this subsection.

(3) A person is disqualified for a period of one year if convicted during any three-year period of a third or subsequent violation of any combination of railroad grade crossing offenses listed in this subsection."

SECTION 3. G.S. 20-37.12 is amended by adding a new subsection to read:

"(f) A person shall not be convicted of failing to carry a commercial drivers license if, by the date the person is required to appear in court for the violation, the person produces to the court a commercial drivers license issued to the person that was valid on the date of the offense."

SECTION 4. G.S. 20-37.16 reads as rewritten:

"**§ 20-37.16. Content of license; classifications and endorsements; fees.**

(a) A commercial drivers license must be marked "Commercial Drivers License" or "CDL" and must contain the information required by G.S. 20-7 for a regular drivers license.

(b) The classes of commercial drivers licenses are:

(1) Class A CDL – A Class A commercial drivers license authorizes the holder to drive any Class A motor vehicle.

(2) Class B CDL – A Class B commercial drivers license authorizes the holder to drive any Class B motor vehicle.

(3) Class C CDL – A Class C commercial drivers license authorizes the holder to drive any Class C motor vehicle.

(c) Endorsements. – The endorsements required to drive certain motor vehicles are as follows:

Endorsement	Vehicles That Can Be Driven
H	Vehicles, regardless of size or class, except tank vehicles, when transporting hazardous materials that require the vehicle to be placarded
M	Motorcycles
N	Tank vehicles not carrying hazardous materials
P	Vehicles carrying passengers
S	School bus
T	Double trailers

X Tank vehicles carrying hazardous materials.

To obtain an H or an X endorsement, an applicant must take a test. This requirement applies when a person first obtains an H or an X endorsement and each time a person renews an H or an X endorsement. An applicant who has an H or an X endorsement issued by another state who applies for an H or an X endorsement must take a test unless the person has passed a test that covers the information set out in 49 C.F.R. § 383.121 within the preceding two years.

(d) The fee for a Class A, B, or C commercial drivers license is ten dollars ($10.00) for each year of the period for which the license is issued. The fee for each endorsement is one dollar and twenty-five cents ($1.25) for each year of the period for which the endorsement is issued. The fees required under this section do not apply to ~~a person whose license is restricted to driving a school bus or school activity bus or to~~ employees of the Driver License Section of the Division who are designated by the Commissioner.

(e) The requirements for a commercial drivers license do not apply to vehicles used for personal use such as recreational vehicles. A commercial drivers license is also waived for the following classes of vehicles as permitted by regulation of the United States Department of Transportation:

(1) Vehicles owned or operated by the Department of Defense, including the National Guard, while they are driven by active duty military personnel, or members of the National Guard when on active duty, in the pursuit of military purposes.

(2) Any vehicle when used as firefighting or emergency equipment for the purpose of preserving life or property or to execute emergency governmental functions.

(3) A farm vehicle that meets all of the following criteria:

a. Is controlled and operated by the farmer or the farmer's employee and used exclusively for farm use.

b. Is used to transport either agricultural products, farm machinery, or farm supplies, both to or from a farm.

c. Is not used in the operations of a for-hire motor carrier.

d. Is used within 150 miles of the farmer's farm.

A farm vehicle includes a forestry vehicle that meets the listed criteria when applied to the forestry operation.

(f) For the purposes of this section, the term 'school bus' has the same meaning as in 49 C.F.R. § 383.5."

SECTION 5. G.S. 20-37.16 is amended by adding a new subsection to read:

"(c1) The test for an S endorsement shall be waived by the Division for an applicant who is currently licensed, has experience driving a school bus, has a good driving record, and meets the requirements of this subsection. An applicant for a waiver under this subsection shall verify that, during the two-year period immediately prior to application for an S endorsement, the applicant met all of the following requirements:

(1) The applicant held a valid commercial drivers license with a passenger vehicle endorsement to operate a school bus representative of the group the applicant will be driving.

(2) The applicant did not have the applicant's drivers license or commercial drivers license suspended, revoked, or cancelled, or the applicant was not disqualified from operating a commercial motor vehicle.

(3) The applicant was not convicted of a State law offense that corresponds to the list of disqualifying offenses in 49 C.F.R. § 383.51(b) while operating a commercial motor vehicle or of any offense in a noncommercial motor vehicle that would be a disqualifying offense under 49 C.F.R. § 383.51(b) if committed in a commercial motor vehicle.

(4) The applicant was not convicted of more than one of the serious traffic violations listed and defined in G.S. 20-4.01(41a) while operating any type of motor vehicle.

(5) The applicant was not convicted of a violation of State or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with any traffic accident.

(6) The applicant was not convicted of any motor vehicle traffic violation that resulted in an accident.

(7) The applicant was regularly employed as a school bus driver, operated a school bus representative of the group the applicant seeks to drive, and provides evidence of that employment."

SECTION 6. The Joint Legislative Transportation Oversight Committee may study the need for a moped identification tag program. If the Committee finds that identifying mopeds is a desirable public policy, then it should recommend the method of identifying mopeds, the process for identifying the mopeds, the administrative agency responsible for identifying mopeds, and any other issues that relate to the administration of the moped identification process. The Committee may report its findings and any recommended legislation to the 2004 Regular Session of the 2003 General Assembly or to the 2005 Regular Session of the 2005 General Assembly.

SECTION 7. Sections 2, 4, and 5 of this act become effective October 1, 2003. Section 5 of this act expires September 30, 2005. Sections 1 and 3 of this act become effective January 1, 2005. The remainder of this act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.B. 61 A BILL TO BE ENTITLED AN ACT TO SIMPLIFY THE PROCEDURE FOR CALCULATING TUITION FOR MILITARY PERSONNEL AND THEIR DEPENDENTS.

☐ 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 the House committee substitute bilL, ☒ which changes the title, unfavorable as to the original bill.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE JOINT RESOLUTION 416

Education/Higher Education Committee Substitute Adopted 3/19/03

Sponsors:

Referred to:

March 17, 2003

A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

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

SECTION 1. Pursuant to G.S. 115D-2.1(b)(4)f., the Senate and the House of Representatives shall elect members to the State Board of Community Colleges during the regular sessions of the two chambers to be held on Thursday, May 15, 2003. At that time the Senate shall elect two members to the State Board for a term of six years beginning July 1, 2003. The House of Representatives also shall elect two members to the State Board for a term of six years beginning July 1, 2003.

SECTION 2. Each chamber shall follow the procedure set out in G.S. 115D-2.1 for the nomination and election of members of the State Board.

SECTION 3. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE JOINT RESOLUTION 416

Education/Higher Education Committee Substitute Adopted 3/19/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S416-CSRW-68 [v.1]

7/17/2003 7:46:38 PM

Sponsors:

Referred to:

March 17, 2003

A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

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

SECTION 1. Pursuant to G.S. 115D-2.1(b)(4)f., the Senate and the House of Representatives shall elect members to the State Board of Community Colleges during the regular sessions of the two chambers to be held on Saturday, July 19, 2003. At that time the Senate shall elect two members to the State Board for a term of six years beginning July 1, 2003. The House of Representatives also shall elect two members to the State Board for a term of six years beginning July 1, 2003.

SECTION 2. Each chamber shall follow the procedure set out in G.S. 115D-2.1 for the nomination and election of members of the State Board.

SECTION 3. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.J.R. 416 A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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 joint resolution, unfavorable as to Senate committee substitute joint resolution.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 4

HOUSE BILL 1182

Committee Substitute Favorable 4/30/03
Senate Finance Committee Substitute Adopted 7/16/03
Fourth Edition Engrossed 7/17/03

Short Title: Expand Usury Exemption. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE USURY EXEMPTION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 24-9 reads as rewritten:

"**§ 24-9.** ~~**Loans to certain entities organized for profit not subject to claim or defense of usury.**~~ **Loans exempt from rate and fee limitations.**

~~Notwithstanding any other provision of this Chapter or any other provision of law, any foreign or domestic corporation, limited liability company, or partnership substantially engaged in commercial pursuits for pecuniary gain may agree to pay, and any lender or other person may charge and collect from the entity, interest, fees, and other charges at any rate which the entity may agree or be required to pay and as to any such transaction the claim or defense of usury by the entity and its successors or anyone else in its behalf is prohibited.~~

(a) As used in this section, the following definitions apply:

(1) "Bank" means a bank, savings and loan association, savings bank, or credit union chartered under the laws of North Carolina or the United States. However, the term "bank" does not include any subsidiary or affiliate of a bank, savings and loan association, savings bank, or credit union chartered under the laws of North Carolina or the United States that is not itself a bank, savings and loan association, savings bank, or credit union chartered under the laws of North Carolina or the United States.

(2) "Equity line of credit" means a loan, other than an exempt loan, that satisfies all of the following conditions:

a. The lender is a bank.

b. The loan is a revolving line of credit, open-end loan, revolving credit plan, or revolving credit card plan, and the loan is secured by a mortgage or deed of trust on real property.

c. At any time within a specified period not to exceed 30 years the borrower may request and the lender is obligated to provide credit advances up to the agreed aggregate credit limit. As used in this sub-subdivision, "lender is obligated" means that the lender is contractually bound to provide credit advances. However, the equity line of credit and the lender's obligation to make credit advances shall be subject to the provisions of section 226.5b(f) of Title 12 of the Code of Federal Regulations and the official commentaries and rulings issued pursuant thereto, as the same may be amended from time to time, without regard to whether that section of the Code of Federal Regulations would otherwise apply to the loan.

d. Any repayments of principal by the borrower within the specified time will reduce the amount of advances counted against the aggregate credit limit.

e. The initial loan amount is ten thousand dollars ($10,000) or more. On January 1, 2008, and on January 1 every five years thereafter, the minimum initial loan amount sufficient to qualify a loan closed on or after that date as an equity line of credit under this section shall be increased by one thousand dollars ($1,000). For example, a loan closed on or after January 1, 2008, but prior to January 1, 2013, shall not be considered an equity line of credit unless the initial loan amount is eleven thousand dollars ($11,000) or more, and a loan closed on or after January 1, 2013, but prior to January 1, 2018, shall not be considered an equity line of credit unless the initial loan amount is twelve thousand dollars ($12,000) or more.

An equity line of credit shall cease being an equity line of credit subject to the provisions of this section from and after the date the loan amount is reduced below the equity line of credit's initial loan amount unless (i) the loan amount was reduced for one or more of the reasons or pursuant to one or more of the methods specified in section 226.5b(f)(2) or section 226.5b(f)(3)(vi) of Title 12 of the Code of Federal Regulations and the official commentaries and rulings issued pursuant thereto, as the same may be amended from time to time, without regard to whether that section of the Code of Federal Regulations would otherwise apply to the loan, or (ii) the loan amount was reduced at the request of the borrower because the borrower was engaged in the refinancing of a loan secured by a superior lien on the same real property and the reduction in the loan amount of the equity line of credit is no greater than the difference between the loan amount

secured by the refinancing mortgage and the outstanding principle balance of the loan being refinanced.

(3) "Exempt loan" means a loan in which:

a. The loan amount is three hundred thousand dollars ($300,000) or more; or

b. The borrower is a person other than a natural person; or

c. The loan is obtained by a natural person primarily for a purpose other than a personal, family, or household purpose. Whether a loan is obtained primarily for a purpose other than a personal, family, or household purpose shall be guided by the standards established by the federal Truth In Lending Act (Title 1 of Public Law 90-321; 82 Stat. 146; 15 U.S.C. § 160, et seq.) and all regulations and rulings issued pursuant to that Act, as the same may be amended from time to time.

(4) "Loan" means an advance of money or an extension of credit that is made to or on behalf of a borrower, the principal amount of which the borrower has an obligation to pay the lender. The term includes revolving lines of credit, open-end loans, revolving credit plans, and revolving credit card plans in addition to closed-end loans.

(5) "Loan amount" means the principal amount of a loan or, in the case of a revolving line of credit, open-end loan, revolving credit plan, or revolving credit card plan, the initial maximum credit limit.

(b) Notwithstanding any other provision of this Chapter or any other provision of State law, any borrower in an exempt loan transaction may agree to pay, and any lender, including a bank, may charge and collect from the borrower, interest at any rate and fees and other charges in any amount that the borrower agrees to pay. A claim or defense of usury is prohibited in an exempt loan transaction.

(c) The provisions of G.S. 24-1.2A, 24-11, and 24-11.1 shall not apply to equity lines of credit offered by banks. Except as provided in this subsection and notwithstanding any other provision of this Chapter or any other provision of State law, any bank may charge and collect from any borrower interest at any rate and fees and other charges in any amount that the borrower agrees to pay in connection with an equity line of credit. However, an equity line of credit made by a bank shall be subject to the following, to the extent otherwise applicable:

(1) The provisions of G.S. 24-1.1E (relating to restrictions and limitations on high-cost home loans).

(2) The provisions of G.S. 24-10.2 (relating to consumer protections in certain home loans).

(3) Notwithstanding the limitation against prepayment penalties contained in G.S. 45-81(c), a bank may charge and collect prepayment fees or penalties following the borrower's voluntary exercise of a right or option to repay all or any portion of the outstanding balance of a variable interest rate equity line of credit at a fixed interest rate over a specified period of time, subject to the following limitations:

a. Prepayment fees or penalties may be charged only with respect to the prepayment of that portion of the outstanding balance the borrower voluntarily agrees to repay at a fixed interest rate over a specified time;

b. No prepayment fees or penalties may be charged for prepayments made more than 30 months after the borrower voluntarily exercises the right or option to repay that portion of the outstanding balance of the equity line of credit at a fixed interest rate over a specified period of time; and

c. The prepayment fees or penalties charged with respect to that portion of the outstanding balance to be repaid at a fixed rate over a specified period of time may not exceed, in the aggregate, more than two percent (2%) of the amount prepaid.

Otherwise, no prepayment fees or penalties may be charged or collected by the bank with respect to an equity line of credit.

(d) The provisions of G.S. 24-11 and G.S. 24-11.1 shall not apply to revolving credit card plans offered by banks. Notwithstanding any other provision of this Chapter or any other provision of State law, any bank may charge and collect from any borrower interest at any rate, as well as fees and other charges in any amount that the borrower agrees to pay in connection with a revolving credit card plan. This subsection (d) shall not apply to a revolving credit card plan that is secured by a mortgage or deed of trust on real property."

SECTION 2. G.S. 24-8(b) is repealed.

SECTION 3. G.S. 24-1.1E(a) reads as rewritten:

"(a) Definitions. – The following definitions apply for the purposes of this section:

(1) "Affiliate" means any company that controls, is controlled by, or is under common control with another company, as set forth in the Bank Holding Company Act of 1956 (12 U.S.C. § 1841 et seq.), as amended from time to time.

(2) "Annual percentage rate" means the annual percentage rate for the loan calculated according to the provisions of the federal Truth-in-Lending Act (15 U.S.C. § 1601, et seq.), and the regulations promulgated thereunder by the Federal Reserve Board (as said Act and regulations are amended from time to time).

(3) "Bona fide loan discount points" means loan discount points knowingly paid by the borrower for the purpose of reducing, and which in fact result in a bona fide reduction of, the interest rate or time-price differential applicable to the loan, provided the amount of the interest rate reduction purchased by the discount points is reasonably consistent with established industry norms and practices for secondary mortgage market transactions.

(4) A "high-cost home loan" means a loan other than ~~an open-end credit plan or~~ a reverse mortgage transaction in which:

a. The principal amount of the loan (or, in the case of an open-end credit plan, the borrower's initial maximum credit limit) does not exceed the lesser of (i) the conforming loan size limit for a single-family dwelling as established from time to time by Fannie Mae, or (ii) three hundred thousand dollars ($300,000);

b. The borrower is a natural person;

c. The debt is incurred by the borrower primarily for personal, family, or household purposes;

d. The loan is secured by either (i) a security interest in a manufactured home (as defined in G.S. 143-147(7)) which is or will be occupied by the borrower as the borrower's principal dwelling, or (ii) a mortgage or deed of trust on real estate upon which there is located or there is to be located a structure or structures designed principally for occupancy of from one to four families which is or will be occupied by the borrower as the borrower's principal dwelling; and

e. The terms of the loan exceed one or more of the thresholds as defined in subdivision (6) of this section.

(5) "Points and fees" ~~means:~~ is defined as provided in this subdivision.

a. The term includes all of the following:

1. All items required to be disclosed under sections 226.4(a) and 226.4(b) of Title 12 of the Code of Federal Regulations, as amended from time to time, except interest or the time-price ~~differential;~~differential.

2.~~b.~~ All charges for items listed under section 226.4(c)(7) of Title 12 of the Code of Federal Regulations, as amended from time to time, but only if the lender receives direct or indirect compensation in connection with the charge or the charge is paid to an affiliate of the lender; otherwise, the charges are not included within the meaning of the phrase "points and ~~fees";~~fees".

3.~~c.~~ All compensation paid directly by the borrower to a mortgage broker not otherwise included in sub-subdivision ~~a.~~a.1. or ~~b.~~a.2. of this ~~subdivision;~~subdivision.

4.~~d.~~ The maximum prepayment fees and penalties which may be charged or collected under the terms of the loan ~~documents; and~~documents.

~~c.~~b. ~~"Points and fees" shall~~Notwithstanding the remaining provisions of this subdivision, the term does not include (i) taxes, filing fees, recording and other charges and fees paid or to be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest; and (ii) fees paid to a person other than a lender or an affiliate of the

lender or to the mortgage broker or an affiliate of the mortgage broker for the following: fees for tax payment services; fees for flood certification; fees for pest infestation and flood determinations; appraisal fees; fees for inspections performed prior to closing; credit reports; surveys; attorneys' fees (if the borrower has the right to select the attorney from an approved list or otherwise); notary fees; escrow charges, so long as not otherwise included under sub-subdivision a. of this subdivision; title insurance premiums; and fire insurance and flood insurance premiums, provided that the conditions in section 226.4(d)(2) of Title 12 of the Code of Federal Regulations are met.

c. For open-end credit plans, the term includes those points and fees described in sub-subdivisions a.1. through a.3. of this subdivision that are charged at or before loan closing, plus (i) the minimum additional fees the borrower would be required to pay to draw down an amount equal to the total loan amount, and (ii) the maximum prepayment fees and penalties which may be charged or collected under the terms of the loan documents.

(6) "Thresholds" means:

a. Without regard to whether the loan transaction is or may be a "residential mortgage transaction" (as the term "residential mortgage transaction" is defined in section 226.2(a)(24) of Title 12 of the Code of Federal Regulations, as amended from time to time), the annual percentage rate of the loan at the time the loan is consummated is such that the loan is considered a "mortgage" under section 152 of the Home Ownership and Equity Protection Act of 1994 (Pub. Law 103-25, [15 U.S.C. § 1602(aa)]), as the same may be amended from time to time, and regulations adopted pursuant thereto by the Federal Reserve Board, including section 226.32 of Title 12 of the Code of Federal Regulations, as the same may be amended from time to time;

b. The total points and fees payable by the borrower at or before the loan closing exceed five percent (5%) of the total loan amount if the total loan amount is twenty thousand dollars ($20,000) or more, or (ii) the lesser of eight percent (8%) of the total loan amount or one thousand dollars ($1,000), if the total loan amount is less than twenty thousand dollars ($20,000); provided, the following discount points and prepayment fees and penalties shall be excluded from the calculation of the total points and fees payable by the borrower:

1. Up to and including two bona fide loan discount points payable by the borrower in connection with the loan transaction, but only if the interest rate from which the

loan's interest rate will be discounted does not exceed by more than one percentage point (1%) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either Fannie Mae or the Federal Home Loan Mortgage Corporation, whichever is greater;

2. Up to and including one bona fide loan discount point payable by the borrower in connection with the loan transaction, but only if the interest rate from which the loan's interest rate will be discounted does not exceed by more than two percentage points (2%) the required net yield for a 90-day standard mandatory delivery commitment for a reasonably comparable loan from either Fannie Mae or the Federal Home Loan Mortgage Corporation, whichever is greater;

3. ~~Prepayment~~ For a closed-end loan, prepayment fees and penalties which may be charged or collected under the terms of the loan documents which do not exceed one percent (1%) of the amount prepaid, provided the loan documents do not permit the lender to charge or collect any prepayment fees or penalties more than 30 months after the loan closing; ~~or~~

4. For an open-end credit plan, prepayment fees and penalties which may be charged or collected under the terms of the loan documents which do not exceed one percent (1%) of the amount prepaid, provided the loan documents do not permit the lender to charge or collect any prepayment fees or penalties more than (i) 30 months after the loan closing if the borrower has no right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time or, (ii) if the borrower has a right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time, 30 months after the date the borrower voluntarily exercises that right or option; or

c. ~~The~~ If the loan is a closed-end loan, the loan documents permit the lender to charge or collect prepayment fees or penalties more than 30 months after the loan closing or which exceed, in the aggregate, more than two percent (2%) of the amount prepaid. If the loan is an open-end credit plan, the loan documents permit the lender to charge or collect prepayment

fees or penalties (i) more than 30 months after the loan closing if the borrower has no right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time or, (ii) if the borrower has a right or option under the loan documents to repay all or any portion of the outstanding balance of the open-end credit plan at a fixed interest rate over a specified period of time, more than 30 months after the date the borrower voluntarily exercises that right or option, or (iii) which exceed, in the aggregate, more than two percent (2%) of the amount prepaid.

(7) ~~"Total~~For a closed-end loan, "total loan amount" ~~means the same~~has the same meaning as the term "total loan amount" as used in section 226.32 of Title 12 of the Code of Federal Regulations, and ~~the same~~ shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary thereto. For an open-end credit plan, "total loan amount" means the borrower's initial maximum credit limit. "

SECTION 4. G.S. 24-10.2(a) reads as rewritten:

"(a) For purposes of this section, the term "consumer home loan" ~~shall mean a loan~~ means a loan, including an open-end credit plan but excluding a reverse mortgage transaction, in which (i) the borrower is a natural person, (ii) the debt is incurred by the borrower primarily for personal, family, or household purposes, and (iii) the loan is secured by a mortgage or deed of trust upon real estate upon which there is located or there is to be located a structure or structures designed principally for occupancy of from one to four families which is or will be occupied by the borrower as the borrower's principal dwelling."

SECTION 5. This act becomes effective October 1, 2003, and applies to contracts entered into or renewed on or after that date.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1182 A BILL TO BE ENTITLED AN ACT TO EXPAND THE USURY EXEMPTION.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 7

HOUSE BILL 1028
Corrected Copy 4/16/03
Committee Substitute Favorable 5/27/03
Fourth Edition Engrossed 6/16/03
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/24/03
Senate Finance Committee Substitute Adopted 7/9/03
Seventh Edition Engrossed 7/16/03

Short Title: Erosion Control Structures. (Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO ADOPT TEMPORARY AND PERMANENT RULES TO ESTABLISH A GENERAL PERMIT FOR THE CONSTRUCTION OF RIPRAP SILLS FOR WETLAND ENHANCEMENT AND SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS, TO PROHIBIT THE CONSTRUCTION OF PERMANENT EROSION CONTROL STRUCTURES IN OCEAN SHORELINES, AND TO PROVIDE THAT TEMPORARY EROSION CONTROL STRUCTURES IN OCEAN SHORELINES SHALL BE LIMITED TO SANDBAGS.

The General Assembly of North Carolina enacts:

SECTION 1. Pursuant to G.S. 113A-118.1, the Coastal Resources Commission may adopt temporary and permanent rules to establish a general permit to allow the construction of offshore parallel sills made of stone or other suitable riprap materials for shoreline protection in conjunction with existing, created, or restored wetlands. The permit shall be applicable only where a shoreline is experiencing erosion in public trust areas and estuarine waters. The permit shall not apply to oceanfront shorelines or to waters and shorelines adjacent to the ocean hazard areas of environmental concern except that the permit may apply to those shorelines that exhibit characteristics of estuarine shorelines. Characteristics of estuarine shorelines include the presence of wetland vegetation, lower wave energy, and lower erosion rates than are generally characteristic of ocean erodible areas. Notwithstanding G.S. 150B-21.1(a), the authorization to adopt temporary rules pursuant to this section shall continue in effect

until 1 July 2004. Reference to this section shall satisfy the requirement for a statement of finding of need for a temporary rule set out in G.S. 150B-21.1.

SECTION 2. The fee for a general permit established by temporary rules pursuant to Section 1 of this act shall be one hundred dollars ($100.00). In adopting permanent rules pursuant to Section 1 of this act, the Coastal Resources Commission shall set a fee for the general permit as provided in G.S. 113A-119.1.

SECTION 3. Part 3 of Article 7 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-115.1. Limitations on erosion control structures.**

(a) As used in this section:

(1) 'Erosion control structure' means a breakwater, bulkhead, groin, jetty, revetment, seawall, or any similar structure.

(2) 'Ocean shoreline' means the Atlantic Ocean, the oceanfront beaches, and frontal dunes. The term 'ocean shoreline' includes an ocean inlet and lands adjacent to an ocean inlet but does not include that portion of any inlet and lands adjacent to the inlet that exhibits characteristics of estuarine shorelines.

(b) No person shall construct a permanent erosion control structure in an ocean shoreline. The Commission shall not permit the construction of a temporary erosion control structure that consists of anything other than sandbags in an ocean shoreline. This section shall not apply to (i) any permanent erosion control structure that is approved pursuant to an exception set out in a rule adopted by the Commission prior to 1 July 2003 or (ii) any permanent erosion control structure that was originally constructed prior to 1 July 1974 and that has since been in continuous use to protect an inlet that is maintained for navigation. This section shall not be construed to limit the authority of the Commission to adopt rules to designate or protect areas of environmental concern, to govern the use of sandbags, or to govern the use of erosion coastal structures in estuarine shorelines.

(c) The Commission may renew a permit for an erosion control structure issued pursuant to a variance granted by the Commission prior to 1 July 1995. The Commission may authorize the replacement of a permanent erosion control structure that was permitted by the Commission pursuant to a variance granted by the Commission prior to 1 July 1995 if the Commission finds that: (i) the structure will not be enlarged beyond the dimensions set out in the original permit; (ii) there is no practical alternative to replacing the structure that will provide the same or similar benefits; and (iii) the replacement structure will comply with all applicable laws and with all rules, other than the rule or rules with respect to which the Commission granted the variance, that are in effect at the time the structure is replaced."

SECTION 4. Sections 1 and 2 of this act become effective 1 July 2003. Sections 3 and 4 of this act become effective when this act becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Senate Committee Substitute for
H.B. 1028 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO ADOPT TEMPORARY AND PERMANENT RULES TO ESTABLISH A GENERAL PERMIT FOR THE CONSTRUCTION OF RIPRAP SILLS FOR WETLAND ENHANCEMENT AND SHORELINE PROTECTION IN ESTUARINE AND PUBLIC TRUST WATERS, TO PROHIBIT THE CONSTRUCTION OF PERMANENT EROSION CONTROL STRUCTURES IN OCEAN SHORELINES, AND TO PROVIDE THAT TEMPORARY EROSION CONTROL STRUCTURES IN OCEAN SHORELINES SHALL BE LIMITED TO SANDBAGS.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 4

SENATE BILL 867

Judiciary II Committee Substitute Adopted 4/30/03
House Committee Substitute Favorable 5/19/03
House Committee Substitute #2 Favorable 7/16/03

Short Title: Arson-Firefighter Injury/New Bomb Offense. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE THE OFFENSE OF ARSON OR OTHER UNLAWFUL BURNINGS THAT RESULT IN SERIOUS INJURY TO A FIREFIGHTER AND TO INCREASE THE CRIMINAL PENALTY FOR DAMAGING A PUBLIC BUILDING WITH AN EXPLOSIVE OR INCENDIARY DEVICE OR MATERIAL AND TO ESTABLISH THE HONORARY LISTON B. RAMSEY MOUNTED HORSE/CAISSON PATROL UNIT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 15 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-69.3. Arson or other unlawful burning that results in serious injury to a firefighter.**

A person is guilty of a Class E felony if the person commits an offense under Article 15 of Chapter 14 of the General Statutes and a firefighter suffers serious bodily injury while discharging or attempting to discharge the firefighter's duties."

SECTION 2. G.S. 14-49 is amended by adding a new subsection to read:

"(b2) Any person who willfully and maliciously damages, aids, counsels, or procures the damaging of the State Capitol, the Legislative Building, the Justice Building, or any building owned or occupied by the State or any of its agencies, institutions, or subdivisions or by any county, incorporated city or town, or other governmental entity by the use of any explosive or incendiary device or material is guilty of a Class E felony."

SECTION 3. There is established in the Department of Crime Control and Public Safety, State Highway Patrol Division, the Honorary Liston B. Ramsey Mounted Horse/Caisson Patrol Unit as part of the State Highway Patrol. The Unit shall fall under the command of the Special Operations Section of the State Highway Patrol to function

as a horse-drawn caisson procession at the funeral services of certain law enforcement personnel and other fallen heroes and heroines.

The Unit shall consist of a caisson wagon, two horses to pull the wagon, and a horse to follow the wagon. The Unit offices, stables, equipment storage, and training facilities shall be located at Bearwallow Ridge Farms, 434 School Road, in Marshall, North Carolina. All operations dealing with the Honorary Liston B. Ramsey Mounted Horse/Caisson Patrol Unit shall be conducted from that location.

The Department, on behalf of the State Highway Patrol, may accept grants, contributions, devises, bequests, and gifts which shall be kept in a separate fund and shall be used by it to fund the operations of the Unit. Upon the receipt of sufficient funding to operate the Unit, the State Highway Patrol shall place two primary troopers on assignment to the Honorary Liston B. Ramsey Mounted Horse/Caisson Patrol Unit. The State Highway Patrol shall not operate the Unit until it has acquired all the resources, equipment, supplies, and funds needed to implement this act.

The Department of Crime Control and Public Safety may adopt rules, including temporary rules, to govern the use and priority of assignment of the Honorary Liston B. Ramsey Mounted Horse/Caisson Patrol Unit.

SECTION 4. Sections 1 and 2 of this act become effective December 1, 2003, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 867

Judiciary II Committee Substitute Adopted 4/30/03
House Committee Substitute Favorable 5/19/03
House Committee Substitute #2 Favorable 7/16/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S867-PCS85269-RW-71

Short Title: Arson-Firefighter Injury/New Bomb Offense. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE THE OFFENSE OF ARSON OR OTHER UNLAWFUL BURNINGS THAT RESULT IN SERIOUS INJURY TO A FIREFIGHTER AND TO INCREASE THE CRIMINAL PENALTY FOR DAMAGING A PUBLIC BUILDING WITH AN EXPLOSIVE OR INCENDIARY DEVICE OR MATERIAL AND TO ESTABLISH THE HONORARY LISTON B. RAMSEY MOUNTED HORSE/CAISSON PATROL UNIT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 15 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-69.3. Arson or other unlawful burning that results in serious injury to a firefighter.**

A person is guilty of a Class E felony if the person commits an offense under Article 15 of Chapter 14 of the General Statutes and a firefighter suffers serious bodily injury while discharging or attempting to discharge the firefighter's duties on the property, or proximate to the property, that is the subject of the firefighter's discharge or attempt to discharge his or her duties."

SECTION 2. G.S. 14-49 is amended by adding a new subsection to read:

"(b2) Any person who willfully and maliciously damages, aids, counsels, or procures the damaging of the State Capitol, the Legislative Building, the Justice Building, or any building owned or occupied by the State or any of its agencies, institutions, or subdivisions or by any county, incorporated city or town, or other governmental entity by the use of any explosive or incendiary device or material is guilty of a Class E felony."

SECTION 3. There is established in the Department of Crime Control and Public Safety, State Highway Patrol Division, the Honorary Liston B. Ramsey Mounted Horse/Caisson Patrol Unit as part of the State Highway Patrol. The Unit shall fall under the command of the Special Operations Section of the State Highway Patrol to function as a horse-drawn caisson procession at the funeral services of certain law enforcement personnel and other fallen heroes and heroines.

The Unit shall consist of a caisson wagon, two horses to pull the wagon, and a horse to follow the wagon. The Unit offices, stables, equipment storage, and training facilities shall be located at Bearwallow Ridge Farms, 434 School Road, in Marshall, North Carolina. All operations dealing with the Honorary Liston B. Ramsey Mounted Horse/Caisson Patrol Unit shall be conducted from that location.

The Department, on behalf of the State Highway Patrol, may accept grants, contributions, devises, bequests, and gifts which shall be kept in a separate fund and shall be used by it to fund the operations of the Unit. Upon the receipt of sufficient funding to operate the Unit, the State Highway Patrol shall place two primary troopers on assignment to the Honorary Liston B. Ramsey Mounted Horse/Caisson Patrol Unit. The State Highway Patrol shall not operate the Unit until it has acquired all the resources, equipment, supplies, and funds needed to implement this act.

The Department of Crime Control and Public Safety may adopt rules, including temporary rules, to govern the use and priority of assignment of the Honorary Liston B. Ramsey Mounted Horse/Caisson Patrol Unit.

SECTION 4. Sections 1 and 2 of this act become effective December 1, 2003, and apply to offenses committed on or after that date. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 867

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S867-ARQ-40 [v.2]

Date _____,2003

Comm. Sub. [YES]
Amends Title [NO]
Fourth Edition

Representative _____

moves to amend the bill on page 1, line15 by rewriting the line to read:
"while discharging or attempting to discharge the firefighter's duties on the property that is burning.'".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 867 Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) HACKNEY
Sen.)

moves to amend the bill on page 1, line 15

( ) WHICH CHANGES THE TITLE

by

"while discharging or attempting to discharge the firefighter's duties on the property, or proximate to the property, that is the subject of the firefighter's discharge or attempt to discharge his or her duties."

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ House Committee Substitute #2 for
S.B. 867 A BILL TO BE ENTITLED AN ACT TO CREATE THE OFFENSE OF ARSON OR OTHER UNLAWFUL BURNINGS THAT RESULT IN SERIOUS INJURY TO A FIREFIGHTER AND TO INCREASE THE CRIMINAL PENALTY FOR DAMAGING A PUBLIC BUILDING WITH AN EXPLOSIVE OR INCENDIARY DEVICE OR MATERIAL AND TO ESTABLISH THE HONORARY LISTON B. RAMSEY MOUNTED HORSE/CAISSON PATROL UNIT.

☐ 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 the House committee substitute bill #3, [ ] ~~which changes the title,~~ unfavorable as to House Committee Substitute Bill #2.

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

☐ 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)

03/19/03

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 18, 2003
2:20 P.M.

AGENDA

CALL TO ORDER
CONSIDERATION OF BILLS

HOUSE COMMITTEE SUBSTITUTE #1 FOR SENATE BILL 416 – A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

July 18, 2003

The Committee on Rules, Calendar and Operations of the House met on July 18, 2003 at 2:20 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representative Culpepper, Chairman; Brubaker, Church, Crawford, Gorman, Hill, Howard, Justus, LaRoque, Luebke, McComas, Owens, Sherrill and Yongue.

The following bill was considered:

HOUSE COMMITTEE SUBSTITUTE #1 FOR SENATE BILL 416 – A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES. A proposed House committee substitute resolution #2 was offered, and Representative Luebke moved for its adoption for the purpose of discussion. Without objection, the chairman so ordered. The chairman stated that the proposed committee substitute #2 removes Section 2 of the proposed House committee substitute #1 which was considered and given a favorable report at the morning meeting. He asked for a motion, and Representative Brubaker moved that the proposed House committee substitute resolution #2 be given a favorable report, unfavorable to proposed House committee substitute resolution #1. The motion carried.

The meeting adjourned at 2:25 p.m.

Bill Culpepper

Representative Bill Culpepper
Chairman

Dorothy C. Crocker

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE JOINT RESOLUTION 416

Education/Higher Education Committee Substitute Adopted 3/19/03

Sponsors:

Referred to:

March 17, 2003

A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

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

SECTION 1. Pursuant to G.S. 115D-2.1(b)(4)f., the Senate and the House of Representatives shall elect members to the State Board of Community Colleges during the regular sessions of the two chambers to be held on Thursday, May 15, 2003. At that time the Senate shall elect two members to the State Board for a term of six years beginning July 1, 2003. The House of Representatives also shall elect two members to the State Board for a term of six years beginning July 1, 2003.

SECTION 2. Each chamber shall follow the procedure set out in G.S. 115D-2.1 for the nomination and election of members of the State Board.

SECTION 3. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE JOINT RESOLUTION 416

Education/Higher Education Committee Substitute Adopted 3/19/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S416-PCS55205-SW-68

Sponsors:

Referred to:

March 17, 2003

A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

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

SECTION 1. Pursuant to G.S. 115D-2.1(b)(4)f., the Senate and the House of Representatives shall elect members to the State Board of Community Colleges during the regular sessions of the two chambers to be held on Saturday, July 19, 2003. At that time the Senate shall elect two members to the State Board for a term of six years beginning July 1, 2003. The House of Representatives also shall elect two members to the State Board for a term of six years beginning July 1, 2003.

SECTION 2. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ House Committee Substitute for
S.J.R. 416 A JOINT RESOLUTION SETTING THE DATE FOR THE SENATE AND THE HOUSE OF REPRESENTATIVES TO ELECT MEMBERS TO THE STATE BOARD OF COMMUNITY COLLEGES.

☐ 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 the House committee substitute ~~bill~~ joint resolution #2, 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. ~~Joint resolution~~

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules — 7-18-03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Si Cantwell	Wilmington Star-News
Nancy Thompson	CMCIC
[illegible]	Kayla Law Firm
[illegible]	Progress Energy
[illegible]	JD, AL, PA
[illegible]	[illegible]
Tammy Cook	DNS
Jim VIGEN	NC Synod/ELCA office of Advocacy
Paula A. Wolf	Covenant W/NC's Children
Jane Pinsky	NCCAI
Laurie Dimmock	NCCAI
Ardis Watkins	SEANC
Marie [illegible]	BSC
[illegible]	APPANC/ACLU
Chad W. Essick	Edmisten + Webb
Evelyn Armstrong	EHGR
[illegible]	HKA
John McMillan	MFAS
[illegible]	GSK
Bill Goodwin	ICCLA
Steve Woodson	NCFB
Pam Stogner	NCBA
[illegible]	NCEPC
Carol Raven	EGHS
[illegible]	TECCS
Jasandra Skinner	CCPS
Patsy Harrison	CAL

VISITOR REGISTRATION SHEET

Rules — 7-18-03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
R Paul Wilms	NCHISA
Rob Ducoblon	NC State Univ
Ann McArthur	Governor's Office
[illegible]	NC IMS
Keshia Bellamy	NCCBI
Sharon Matthews	DOT-DMV
John Holton	NC House of Reps
Austin Bunn	ECU
[illegible]	[illegible]
Andy Romanet	NCLM
Gary Harris	NCPMA
Katherine Joyce	NCASA
[illegible]	SBE
[illegible]	Red Oak-NCRA
Stacy Flannery	NCHCFA
Angie Harris	Maupin Taylor
Barbara Cansler	MFSS
Lee-Ann Cockerham	CDA, NCPA
Tom Pennington	
Ken Melton	Alley Associates, INC.
[illegible]	[illegible]
[illegible]	NCSPA
Henry Jones	Attorney Raleigh
[illegible]	[illegible]
[illegible]	[illegible]
Eddie Caldwell	Baker & Caldwell P.A.
Lucius PULLEN	ATTORNEY

VISITOR REGISTRATION SHEET

Name of Committee _____ Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Rick Zechini	NC Assoc. of REALTORS (L)
Joanne Stevens	NCHA
John Bowdish	Action Towers
Cam Coven	BPWHL
DOV REPRESENTATIVE	DOC
Martha Glass	NCDA&CS

VISITOR REGISTRATION SHEET

RULES — 7-18-03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
John Kraus	Martin Marietta
Mike Mahaffey	FCBank
Paul Stock	NC Bankers
Mark Benson	Capitol Group
Jack Myer	DWDP
Bill Rustin	AZP
Michael Houser	NCAE
ASANDRA SKINNER	CCPS
John Kurt	NCFPC
BILL HALE	JORDAN PRICE
Jim Stephenson	NC Coastal Federation
Steve Wyatt	Conservation Council
Carol Lawler	EGHS
Eugene Williams	NCCCS
Betty Tuenge	Bank of America
Tom Hardin	Wachovia
Lisa Scoggin	ICCLW
Wayne Horton	DOT
Ken Melton	Allen Associates, INC.
Lu-Ann Coe	NCPA, CTA
Gary Harris	NCPMA
Doug Harvey	NCPMA
Zeb Alley	Alley Associates, Inc.
Roz Savitt	NCCC
Joanne Stevens	NCNA
John McMillan	MFOS
ANN COLE	DVAS

VISITOR REGISTRATION SHEET

Rules — 7/18/03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Crissy Carter	Smith Anderson
Lynn Bonner	N&O
Joyce Suddath	NCSDA
Leslie Bevacqua	NCCBI
DAVID BARNES	Poyner + Spruill LLP
Elizabeth Dalton	Bone & Associates
Kim Hibbard	NCLM
BRUCE THOMPSON	PARKER POE
Brent McConkey	" "
Katy Lehman	"
Rob Ruschling	NC statewide inc
Susan Conrad	NCDOT
Mildred Spearman	NC Dept of Correction
Aydis Watkins	SEANC
ERIC DYER	Greensboro News & Record
Scott Mooneyham	AP
Dreadel Pratt	NC office of Emg
Martha Glenn	NC DHHS
[illegible]	HHS
Marquis Perkins	
[illegible]	DOC
[illegible]	NCWKF
[illegible]	[illegible]
Ann McArthur	Governor's Office
[illegible]	Progress Energy
[illegible]	NCAHP
Nancy Thompson	NCIC

VISITOR REGISTRATION SHEET

Rules — Name of Committee

7/18/08 — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Robin Smith	DENR
George Irving	Johnson & Johnson
BILL HALE	Jordan Price

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
July 18 2003
5:15 P.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

COMMITTEE SUBSTITUTE FOR SENATE BILL 661 – AN ACT TO PROTECT HEALTH INFORMATION PRIVACY BY PROHIBITING USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR PURPOSES OF MARKETING WITHOUT WRITTEN AUTHORIZATION OF THE INDIVIDUAL

ADJOURNMENT

COMMITTEE ON THE RULES, CALENDAR AND
OPERATIONS OF THE HOUSE

July 18, 2003

The Committee on Rules, Calendar and Operations of the House met on July 18, 2003 at 5:15 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representatives Culpepper, Chairman; Brubaker, Church, Crawford, Gorman, Hill, Howard, Justus, LaRoque, McComas, Owens, Sherrill and Yongue.

The following bill was considered:

COMMITTEE SUBSTITUTE FOR SENATE BILL 661 – AN ACT TO PROTECT HEALTH INFORMATION PRIVACY BY PROHIBITING USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR PURPOSES OF MARKETING WITHOUT WRITTEN AUTHORIZATION OF THE INDIVIDUAL. A House proposed committee substitute changing the title to AN ACT TO PROVIDE THAT WHEN A LOCAL CONFINEMENT FACILITY TRANSFERS A PRISONER TO ANOTHER LOCAL CONFINEMENT FACILITY THE TRANSFERRING FACILITY PROVIDES TO THE RECEIVING FACILITY HEALTH INFORMATION ABOUT THE TRANSFERRED PRISONER; AND TO MAKE CHANGES TO THE EMERGENCY MEDICAL SERVICES ACT, AND TO CREATE THE OFFENSE OF ARSON OR OTHER UNLAWFUL BURNINGS THAT RESULT IN SERIOUS INJURY TO A FIREFIGHTER OR EMERGENCY MEDICAL TECHNICIAN was offered, and Representative Sherrill moved for its adoption. Without objection, the chairman so ordered. Representative Wright was recognized to explain the proposed committee substitute. He stated that the proposed committee substitute addresses prisoner health information, EMS technical changes, creates an EMS Disciplinary Committee, changes the statewide trauma system, powers and duties of the Secretary of the Department of Health and Human Services, and makes arson resulting in injury to a firefighter or emergency medical technical a Class E felon. Representative Hill moved for a favorable report for the proposed House committee substitute, unfavorable to the Senate committee substitute. The motion carried.

The meeting adjourned at 5:20 p.m.

Representative Bill Culpepper, Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 661
Commerce Committee Substitute Adopted 5/1/03

Short Title: Health Care Information Privacy. (Public)

Sponsors:

Referred to:

April 1, 2003

A BILL TO BE ENTITLED

AN ACT TO PROTECT HEALTH INFORMATION PRIVACY BY PROHIBITING USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR PURPOSES OF MARKETING WITHOUT WRITTEN AUTHORIZATION OF THE INDIVIDUAL.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding the following new Chapter to read:

"**Chapter 132A.**

"**Privacy of Health Information.**

"Article 1.

"Use or Disclosure of Protected Health Information.

"**§ 132A-1. Purpose.**

The purpose of this Article is to provide greater patient privacy protections regarding the use or disclosure of protected health information for marketing purposes than are provided under the Health Insurance Portability and Accountability Act and Privacy Standards and regulations adopted thereunder.

"**§ 132A-2. Definitions.**

(a) Unless otherwise defined in this Article, each term used in this Article has the meaning and application assigned by the Health Insurance Portability and Accountability Act and Privacy Standards.

(b) As used in this Article:

(1) 'Health Insurance Portability and Accountability Act and Privacy Standards' means the privacy requirements of the Administrative Simplification subtitle of the Health Insurance Portability Act of 1996 (Pub. L. 104-191) and the final rules adopted December 28, 2000, as modified August 14, 2002, and any subsequent amendments.

(2) 'Marketing' or 'to market' means to make a communication about a product or service to encourage recipients of the communication to

purchase or use the product of service, but does not include communications:

a. Made as part of the treatment of an individual for the purpose of furthering treatment;

b. For care coordination and managing the treatment of the individual, including communications made for the purpose of furthering the individual's adherence to a prescription drug medication or for the purpose of recommending alternative treatments or settings of care to the individual, and including questionnaires and surveys sent directly to or used directly with individuals; or

c. By a health benefit plan to its enrollees about the plan of benefits and replacements or enhancements to the benefit plan, the network of providers, or value-added services available to its enrollees.

"**§ 132A-3. Protection of private health information.**

(a) A covered entity shall not, in the marketing of its products or services, disclose protected health information or use protected health information in its possession to market the products or service of another entity.

(b) A covered entity may use protected health information to market its nonhealth-related products and services to an individual only if the covered entity:

(1) Obtains the consent of the individual; and

(2) Provides clear and conspicuous notice to the individual involved concerning its disclosure practices for that individual's protected health information.

(c) Applicability. – This Article does not affect the validity of another law of this State that provides greater confidentiality for information made confidential by this Article.

"**§ 132A-4. Enforcement.**

(a) Injunctive Relief. – The Attorney General of this State may institute an action for injunctive relief to restrain a violation of this Article.

(b) Civil Penalties. – In addition to the injunctive relief provided by this section, the Attorney General may institute an action for civil penalties against a covered entity for a violation of this Article. A civil penalty assessed under this section may not exceed five thousand dollars ($5,000) for each violation. If the court in which an action under this subsection is pending finds that the violations have occurred with a frequency as to constitute a pattern or practice, the court may assess a civil penalty not to exceed two hundred fifty thousand dollars ($250,000).

(c) Availability of Other Remedies. – This Article does not affect any right of a person under other law to bring a cause of action or otherwise seek relief with respect to conduct that is a violation of this Article."

SECTION 2. This act becomes effective January 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 661

Commerce Committee Substitute Adopted 5/1/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S661-PCS85270-LN-45

Short Title: Prisoner Health Information/EMS Changes. (Public)

Sponsors:

Referred to:

April 1, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT WHEN A LOCAL CONFINEMENT FACILITY TRANSFERS A PRISONER TO ANOTHER LOCAL CONFINEMENT FACILITY THE TRANSFERRING FACILITY PROVIDES TO THE RECEIVING FACILITY HEALTH INFORMATION ABOUT THE TRANSFERRED PRISONER; AND TO MAKE CHANGES TO THE EMERGENCY MEDICAL SERVICES ACT, AND TO CREATE THE OFFENSE OF ARSON OR OTHER UNLAWFUL BURNINGS THAT RESULT IN SERIOUS INJURY TO A FIREFIGHTER OR EMERGENCY MEDICAL TECHNICIAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153-225 is amended by adding the following new subsection to read:

"**§ 153A-225. Medical care of prisoners.**

...

(b1) Whenever a local confinement facility transfers a prisoner from that facility to another local confinement facility, the transferring facility shall provide the receiving facility with any health information or medical records the transferring facility has in its possession pertaining to the transferred prisoner."

SECTION 2.(a) G.S. 131E-155 reads as rewritten:

"**§ 131E-155. Definitions.**

As used in this Article, unless otherwise specified:

...

(7) "Emergency medical services personnel" means all the personnel defined in subdivisions (5), (7a), (8), (9), (10), ~~(11),~~ (12), (13), (14), and (15) of this section.

(7a) "Emergency medical services instructor" means an individual who has completed educational requirements approved by the Department and

has been credentialed as an emergency medical services instructor by the Department.

(8) "Emergency medical services-nurse practitioner" means a registered nurse who is licensed to practice nursing in North Carolina and approved to perform medical acts by the North Carolina Medical Board and the North Carolina Board of ~~Nursing~~ Nursing. Upon successful completion of an orientation program conducted under the authority of the medical director and approved by the Department, emergency medical services-nurse practitioners shall be approved by the medical director to issue instructions to EMS personnel. These instructions shall be ~~and credentialed by the Office of Emergency Medical Services to issue instructions to ALS professionals~~ in accordance with protocols approved by the ~~sponsor hospital~~ EMS system and Office of Emergency Medical Services and under the direction of the medical director.

(9) "Emergency medical services-physician assistant" means a physician assistant who ~~has been~~ is licensed by the North Carolina Medical ~~Board~~ Board. Upon successful completion of an orientation program conducted under the authority of the medical director and approved by the Department, emergency medical services-physician assistants shall be approved by the medical director to issue instructions to EMS personnel. These instructions shall be ~~and approved by the Office of Emergency Medical Services to issue instructions to ALS professionals~~ in accordance with protocols approved by the ~~sponsor hospital~~ EMS system and Office of Emergency Medical Services and under the direction of the medical director.

...

~~(11) "Emergency medical technician-defibrillation" means an individual who has completed an educational program in emergency medical care approved by the Department and has been credentialed as an emergency medical technician-defibrillation by the Department.~~

...

(15) "Mobile intensive care nurse" means a registered nurse who is licensed to practice nursing in North Carolina and ~~who has completed an educational program in emergency medical care approved by the Department and has been credentialed as a mobile intensive care nurse by the Department.~~ is approved by the medical director, following successful completion of an orientation program conducted under the authority of the medical director and approved by the Department, to issue instructions to EMS personnel. These instructions shall be in accordance with protocols approved by the EMS system and Office of Emergency Medical Services and under the direction of the medical director.

...

(16a) "Emergency Medical Services Peer Review Committee" means a panel composed of EMS program representatives to be responsible for analyzing patient care data and outcome measures to evaluate the ongoing quality of patient care, system performance, and medical direction within the EMS system. The committee membership shall include physicians, nurses, EMS personnel, medical facility personnel, and county government officials. Review of medical records by the EMS Peer Review Committee is confidential and protected under G.S. 143-518. An EMS Peer Review Committee, its members, proceedings, records and materials produced, and materials considered shall be afforded the same protections afforded Medical Review Committees, their members, proceedings, records, and materials under G.S. 131E-95.

(17) "Practical examination" means a test where an applicant for credentialing as an emergency medical technician, medical responder, ~~emergency medical technician-defibrillation,~~ emergency medical technician-intermediate, or emergency medical technician-paramedic demonstrates the ability to perform specified emergency medical care skills."

SECTION 2.(b) G.S. 131E-159 reads as rewritten:

"**§ 131E-159. Credentialing requirements.**

(a) ~~An individual~~ Individuals seeking credentials as an emergency medical technician, ~~emergency medical technician-defibrillation,~~ emergency medical technician-intermediate, emergency medical technician-paramedic, ~~mobile intensive care nurse, emergency medical services physician assistant, or emergency medical services nurse practitioner medical responder~~medical responder, emergency medical dispatcher, or emergency medical services instructor shall apply to the Department using forms prescribed by that agency. The Department's representatives shall examine the applicant by either written, practical, or written and practical examination. The Department shall issue appropriate credentials to the applicant who meets all the requirements set forth in this Article and the rules adopted for this Article and who successfully completes the examinations required for credentialing. Emergency medical technician, medical responder, emergency medical dispatcher, ~~emergency medical technician-defibrillation,~~ emergency medical technician-intermediate, emergency medical technician-paramedic, ~~mobile intensive care nurse, emergency medical services physician assistant, and emergency medical services nurse practitioner~~and emergency medical services instructor credentials shall be valid for a period not to exceed four years and may be renewed if the holder meets the requirements set forth in the rules of the Commission. The Department is authorized to revoke or suspend these credentials at any time it determines that the holder no longer meets the qualifications prescribed.

(b) The Commission shall adopt rules setting forth the qualifications required for credentialing of medical responders, emergency medical technicians, ~~emergency medical technician-defibrillation,~~ emergency medical ~~technician-intermediate,~~

...

(9) Promote a means of training individuals to administer life-saving treatment to persons who suffer a severe adverse reaction to ~~insect stings.~~ agents that might cause anaphylaxis. Individuals, upon successful completion of this training program, may be approved by the North Carolina Medical Care Commission to administer epinephrine to these persons, in the absence of the availability of physicians or other practitioners who are authorized to administer the treatment. This training may also be offered as part of the emergency medical services training program.

..."

SECTION 2.(f) G.S. 143-510 is amended by adding the following new subsection to read:

"**§ 143-510. North Carolina Emergency Medical Services Advisory Council.**

...

(f) The Council shall elect annually from its membership a chairperson and vice-chairperson upon a majority vote of the quorum present."

SECTION 2.(g) G.S. 143-518(a) reads as rewritten:

"(a) Medical records compiled and maintained by the ~~Department~~ Department, hospitals participating in the statewide trauma system, or EMS providers in connection with dispatch, response, treatment, or transport of individual patients or in connection with the statewide trauma system pursuant to Article 7 of Chapter 131E of the General Statutes may contain patient identifiable data which will allow linkage to other health care-based data systems for the purposes of quality management, peer review, and public health initiatives.

These medical records and data shall be strictly confidential and shall not be considered public records within the meaning of G.S. 132-1 and shall not be released or made public except under any of the following conditions:

..."

SECTION 2.(h) G.S. 143-518(a)(5) reads as rewritten:

"(5) Release is made to a Medical Review Committee as defined in G.S. 131E-95, 90-21.22A, or 130A-45.7 or to a peer review committee as defined in G.S. 131E-108, 131E-155, 131E-162, 122C-30, or 131D-21.1."

SECTION 2.(i) G.S. 143-519 reads as rewritten:

"**§ 143-519. Emergency Medical Services Disciplinary Committee.**

(a) There is created an Emergency Medical Services Disciplinary Committee which shall review and make recommendations to the Department regarding all disciplinary matters relating to credentialing of emergency medical services personnel.

(b) The Emergency Medical Services Disciplinary Committee shall consist of ~~five~~seven members appointed by the Secretary of the Department of Health and Human Services to serve four-year terms. Two of the members shall be currently practicing local EMS physician medical directors. One member each shall be a current physician member of the North Carolina Medical Board, a current EMS administrator, a current

EMS educator, and ~~a~~ two currently practicing and credentialed EMS personnel, one of whom shall be an emergency medical technician-paramedic.

(c) In order to stagger the terms of the membership of the Committee, the initial appointment for one of the local EMS physician medical directors and the currently practicing and credentialed emergency medical technician-paramedic shall be for a three-year term. The other three initial appointments and all future appointments shall be for four-year terms.

(d) Any appointment to fill a vacancy on the Committee created by a resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired term.

(e) A majority of the Committee shall constitute a quorum for the transaction of business. The Department of Health and Human Services, Division of Facilities Services, Office of Emergency Medical Services, shall supply all clerical and other services required by the Committee.

(f) The Committee shall elect annually from its membership a chairperson and vice-chairperson upon a majority vote of the quorum present."

SECTION 3.(a) Article 15 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"**§ 14-69.3. Arson or other unlawful burning that results in serious injury to a firefighter or emergency medical technician.**

A person is guilty of a Class E felony if the person commits an offense under Article 15 of Chapter 14 of the General Statutes and a firefighter or emergency medical technician suffers serious bodily injury while discharging or attempting to discharge the firefighter's or emergency medical technician's duties on the property, or proximate to the property, that is the subject of the firefighter's or emergency medical technician's discharge or attempt to discharge his or her respective duties. As used in this section, the term 'emergency medical technician' includes an emergency medical technician, an emergency medical technician-intermediate, and an emergency medical technician-paramedic, as those terms are defined in G.S. 131E-155."

SECTION 3.(b) If Section 1 of Senate Bill 867 of the 2003 General Assembly is enacted by the 2003 General Assembly, then Section 1 of Senate Bill 867 is repealed.

SECTION 4. This act is effective when it becomes law. Section 3 of this act becomes effective December 1, 2003, and applies to offenses that occur on or after that date.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 661 A BILL TO BE ENTITLED AN ACT TO PROTECT HEALTH INFORMATION PRIVACY BY PROHIBITING USE OR DISCLOSURE OF PROTECTED HEALTH INFORMATION FOR PURPOSES OF MARKETING WITHOUT WRITTEN AUTHORIZATION OF THE INDIVIDUAL.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules — 7-18-03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
[illegible]	Bode and Assoc.
[illegible]	BCBSNC
Austin Bunch	ECU
R. Mark Fleming	UNC
Lu-Ann Cole Perryman	CTA, NCPA
Van Perryman	Lu-Ann's Intern
DAVID BARNES	Poyner Spruill LLP
Kim Stibbard	NCLM
Stephanie [illegible]	NCAR
Angie Hall	McGuireWoods
URIAH KING	CRL
Duncan Hodson	ERC
[illegible]	HHS
Donald Ford	DFS
Tommy Cook	ZMS
[illegible]	NCFPC
John Bowdish	Ashley Zeneca
Leah Gossett	NCRV President
Rick Zechini	NC Assoc. of REALTORS
Sherry Stephens	DENR
Helen Probasco	NCMSPA
Harry Kaplan	NCFPC
Ann McArthur	Governor's Off.
[illegible]	NCMS
Jeremy Thomson	CRC
[illegible]	NCRA
Jack McHugh	Gov. office

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 19, 2003
2:00 P.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

COMMITTEE SUBSTITUTE FOR SENATE BILL 996 – AN ACT TO PREVENT THE NEGATIVE SECONDARY EFFECTS CAUSED BY SEXUALLY EXPLICIT CONDUCT ON PREMISES LICENSED BY THE ALCOHOLIC BEVERAGE CONTROL COMMISSION

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

July 19, 2003

The Committee on Rules, Calendar and Operations of the House met on July 19, 2003 at 2:00 p.m. in Room 421 of the Legislative Office Building. All members were present except Representatives Miller and Miner.

The following bill was considered:

COMMITTEE SUBSTITUTE FOR SENATE BILL 996 – AN ACT TO PREVENT THE NEGATIVE SECONDARY EFFECTS CAUSED BY SEXUALLY EXPLICIT CONDUCT ON PREMISES LICENSED BY THE ALCOHOLIC BEVERAGE CONTROL COMMISSION. A proposed House committee substitute was offered. The chairman moved for its adoption for the purpose of discussion and without objection, so ordered. Representative Goodwin was recognized and stated that the bill was introduced at the request of the Attorney General's office. Hal Pell, staff attorney, explained the proposed House committee substitute. Representative Gorman moved that the proposed committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion passed.

The meeting adjourned at 2:40 p.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 996

Judiciary I Committee Substitute Adopted 4/28/03

Short Title: ABC-Sexually Explicit Conduct Banned. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PREVENT THE NEGATIVE SECONDARY EFFECTS CAUSED BY SEXUALLY EXPLICIT CONDUCT ON PREMISES LICENSED BY THE ALCOHOLIC BEVERAGE CONTROL COMMISSION.

Whereas, the United States District Court for the Middle District of North Carolina has issued a preliminary injunction, in the case of Carandola v. Bason, enjoining the State of North Carolina from enforcing regulations which prohibit certain sexually explicit conduct on premises licensed by the Alcoholic Beverage Control Commission, and

Whereas, the federal District Court concluded that the regulations are likely to be held to be unconstitutional, and

Whereas, upon review of the federal District Court decision in Carandola, the United States Circuit Court of Appeals for the Fourth Circuit has found that the federal District Court did not abuse its discretion, and has allowed the injunction to remain in place, and

Whereas, the Circuit Court of Appeals for the Fourth Circuit has stated that entertainment such as nude or topless dancing at bars and clubs has "a long history of spawning deleterious effects," including "prostitution and the criminal abuse and exploitation of young women," and

Whereas, the General Assembly has reviewed studies of the secondary effects of sexually oriented businesses that have been conducted in locations across the United States, including: Phoenix, Arizona; Los Angeles, California; Minneapolis, Minnesota; Austin, Texas; New York City, New York; Oklahoma City, Oklahoma; and other cities, and

Whereas, studies show that negative secondary effects of sexually oriented businesses include increases in crime, such as prostitution, drug offenses, assaults, and sex crimes, and

Whereas, it is not the intent of the General Assembly to suppress the conduct of entertainment at premises licensed by the Alcoholic Beverage Control Commission,

but it is the desire of the General Assembly to address the harmful secondary effects of such entertainment, including higher crime rates, public sexual conduct, sexual assault, prostitution, and other secondary negative effects, and

Whereas, it is the intent of the General Assembly to prohibit entertainment at premises licensed by the Alcoholic Beverage Control Commission that provides an atmosphere conducive to violence, sexual harassment, public intoxication, prostitution, and the spread of sexually transmitted diseases. Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1005(a) reads as rewritten:

"(a) Certain Conduct. – It shall be unlawful for a permittee or his agent or employee to knowingly allow any of the following kinds of conduct to occur on his licensed premises:

(1) Any violation of this Chapter;

(2) Any fighting or other disorderly conduct that can be prevented without undue danger to the permittee, his employees or patrons; or

(3) Any violation of the controlled substances, gambling, or prostitution statutes, or any other unlawful acts.

~~(4) Any conduct or entertainment by any person whose private parts are exposed or who is wearing transparent clothing that reveals the private parts;~~

~~(5) Any entertainment that includes or simulates sexual intercourse or any other sexual act; or~~

~~(6) Any other lewd or obscene entertainment or conduct, as defined by the rules of the Commission.~~"

SECTION 2. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1005.1. Sexually explicit conduct on licensed premises.**

(a) It shall be unlawful for a permittee or his agent or employee to knowingly allow or engage in any of the following kinds of conduct on his licensed premises:

(1) Any conduct or entertainment by any person whose private parts are exposed or who is wearing transparent clothing that reveals the private parts;

(2) Any conduct or entertainment that includes or simulates sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual act;

(3) Any conduct or entertainment that includes the fondling of the breasts, buttocks, anus, vulva, or genitals; or

(4) Any other lewd or obscene entertainment or conduct, as defined by the rules of the Commission.

(b) Supervision. – It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a permit is issued.

(c) Exception. – This section does not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are primarily devoted

to the arts or theatrical performances, and are engaged in expressing a matter of serious literary, artistic, scientific, or political value."

SECTION 3. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 996

Judiciary I Committee Substitute Adopted 4/28/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S996-PCS65346-RK-72

Short Title: ABC-Sexually Explicit Conduct Banned. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PREVENT THE NEGATIVE SECONDARY EFFECTS CAUSED BY SEXUALLY EXPLICIT CONDUCT ON PREMISES LICENSED BY THE ALCOHOLIC BEVERAGE CONTROL COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1005(a) reads as rewritten:

"(a) Certain Conduct. – It shall be unlawful for a permittee or his agent or employee to knowingly allow any of the following kinds of conduct to occur on his licensed premises:

(1) Any violation of this Chapter;

(2) Any fighting or other disorderly conduct that can be prevented without undue danger to the permittee, his employees or patrons; or

(3) Any violation of the controlled substances, gambling, or prostitution statutes, or any other unlawful acts.

~~(4) Any conduct or entertainment by any person whose private parts are exposed or who is wearing transparent clothing that reveals the private parts;~~

~~(5) Any entertainment that includes or simulates sexual intercourse or any other sexual act; or~~

~~(6) Any other lewd or obscene entertainment or conduct, as defined by the rules of the Commission.~~"

SECTION 2. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1005.1. Sexually explicit conduct on licensed premises.**

(a) It shall be unlawful for a permittee or his agent or employee to knowingly allow or engage in any of the following kinds of conduct on his licensed premises:

(1) Any conduct or entertainment by any person whose genitals are exposed or who is wearing transparent clothing that reveals the genitals;

(2) Any conduct or entertainment that includes or simulates sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any act that includes or simulates the penetration, however slight, by any object into the genital or anal opening of a person's body; or

(3) Any conduct or entertainment that includes the fondling of the breasts, buttocks, anus, vulva, or genitals.

(b) Supervision. – It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a permit is issued.

(c) Exception. – This section does not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are primarily devoted to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value."

SECTION 3. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 996 A BILL TO BE ENTITLED AN ACT TO PREVENT THE NEGATIVE SECONDARY EFFECTS CAUSED BY SEXUALLY EXPLICIT CONDUCT ON PREMISES LICENSED BY THE ALCOHOLIC BEVERAGE CONTROL 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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, unfavorable as to Senate committee substitute bill.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

H Rules — 7/19/03 2:00pm

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Criss Carter	Smith Anderson
James Holmes	NC Medical Society
Rick Zechini	NC Assoc. of REALTORS
Davis Cole, III	PSA
Austin Bunn	Self
ERIC DYER	GREENSBORO NEWS & RECORD
Michael Howser	NCAE
Billy Scoggin	K+C
Betty Turner	Bank of America
Sandra Ray	Martin Marietta
Charlie Ray	" "
Martin Glenn	NCDACS
Robin Smith	DENR
Susan Valaun	National Gas
Suzanne Williams	ACCS
Sam Taylor	NCBIO
Gerry Hancock	EGKS
Brian Harrison	CRC
Lee-Ann Cole Perryman	CTA, NCPA
Van Perryman	
Mark Fleming	University System
ZEB ALLEY	ALLEY ASSOCIATES
PAUL STOCK	NC BIOSCIENCE
Katherine Joyce	NCASA
Gene Causby	NCCCA
[illegible]	NWA
Stephanie Simpson	NCAR
Kim Hibbard	NCLM

VISITOR REGISTRATION SHEET

Rules — 7/19/07 — 2:00 pm

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
	NCRA
	NSU
	Hodson
S. Cantwell	Wilmington Star-News
Erica Peterson	NC Agribusiness Council
Rob Ocsgog	NC State Wildlife Inc
Gary Harris	NC Petroleum Marketers Assoc.
Eddie Caldwell	Hafer & Caldwell, P.A.
Greg Mcleod	AG Ofc
Reginfld Johnston	CRL
Julie Woodson	NCCBI
John Brewbaker	AstraZeneca
Susan Harris	WCPSS
Smarkham	NCSPA
Ron Aycock	County Com. Assoc
Willie Riddick	DOR
John McHugh	Gov office
Ken Melton	Alley Associates, INC.
DR	
Stacy Flannery	NCHCFA
Barbara Carolan	
Tiger Woods	—
	"
Fred Flintstone	Rubble Contractors
Ben Dover	Gastroentology Clinic
CASSANDRA SKINNER	CCPS

VISITOR REGISTRATION SHEET

Rules — 7/19/07 — 2:00pm

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
PRGP	NCFB
[illegible]	SBE
Henry [illegible]	Attorney - Raleigh
John Hunt	NCFPC
Steve Keane	NCMS
Betsy Bailey	NCPTA
R. Paul Wilms	NCHBA
Mike Carpenter	NCBGA
BILL CLINTON	CHAPPAQUA NY
Andy Hale	Jordan Price Law Firm
Haywood Jablowme	Penile Implant Association

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 19, 2003
8:00 P.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

COMMITTEE SUBSTITUTE FOR SENATE BILL 996 – AN ACT TO PREVENT THE NEGATIVE SECONDARY EFFECTS CAUSED BY SEXUALLY EXPLICIT CONDUCT ON PREMISES LICENSED BY THE ALCOHOLIC BEVERAGE CONTROL COMMISSION

SENATE BILL 137 – AN ACT TO AUTHORIZE MUNICIPAL SERVICE DISTRICTS FOR TRANSIT-ORIENTED DEVELOPMENT AND TO AUTHORIZE CITIES TO USE SPECIAL OBLIGATION FINANCING FOR PROJECTS WITHIN MUNICIPAL SERVICE DISTRICTS

COMMITTEE SUBSTITUTE FOR SENATE BILL 34 – AN ACT TO REESTABLISH THE HIGHWAY TRUST FUND STUDY COMMITTEE

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 676 – AN ACT TO AMEND THE BANKING LAWS OF NORTH CAROLINA

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL 75 – AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

July 19, 2003

The Committee on Rules, Calendar and Operations of the House met on July 19, 2003 at 8:00 p.m. in Room 421 of the Legislative Office Building. All members were present except Representatives Hackney, Miller and Miner.

The following bills were considered:

COMMITTEE SUBSTITUTE FOR SENATE BILL 996 – AN ACT TO PREVENT THE NEGATIVE SECONDARY EFFECTS CAUSED BY SEXUALLY EXPLICIT CONDUCT ON PREMISES LICENSED BY THE ALCOHOLIC BEVERAGE CONTROL COMMISSION. A proposed House committee substitute was offered, and Representative Luebke moved for its adoption for the purpose of discussion. Without object, the chairman so ordered. The chairman explained that the proposed House committee substitute that was given a favorable report at the earlier 2:00 meeting was not reported, and a new proposed committee substitute was before the committee. He stated that the new proposed committee substitute was exactly the same substantively as the one approved by the committee at the earlier meeting with the addition of the "Whereas" clauses in the event the bill is interpreted by the courts. Representative Gorman moved that the new proposed House committee substitute be given a favorable report unfavorable to the Senate committee substitute. The motion passed.

SENATE BILL 137 – AN ACT TO AUTHORIZE MUNICIPAL SERVICE DISTRICTS FOR TRANSIT-ORIENTED DEVELOPMENT AND TO AUTHORIZE CITIES TO USE SPECIAL OBLIGATION FINANCING FOR PROJECTS WITHIN MUNICIPAL SERVICE DISTRICTS. The chairman advised the members that the bill was being used as a vehicle for the House version of the Technical Corrections bill. An amendment to the bill changing the title to AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO MAKE VARIOUS OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS A APPROVED BY THE SENATE AND RECOMMENDED BY THE HOUSE RULES COMMITTEE, TO AUTHORIZE MUNICIPAL SERVICE DISTRICTS FOR TRANSIT-ORIENTED DEVELOPMENT, AND TO AUTHORIZE CITIES TO USE SPECIAL OBLIGATION FINANCING FOR PROJECTS WITHIN MUNICIPAL SERVICE DISTRICTS was offered. Robin Johnson, staff attorney, was recognized to give an overview of the amendment. Representative Luebke sent forth Amendment #2 and moved for its adoption. The motion passed. Amendment #3 was sent forth by Representative Luebke. Representative Brubaker moved for its adoption. The motion passed. Representative Brubaker moved that the bill, as amended, be given a favorable report. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 34 – AN ACT TO REESTABLISH THE HIGHWAY TRUST FUND STUDY COMMITTEE. A proposed House committee substitute changing the title to AN ACT CONCERNING STUDIES was offered, and Representative Brubaker moved for its adoption for the purpose of discussion. Without

objection, the chair so ordered. He then explained the proposed committee substitute and offered an amendment to the proposed committee substitute. Representative McComas moved for adoption of the amendment, which motion passed. Representative Yongue sent forward an amendment and moved for its adoption, which motion passed. Representative Brubaker moved that the amendments be incorporated into a new proposed committee substitute and that the new proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion passed.

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 676 – AN ACT TO AMEND THE BANKING LAWS OF NORTH CAROLINA. An amendment changing the title to AN ACT TO AMEND THE BANKING LAWS OF NORTH CAROLINA, AND TO EXEMPT CERTAIN FREE DISTRIBUTION PUBLICATIONS FROM THE SALES TAX was offered, and Representative Luebke moved for its adoption, which motion passed. Representative Brubaker sent forward an amendment and moved for its adoption. The motion passed. Representative Brubaker than moved that the House committee substitute, as amended, be given a favorable report. The motion passed.

SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL 75 –AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY. An amendment changing the title to AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY; TO ALLOCATE FEDERAL FUNDS UNDER THE FOOD STAMP PROGRAM; TO AUTHORIZE A TRANSFER OF APPROPRIATE FUNDS TO THE WESTERN NORTH CAROLINA DEVELOPMENT ASSOCIATION, INC.; TO AUTHORIZE A TRANSFER TO THE VICTIMS COMPENSATION FUND; TO AUTHORIZE THE DEPARTMENT OF REVENUE TO USE SPECIFIC REVENUE TO SUPPORT INFORMATION TECHNOLOGY COSTS; TO APPROPRIATE FUNDS TO THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS FOR PLANNING CERTAIN FACILITIES, TO AUTHORIZE FAYETTEVILLE STATE UNIVERSITY TO RETAIN PROCEEDS FROM THE SALE OF THE CHANCELLOR'S RESIDENCE; TO ESTABLISH A MOTORCYCLE UNIT IN MECKLENBURG COUNTY; AND TO DECLARE THE GENERAL ASSEMBLY'S SUPPORT FOR BIOTECHNOLOGY was offered, and Representative Luebke moved for its adoption, which motion passed. Erica Churchill, staff attorney, was recognized to explain the amendment. Representative Luebke sent forward an amendment and moved for its adoption. The motion passed. Representative Howard sent forth an amendment and moved for its adoption. The motion passed. No further action was taken on the bill at the meeting.

The meeting adjourned at 9:05 p.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 996
Judiciary I Committee Substitute Adopted 4/28/03

Short Title: ABC-Sexually Explicit Conduct Banned. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PREVENT THE NEGATIVE SECONDARY EFFECTS CAUSED BY SEXUALLY EXPLICIT CONDUCT ON PREMISES LICENSED BY THE ALCOHOLIC BEVERAGE CONTROL COMMISSION.

Whereas, the United States District Court for the Middle District of North Carolina has issued a preliminary injunction, in the case of Carandola v. Bason, enjoining the State of North Carolina from enforcing regulations which prohibit certain sexually explicit conduct on premises licensed by the Alcoholic Beverage Control Commission, and

Whereas, the federal District Court concluded that the regulations are likely to be held to be unconstitutional, and

Whereas, upon review of the federal District Court decision in Carandola, the United States Circuit Court of Appeals for the Fourth Circuit has found that the federal District Court did not abuse its discretion, and has allowed the injunction to remain in place, and

Whereas, the Circuit Court of Appeals for the Fourth Circuit has stated that entertainment such as nude or topless dancing at bars and clubs has "a long history of spawning deleterious effects," including "prostitution and the criminal abuse and exploitation of young women," and

Whereas, the General Assembly has reviewed studies of the secondary effects of sexually oriented businesses that have been conducted in locations across the United States, including: Phoenix, Arizona; Los Angeles, California; Minneapolis, Minnesota; Austin, Texas; New York City, New York; Oklahoma City, Oklahoma; and other cities, and

Whereas, studies show that negative secondary effects of sexually oriented businesses include increases in crime, such as prostitution, drug offenses, assaults, and sex crimes, and

Whereas, it is not the intent of the General Assembly to suppress the conduct of entertainment at premises licensed by the Alcoholic Beverage Control Commission,

but it is the desire of the General Assembly to address the harmful secondary effects of such entertainment, including higher crime rates, public sexual conduct, sexual assault, prostitution, and other secondary negative effects, and

Whereas, it is the intent of the General Assembly to prohibit entertainment at premises licensed by the Alcoholic Beverage Control Commission that provides an atmosphere conducive to violence, sexual harassment, public intoxication, prostitution, and the spread of sexually transmitted diseases. Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1005(a) reads as rewritten:

"(a) Certain Conduct. – It shall be unlawful for a permittee or his agent or employee to knowingly allow any of the following kinds of conduct to occur on his licensed premises:

(1) Any violation of this Chapter;

(2) Any fighting or other disorderly conduct that can be prevented without undue danger to the permittee, his employees or patrons; or

(3) Any violation of the controlled substances, gambling, or prostitution statutes, or any other unlawful acts.

~~(4) Any conduct or entertainment by any person whose private parts are exposed or who is wearing transparent clothing that reveals the private parts;~~

~~(5) Any entertainment that includes or simulates sexual intercourse or any other sexual act; or~~

~~(6) Any other lewd or obscene entertainment or conduct, as defined by the rules of the Commission.~~"

SECTION 2. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1005.1. Sexually explicit conduct on licensed premises.**

(a) It shall be unlawful for a permittee or his agent or employee to knowingly allow or engage in any of the following kinds of conduct on his licensed premises:

(1) Any conduct or entertainment by any person whose private parts are exposed or who is wearing transparent clothing that reveals the private parts;

(2) Any conduct or entertainment that includes or simulates sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any other sexual act;

(3) Any conduct or entertainment that includes the fondling of the breasts, buttocks, anus, vulva, or genitals; or

(4) Any other lewd or obscene entertainment or conduct, as defined by the rules of the Commission.

(b) Supervision. – It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a permit is issued.

(c) Exception. – This section does not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are primarily devoted

to the arts or theatrical performances, and are engaged in expressing a matter of serious literary, artistic, scientific, or political value."

SECTION 3. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 996

Judiciary I Committee Substitute Adopted 4/28/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S996-PCS65347-RK-73

Short Title: ABC-Sexually Explicit Conduct Banned. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PREVENT THE NEGATIVE SECONDARY EFFECTS CAUSED BY SEXUALLY EXPLICIT CONDUCT ON PREMISES LICENSED BY THE ALCOHOLIC BEVERAGE CONTROL COMMISSION.

Whereas, the United States District Court for the Middle District of North Carolina has issued a preliminary injunction, in the case of Carandola v. Bason, enjoining the State of North Carolina from enforcing regulations which prohibit certain sexually explicit conduct on premises licensed by the Alcoholic Beverage Control Commission; and

Whereas, the federal District Court concluded that the regulations are likely to be held to be unconstitutional; and

Whereas, upon review of the federal District Court decision in Carandola, the United States Circuit Court of Appeals for the Fourth Circuit has found that the federal District Court did not abuse its discretion, and has allowed the injunction to remain in place; and

Whereas, the Circuit Court of Appeals for the Fourth Circuit has stated that entertainment such as nude or topless dancing at bars and clubs has "a long history of spawning deleterious effects," including "prostitution and the criminal abuse and exploitation of young women"; and

Whereas, the General Assembly has reviewed studies of the secondary effects of sexually oriented businesses that have been conducted in locations across the United States, including: Phoenix, Arizona; Los Angeles, California; Minneapolis, Minnesota; Austin, Texas; New York City, New York; Oklahoma City, Oklahoma; and other cities; and

Whereas, studies show that negative secondary effects of sexually oriented businesses include increases in crime, such as prostitution, drug offenses, assaults, and sex crimes; and

Whereas, it is not the intent of the General Assembly to suppress the conduct of entertainment at premises licensed by the Alcoholic Beverage Control Commission, but it is the desire of the General Assembly to address the harmful secondary effects of such entertainment, including higher crime rates, public sexual conduct, sexual assault, prostitution, and other secondary negative effects; and

Whereas, it is the intent of the General Assembly to prohibit entertainment at premises licensed by the Alcoholic Beverage Control Commission that provides an atmosphere conducive to violence, sexual harassment, public intoxication, prostitution, and the spread of sexually transmitted diseases; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-1005(a) reads as rewritten:

"(a) Certain Conduct. – It shall be unlawful for a permittee or his agent or employee to knowingly allow any of the following kinds of conduct to occur on his licensed premises:

(1) Any violation of this Chapter;

(2) Any fighting or other disorderly conduct that can be prevented without undue danger to the permittee, his employees or patrons; or

(3) Any violation of the controlled substances, gambling, or prostitution statutes, or any other unlawful acts.

~~(4) Any conduct or entertainment by any person whose private parts are exposed or who is wearing transparent clothing that reveals the private parts;~~

~~(5) Any entertainment that includes or simulates sexual intercourse or any other sexual act; or~~

~~(6) Any other lewd or obscene entertainment or conduct, as defined by the rules of the Commission.~~"

SECTION 2. Chapter 18B of the General Statutes is amended by adding a new section to read:

"**§ 18B-1005.1. Sexually explicit conduct on licensed premises.**

(a) It shall be unlawful for a permittee or his agent or employee to knowingly allow or engage in any of the following kinds of conduct on his licensed premises:

(1) Any conduct or entertainment by any person whose genitals are exposed or who is wearing transparent clothing that reveals the genitals;

(2) Any conduct or entertainment that includes or simulates sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, or any act that includes or simulates the penetration, however slight, by any object into the genital or anal opening of a person's body; or

(3) Any conduct or entertainment that includes the fondling of the breasts, buttocks, anus, vulva, or genitals.

(b) Supervision. – It shall be unlawful for a permittee to fail to superintend in person or through a manager the business for which a permit is issued.

(c) Exception. – This section does not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are primarily devoted to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value."

SECTION 3. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **RULES, CALENDAR AND OPERATIONS OF THE HOUSE.**

☒ Committee Substitute for

S.B. 996 A BILL TO BE ENTITLED AN ACT TO PREVENT THE NEGATIVE SECONDARY EFFECTS CAUSED BY SEXUALLY EXPLICIT CONDUCT ON PREMISES LICENSED BY THE ALCOHOLIC BEVERAGE CONTROL 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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, unfavorable as to Senate committee substitute bill.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 1

SENATE BILL 137

Short Title:	Special Obligation Debt/Purposes.	(Public)
Sponsors:	Senators Clodfelter; Carpenter, Dannelly, Reeves, and Stevens.	
Referred to:	Finance.	

February 24, 2003

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE MUNICIPAL SERVICE DISTRICTS FOR TRANSIT-ORIENTED DEVELOPMENT AND TO AUTHORIZE CITIES TO USE SPECIAL OBLIGATION FINANCING FOR PROJECTS WITHIN MUNICIPAL SERVICE DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-536 reads as rewritten:

"**§ 160A-536. Purposes for which districts may be established.**

(a) Purposes. – The city council of any city may define any number of service districts in order to finance, provide, or maintain for the districts one or more of the following services, facilities, or functions in addition to or to a greater extent than those financed, provided or maintained for the entire city:

(1) Beach erosion control and flood and hurricane protection works.

(1a) **(For applicability see note)** Any service, facility, or function which the municipality may by law provide in the city, and including but not limited to placement of utility wiring underground, placement of period street lighting, placement of specially designed street signs and street furniture, landscaping, specialized street and sidewalk paving, and other appropriate improvements to the rights-of-way that generally preserve the character of an historic district; provided that this subdivision only applies to a service district which, at the time of its creation, had the same boundaries as an historic district created under Part 3A of Article 19 of this Chapter.

(2) Downtown revitalization projects.

(2a) Urban area revitalization projects.

(2b) Transit-oriented development projects.

(3) Drainage projects.

(3a) Sewage collection and disposal systems of all types, including septic tank systems or other on-site collection or disposal facilities or systems.

(3b) **(For applicability see note)** Lighting at interstate highway interchange ramps.

(4) Off-street parking facilities.

(5) Watershed improvement projects, including but not limited to watershed improvement projects as defined in General Statutes Chapter 139; drainage projects, including but not limited to the drainage projects provided for by General Statutes Chapter 156; and water resources development projects, including but not limited to the federal water resources development projects provided for by General Statutes Chapter 143, Article 21.

(b) Downtown Revitalization Defined. – As used in this section "downtown revitalization projects" include by way of illustration but not limitation improvements to water mains, sanitary sewer mains, storm sewer mains, electric power distribution lines, gas mains, street lighting, streets and sidewalks, including rights-of-way and easements therefor, the construction of pedestrian malls, bicycle paths, overhead pedestrian walkways, sidewalk canopies, and parking facilities both on-street and off-street, and other improvements intended to relieve traffic congestion in the central city, improve pedestrian and vehicular access thereto, reduce the incidence of crime therein, and generally to further the public health, safety, welfare, and convenience by promoting the economic health of the central city or downtown area. In addition, a downtown revitalization project may, in order to revitalize a downtown area and further the public health, safety, welfare, and convenience, include the provision of city services or functions in addition to or to a greater extent than those provided or maintained for the entire city. A downtown revitalization project may also include promotion and developmental activities (such as sponsoring festivals and markets in the downtown area, promoting business investment in the downtown area, helping to coordinate public and private actions in the downtown area, and developing and issuing publications on the downtown area) designed to improve the economic well-being of the downtown area and further the public health, safety, welfare, and convenience. Exercise of the authority granted by this Article to undertake downtown revitalization projects financed by a ~~municipal~~ service district shall not prejudice the city's authority to undertake urban renewal projects in the same area.

(c) Urban Area Revitalization Defined. – As used in this section, the term "urban area revitalization projects" includes the provision within an urban area of any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section. As used in this section, the term "urban area" means an area that (i) is located within a city whose population exceeds 150,000 according to the most recent annual population statistics certified by the State Planning Officer and (ii) meets one or more of the following conditions:

(1) It is the central business district of the city.

(2) It consists primarily of existing or redeveloping concentrations of industrial, retail, wholesale, office, or significant employment-generating uses, or any combination of these uses.

(3) It is located in or along a major transportation corridor and does not include any residential parcels that are not, at their closest point, within 150 feet of the major transportation corridor right-of-way or any nonresidentially zoned parcels that are not, at their closest point, within 1,500 feet of the major transportation corridor right-of-way.

(4) It has as its center and focus a major concentration of public or institutional uses, such as airports, seaports, colleges or universities, hospitals and health care facilities, or governmental facilities.

(c1) Transit-Oriented Development Defined. – As used in this section, the term 'transit-oriented development' includes the provision within a public transit area of any service or facility listed in this subsection. A public transit area is an area within a one-fourth mile radius of any passenger stop or station located on a mass transit line. A mass transit line is a rail line along which a public transportation service operates or a busway or guideway dedicated to public transportation service. A busway is not a mass transit line if a majority of its length is also generally open to passenger cars and other private vehicles more than two days a week.

The following services and facilities are included in the definition of 'transit-oriented development' if they are provided within a transit area:

(1) Any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section.

(2) Passenger stops and stations on a mass transit line.

(3) Parking facilities and structures associated with passenger stops and stations on a mass transit line.

(4) Any other service or facility, whether public or public-private, that the city may by law provide or participate in within the city, including retail, residential, and commercial facilities.

(d) Contracts. – A city may provide services, facilities, functions, or promotional and developmental activities in a service district with its own forces, through a contract with another governmental agency, through a contract with a private agency, or by any combination thereof. Any contracts entered into pursuant to this paragraph shall specify the purposes for which city moneys are to be used and shall require an appropriate accounting for those moneys at the end of each fiscal year or other appropriate period."

SECTION 2. G.S. 159I-30(a) reads as rewritten:

"(a) Authorization. – Any unit of local government may borrow money for the purpose of financing or refinancing its cost of the acquisition or construction of a project and may issue special obligation bonds and notes, including bond anticipation notes and renewal notes, pursuant to the provisions of this section and the applicable provisions of this Chapter for this purpose. ~~As used in this section, the term 'project' has the meaning provided in G.S. 159I-3 and also includes any of the following as defined~~

~~in S.L. 1998-132: water supply systems, water conservation projects, water reuse projects, wastewater collection systems, and wastewater treatment works.~~"

SECTION 3. G.S. 159I-30(g) reads as rewritten:

"(g) Definitions. – ~~As used~~ The following definitions apply in this section:

(1) ~~"Credit facility" means an~~Credit facility. – An agreement entered into by the unit with a bank, a savings and loan ~~association or other banking institution,~~association, or another banking institution; an insurance company, a reinsurance company, a surety ~~company or other~~company, or another insurance ~~institution,~~ institution; a corporation, an investment banking ~~firm or other~~ firm, or another investment ~~institution,~~ institution; or any financial ~~institution~~ institution, 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 unit agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement; the provider of any credit facility may be located either within or without the United States of America.

(2) ~~"Par formula" means any~~ Par formula. – Any provision or formula adopted by the unit 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. Any other provision as the unit may determine to be consistent with this section and the applicable provisions of this Chapter and does not materially and adversely affect the financial position of the unit and the marketing of the bonds or notes at a reasonable interest cost to the unit.

(3) Project. – Any of the following:

a. A project as defined in G.S. 159I-3.

b. Any of the following as defined in S.L. 1998-132: water supply systems, water conservation projects, water reuse projects, wastewater collection systems, and wastewater treatment works.

c. With respect to a city, any service or facility authorized by G.S. 160A-536 and provided in a municipal service district.

(g1) Credit Facility. – The obligation of a unit of local government under a credit facility to repay any drawing thereunder may be made payable and otherwise secured, to the extent applicable, as provided in this section."

SECTION 4. G.S. 160A-543 reads as rewritten:

"**§ 160A-543. Bonds authorized.**

A city may ~~issue its general obligation bonds under the Local Government Bond Act~~ incur debt under general law to finance services, facilities or functions provided within a service district. If a proposed general obligation bond issue is required by law to be submitted to and approved by the voters of the city, and if the proceeds of the proposed bond issue are to be used in connection with a service that is or, if the bond issue is approved, will be provided only for one or more service districts or at a higher level in service districts than city wide, the proposed bond issue must be approved concurrently by a majority of those voting throughout the entire city and by a majority of the total of those voting in all of the affected or to be affected service districts."

SECTION 5. This act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 137

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S137-ARH-85 [v.2]

Date 7-19 ,2003

Comm. Sub. [NO]
Amends Title [YES]
Second Edition

Representative Culpepper

moves to amend the bill on page 1, line 1, through page 1, line 6, by rewriting the lines to read:

"A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO MAKE VARIOUS OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS AS APPROVED BY THE SENATE AND RECOMMENDED BY THE HOUSE RULES COMMITTEE, TO AUTHORIZE MUNICIPAL SERVICE DISTRICTS FOR TRANSIT-ORIENTED DEVELOPMENT, AND TO AUTHORIZE CITIES TO USE SPECIAL OBLIGATION FINANCING FOR PROJECTS WITHIN MUNICIPAL SERVICE DISTRICTS.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CORRECTIONS RECOMMENDED BY THE GENERAL STATUTES COMMISSION

SECTION 1. G.S. 14-402(c)(3) reads as rewritten:

"(c) The following definitions apply in this section:

...

(3) Crossbow. – A mechanical device consisting of, but not limited to, strings, cables, and prods transversely mounted on either a shoulder or hand-held stock. This ~~devise~~ device is mechanically held at full or partial draw and released by a trigger or similar mechanism ~~which~~ that

is incorporated into a stock or handle. When operated, the crossbow discharges a projectile known as a bolt.

..."

SECTION 2. G.S. 20-7(b1) reads as rewritten:

"(b1) Application. – To obtain ~~a~~ an identification card, learners permit, or drivers license from the Division, a person shall complete an application form provided by the Division, present at least two forms of identification approved by the Commissioner, be a resident of this State, and demonstrate his or her physical and mental ability to drive safely a motor vehicle included in the class of license for which the person has applied. At least one of the forms of identification shall indicate the applicant's residence address. The Division may copy the identification presented or hold it for a brief period of time to verify its authenticity. To obtain an endorsement, a person shall demonstrate his or her physical and mental ability to drive safely the type of motor vehicle for which the endorsement is required.

The application form shall request all of the following information, and it shall contain the disclosures concerning the request for an applicant's social security number required by section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579:

(1) The applicant's full name.
(2) The applicant's mailing address and residence address.
(3) A physical description of the applicant, including the applicant's sex, height, eye color, and hair color.
(4) The applicant's date of birth.
(5) The applicant's valid social security number.
(6) The applicant's signature.

If an applicant does not have a valid social security number and is ineligible to obtain one, the applicant shall swear to or affirm that fact under penalty of perjury. In such case, the applicant may provide a valid Individual Taxpayer Identification Number issued by the Internal Revenue Service to that person.

The Division shall not issue an identification card, learners permit, or drivers license to an applicant who fails to provide either the applicant's valid social security number or the applicant's valid Individual Taxpayer Identification Number."

SECTION 3. G.S. 49-13.1 is repealed.

SECTION 4. G.S. 55B-2(6), as amended by Section 3 of S.L. 2003-117, reads as rewritten:

"(6) The term "professional service" means any type of personal or professional service of the public which requires as a condition precedent to the rendering of such service the obtaining of a license from a licensing board as herein defined, and pursuant to the following provisions of the General Statutes: Chapter 83A, "Architects"; Chapter 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and the following Articles in Chapter 90: Article 1, "Practice of Medicine," Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy," Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with regard to registered nurses, Article 11, "Veterinarians," Article 12A, "Podiatrists," Article 18A, "Practicing Psychologists," Article 18C, "Marriage and Family Therapy Licensure," Article 18D, "Occupational Therapy," and Article 24, "Licensed Professional Counselors"; Chapter 89C, "Engineering and Land Surveying"; Chapter 89A, "Landscape Architects"; Chapter 90B, "Social Worker Certification and Licensure Act" with regard to ~~Certified~~ Licensed Clinical Social Workers as defined by G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B, "Foresters"; and Chapter 89F, "North Carolina Soil Scientist Licensing Act."

SECTION 5.(a) G.S. 58-36-10(3) reads as rewritten:

"**§ 58-36-10. Method of rate making; factors considered.**

The following standards shall apply to the making and use of rates:

...

(3) In the case of property insurance rates under this Article, consideration may be given to the experience of property insurance business during the most recent five-year period for which that experience is available. In the case of property insurance rates under this Article, consideration shall be given to the insurance public protection classifications of fire districts established by the Commissioner. The Commissioner shall establish and modify from time to time insurance public protection districts for all rural areas of the State and for cities with populations

of 100,000 or fewer, according to the most recent annual population estimates certified by the State ~~Planning~~ Budget Officer. In establishing and modifying these districts, the Commissioner shall use standards at least equivalent to those used by the Insurance Services Office, Inc., or any successor organization. The standards developed by the Commissioner are subject to Article 2A of Chapter 150B of the General Statutes. The insurance public protection classifications established by the Commissioner issued pursuant to the provisions of this Article shall be subject to appeal as provided in G.S. 58-2-75, et seq. The exceptions stated in G.S. 58-2-75(a) do not apply.

..."

SECTION 5.(b) G.S. 58-40-25(4) reads as rewritten:

"**§ 58-40-25. Rating methods.**

In determining whether rates comply with the standards under G.S. 58-40-20, the following criteria shall be applied:

...

(4) In the case of property insurance rates under this Article, consideration shall be given to the insurance public protection classifications of fire districts established by the Commissioner. The Commissioner shall establish and modify from time to time insurance public protection districts for all rural areas of the State and for cities with populations of 100,000 or fewer, according to the most recent annual population estimates certified by the State ~~Planning~~ Budget Officer. In establishing and modifying these districts, the Commissioner shall use standards at least equivalent to those used by the Insurance Services Office, Inc., or any successor organization. The standards developed by the Commissioner are subject to Article 2A of Chapter 150B of the General Statutes. The insurance public protection classifications established by the Commissioner issued pursuant to the provisions of this Article shall be subject to appeal as provided in G.S. 58-2-75, et seq. The exceptions stated in G.S. 58-2-75(a) do not apply."

SECTION 5.(c) G.S. 58-87-1(b) reads as rewritten:

"(b) A fire department is eligible for a grant under this section if it meets all of the following conditions:

(1) It serves a response area of 6,000 or less in population.

(2) It consists entirely of volunteer members, with the exception that the unit may have paid members to fill the equivalent of three full-time paid positions.

(3) It has been certified by the Department of Insurance.

In making the population determination under subdivision (1) of this subsection, the Department shall use the most recent annual population estimates certified by the State ~~Planning~~ Budget Officer."

SECTION 5.(d) G.S. 105-113.82(e) reads as rewritten:

"(e) Population Estimates. – To determine the population of a city or county for purposes of the distribution required by this section, the Secretary shall use the most recent annual estimate of population certified by the State ~~Planning~~ Budget Officer."

SECTION 5.(e) G.S. 105-129.3(b1) reads as rewritten:

"(b1) Data. – In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population and population growth, the Secretary shall use the most recent estimates of population certified by the State ~~Planning~~ Budget Officer."

SECTION 5.(f) G.S. 105-129.3A(a) reads as rewritten:

"(a) Development Zone Defined. – A development zone is an area comprised of one or more contiguous census tracts, census block groups, or both in the most recent federal decennial census that meets all of the following conditions:

(1) Every census tract and census block group in the zone is located in whole or in part within the primary corporate limits of a city with a population of more than 5,000 according to the most recent annual population estimates certified by the State ~~Planning~~ Budget Officer.

(2) It has a population of 1,000 or more according to the most recent annual population estimates certified by the State ~~Planning~~ Budget Officer.

(3) More than twenty percent (20%) of its population is below the poverty level according to the most recent federal decennial census.

(4) Every census tract and census block group in the zone meets at least one of the following conditions:
a. More than ten percent (10%) of its population is below the poverty level according to the most recent federal decennial census.
b. It is immediately adjacent to another census tract or census block group that is in the same zone and has more than twenty percent (20%) of its population below the poverty level according to the most recent federal decennial census.
(5) None of the census tracts or census block groups in the zone is located in another development zone designated by the Secretary of Commerce."

SECTION 5.(g) G.S. 105-164.44F(b) reads as rewritten:

"(b) Share of Cities Incorporated on or After January 1, 2001. – The share of a city incorporated on or after January 1, 2001, is its per capita share of the amount to be distributed to all cities incorporated on or after this date. This amount is the proportion of the total to be distributed under this section that is the same as the proportion of the population of cities incorporated on or after January 1, 2001, compared to the population of all cities. In making the distribution under this subsection, the Secretary must use the most recent annual population estimates certified to the Secretary by the State ~~Planning~~ Budget Officer."

SECTION 5.(h) G.S. 105-187.19(b) reads as rewritten:

"(b) Each quarter, the Secretary shall credit five percent (5%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit twenty-seven percent (27%) of the net tax proceeds to the Scrap Tire Disposal Account. The Secretary shall distribute the remaining sixty-eight percent (68%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State ~~Planning~~ Budget Officer."

SECTION 5.(i) G.S. 105-187.24 reads as rewritten:

"**§ 105-187.24. Use of tax proceeds.**

The Secretary shall distribute the taxes collected under this Article, less the Department of Revenue's allowance for administrative expenses, in accordance with this section. The Secretary may retain the Department's cost of collection, not to exceed two

hundred twenty-five thousand dollars ($225,000) a year, as reimbursement to the Department.

Each quarter, the Secretary shall credit eight percent (8%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall credit twenty percent (20%) of the net tax proceeds to the White Goods Management Account. The Secretary shall distribute the remaining seventy-two percent (72%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State ~~Planning~~ Budget Officer. The Department shall not distribute the tax proceeds to a county when notified not to do so by the Department of Environment and Natural Resources under G.S. 130A-309.87. If a county is not entitled to a distribution, the proceeds allocated for that county will be credited to the White Goods Management Account.

A county may use funds distributed to it under this section only as provided in G.S. 130A-309.82. A county that receives funds under this section and that has an interlocal agreement with another unit of local government under which the other unit provides for the disposal of solid waste for the county must transfer the amount received under this section to that other unit. A unit to which funds are transferred is subject to the same restrictions on use of the funds as the county."

SECTION 5.(j) Effective July 1, 2003, G.S. 105-472(b) reads as rewritten:

"(b) Distribution Between Counties and Cities. – The Secretary shall divide the amount allocated to each taxing county among the county and its municipalities in accordance with the method determined by the county. The board of county commissioners shall, by resolution, choose one of the following methods of distribution:

(1) Per Capita Method. – The net proceeds of the tax collected in a taxing county shall be distributed to that county and to the municipalities in the county on a per capita basis according to the total population of the taxing county, plus the total population of the municipalities in the county. In the case of a municipality located in more than one county, only that part of its population living in the taxing county is considered its "total population". In order to make the distribution, the Secretary shall determine a per capita figure by dividing the amount allocated to each taxing county by the total population of that county plus the total population of all municipalities in the county. The Secretary shall then

multiply this per capita figure by the population of the taxing county and by the population of each municipality in the county; each respective product shall be the amount to be distributed to the county and to each municipality in the county. To determine the population of each county and each municipality, the Secretary shall use the most recent annual estimate of population certified by the State ~~Planning~~ Budget Officer.

(2) Ad Valorem Method. – The net proceeds of the tax collected in a taxing county shall be distributed to that county and the municipalities in the county in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the taxing county during the fiscal year next preceding the distribution. For purposes of this section, the amount of the ad valorem taxes levied by a county or municipality includes ad valorem taxes levied by the county or municipality in behalf of a taxing district and collected by the county or municipality. In addition, the amount of taxes levied by a county includes ad valorem taxes levied by a merged school administrative unit described in G.S. 115C-513 in the part of the unit located in the county. In computing the amount of tax proceeds to be distributed to each county and municipality, the amount of any ad valorem taxes levied but not substantially collected shall be ignored. Each county and municipality receiving a distribution of the proceeds of the tax levied under this Article shall in turn immediately share the proceeds with each district in behalf of which the county or municipality levied ad valorem taxes in the proportion that the district levy bears to the total levy of the county or municipality. Any county or municipality that fails to provide the Department of Revenue with information concerning ad valorem taxes levied by it adequate to permit a timely determination of its appropriate share of tax proceeds collected under this Article may be excluded by the Secretary from each monthly distribution with respect to which the information was not provided in a timely manner, and those tax proceeds shall then be distributed only to the remaining counties or municipalities, as appropriate. For the

purpose of computing the distribution of the tax under this subsection to any county and the municipalities located in the county for any month with respect to which the property valuation of a public service company is the subject of an appeal and the Department of Revenue is restrained by law from certifying the valuation to the county and the municipalities in the county, the Department shall use the last property valuation of the public service company that has been certified.

The board of county commissioners in each taxing county shall, by resolution adopted during the month of April of each year, determine which of the two foregoing methods of distribution shall be in effect in the county during the next succeeding fiscal year. In order for the resolution to be effective, a certified copy of it must be delivered to the Secretary in Raleigh within 15 calendar days after its adoption. If the board fails to adopt a resolution choosing a method of distribution not then in effect in the county, or if a certified copy of the resolution is not timely delivered to the Secretary, the method of distribution then in effect in the county shall continue in effect for the following fiscal year. The method of distribution in effect on the first of July of each fiscal year shall apply to every distribution made during that fiscal year."

SECTION 5.(k) G.S. 136-202(c) reads as rewritten:

"(c) The Department, the metropolitan planning organizations, and the Department of Environment and Natural Resources shall jointly evaluate and adjust the regions defined in each regional travel demand model at least once every five years and no later than October 1 of the year following each decennial federal census. The evaluation and adjustment shall be based on decennial census data and the most recent populations estimates certified by the State ~~Planning~~ Budget Officer. The adjustment of these boundaries shall reflect current and projected patterns of population, employment, travel, congestion, commuting, and public transportation use and the effects of these patterns on air quality."

SECTION 5.(l) G.S. 143-215.107A(d) reads as rewritten:

"(d) Additional Counties. – The Commission may require that motor vehicle emissions inspections be performed in counties in addition to those set out in subsection (c) of this section. In determining whether to require that motor vehicle emissions inspections be performed in a county, the Commission may consider the population of, and distribution of population in, the county; the projected change in population of, and

distribution of population in, the county; the number of vehicles registered in the county; the projected change in the number of vehicles registered in the county; vehicle miles traveled in the county; the projected change in vehicle miles traveled in the county; current and projected commuting patterns in the county; and the current and projected impact of these factors on attainment of air quality standards in the county and in areas outside the county. The Commission may not require that motor vehicle emissions inspections be performed in any county with a population of less than 40,000 based on the most recent population estimates prepared by the State ~~Planning~~ Budget Officer. The Commission may not require that motor vehicle emissions inspections be performed in any county in which the number of vehicle miles traveled per day is less than 900,000, based on the most recent estimates prepared by the Department of Transportation. In order to disapprove a rule that requires that motor vehicle emissions inspections be performed in one or more additional counties, a bill introduced pursuant to G.S. 150B-21.3(b) must amend subsection (c) of this section to add one or more other counties in which the total population and vehicle miles traveled per day equal or exceed the total population and vehicle miles traveled in the county or counties listed in the rule that the bill would disapprove."

SECTION 5.(m) G.S. 160A-536(c) reads as rewritten:

"(c) Urban Area Revitalization Defined. – As used in this section, the term "urban area revitalization projects" includes the provision within an urban area of any service or facility that may be provided in a downtown area as a downtown revitalization project under subdivision (a)(2) and subsection (b) of this section. As used in this section, the term "urban area" means an area that (i) is located within a city whose population exceeds 150,000 according to the most recent annual population statistics certified by the State ~~Planning~~ Budget Officer and (ii) meets one or more of the following conditions:

(1) It is the central business district of the city.

(2) It consists primarily of existing or redeveloping concentrations of industrial, retail, wholesale, office, or significant employment-generating uses, or any combination of these uses.

(3) It is located in or along a major transportation corridor and does not include any residential parcels that are not, at their closest point, within 150 feet of the major transportation corridor right-of-way or any

nonresidentially zoned parcels that are not, at their closest point, within 1,500 feet of the major transportation corridor right-of-way.

(4) It has as its center and focus a major concentration of public or institutional uses, such as airports, seaports, colleges or universities, hospitals and health care facilities, or governmental facilities."

SECTION 5.(n) G.S. 162A-6(a)(14d) reads as rewritten:

"(a) Each authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each authority is authorized and empowered:

...

(14d) To require the owners of developed property on which there are situated one or more residential dwelling units or commercial establishments located within the jurisdiction of the authority and within a reasonable distance of any waterline or sewer collection line owned, leased as lessee, or operated by the authority to connect the property with the waterline, sewer connection line, or both and fix charges for the connections. The power granted by this subdivision may be exercised by an authority only to the extent that the service, whether water, sewer, or a combination thereof, to be provided by the authority is not then being provided to the improved property by any other political subdivision or by a public utility regulated by the North Carolina Utilities Commission pursuant to Chapter 62 of the General Statutes. In the case of improved property that would qualify for the issuance of a building permit for the construction of one or more residential dwelling units or commercial establishments and where the authority has installed water or sewer lines or a combination thereof directly available to the property, the authority may require payment of a periodic availability charge, not to exceed the minimum periodic service charge for properties that are connected. This subdivision applies only to a water and sewer authority whose membership includes part or all of a county that has a population of at least 40,000 according to the most recent annual population estimates certified by the State ~~Planning~~ Budget Officer.

..."

SECTION 6. G.S. 78A-17 reads as rewritten:

"**§ 78A-17. Exempt transactions.**

Except as otherwise provided in this Chapter, the following transactions are exempted from G.S. 78A-24 and G.S. 78A-49(d):

(1) Any isolated nonissuer transaction, whether effected through a dealer or ~~not;~~not.

(2) Any nonissuer distribution other than by a controlling person of an outstanding security if

a. A recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or

b. A registered dealer files with the Administrator such information relating to the issuer as the Administrator may by rule or order require, or

c. The security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the ~~security;~~security.

(3) Any nonissuer transaction effected by or through a registered dealer pursuant to an unsolicited order or offer to buy; but the Administrator may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the dealer for a specified ~~period;~~period.

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among ~~underwriters;~~underwriters.

(5) Any transaction in a bond or other evidence of indebtedness secured by a lien or security interest in real or personal property, or by an

agreement for the sale of real estate or chattels, if the entire security interest or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a ~~unit;~~unit.

(6) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or ~~conservator;~~conservator.

(7) Any transaction executed by a person holding a bona fide security interest without any purpose of evading this ~~Chapter;~~Chapter.

(8) Any offer or sale to an entity which has a net worth in excess of one million dollars ($1,000,000) as determined by generally accepted accounting principles, bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a dealer, whether the purchaser is acting for itself or in some fiduciary ~~capacity;~~capacity.

(9) Any transaction pursuant to an offer directed by the offeror to not more than 25 persons, other than those persons designated in subdivision (8), in this State during any period of 12 consecutive months, whether or not the offeror or any of the offerees is then present in this State, if the seller reasonably believes that all the buyers in this State are purchasing for investment. The Administrator may by rule or order withdraw, amend, or further condition this exemption for any security or security transaction. There is established a fee of one hundred fifty dollars ($150.00) to recover costs for any filing required.

(10) Any offer or sale of a preorganizational certificate or subscription if: (i) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber; (ii) no public advertising or solicitation is used in connection with the offer or sale; (iii) the number of subscribers does not exceed 10 and the number of offerees does not exceed 25; and (iv) no payment is made by any subscriber.

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable

warrants exercisable within not more than 90 days of their issuance, if (i) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this State, or (ii) the issuer first files a notice specifying the terms of the offer and the Administrator does not by order disallow the exemption within the next 10 full business ~~days;~~days.

(12) Any offer (but not a sale) of a security for which registration statements have been filed under both this Chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either ~~act;~~act.

(13) Any offer or sale by a domestic entity of its own securities if (i) the entity was organized for the purpose of promoting community, agricultural or industrial development of the area in which the principal office is located, (ii) the offer or sale has been approved by resolution of the county commissioners of the county in which its principal office is located, and, if located in a municipality or within two miles of the boundaries thereof, by resolution of the governing body of such municipality, (iii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this State, and (iv) the ~~corporation~~ entity is both organized and operated principally to promote some community, industrial, or agricultural development that confers a public benefit rather than organized and operated principally to generate a pecuniary ~~profit;~~profit.

(14) Any offer, sale or issuance of securities pursuant to an employees' stock or equity purchase, option, savings, pension, profit-sharing, or other similar benefit plan that is exempt under the provisions of ~~G.S. 78A-16(11);~~G.S. 78A-16(11).

..."

SECTION 7. G.S. 90-210.69(c) reads as rewritten:

"(c) In accordance with the provisions of Chapter 150B of the General Statutes, if the Board finds that a licensee, an applicant for a license or an applicant for license renewal is guilty of one or more of the following, the Board may refuse to issue or renew a license or may suspend or revoke a license or place the holder thereof on probation upon conditions set by the Board, with revocation upon failure to comply with the conditions:

(1) Offering to engage or engaging in activities for which a license is required under this Article but without having obtained such a license.

(2) Aiding or abetting an unlicensed person, firm, partnership, association, corporation or other entity to offer to engage or engage in such activities.

(3) A crime involving fraud or moral turpitude by conviction thereof.

(4) Fraud or misrepresentation in obtaining or receiving a license or in preneed funeral planning.

(5) False or misleading advertising.

(6) Violating or cooperating with others to violate any provision of this Article, the rules and regulations of the Board, ~~adopted~~ or the standards set forth in Funeral Industry Practices, 16 C.F.R. 453 (1984), as amended from time to time.

In any case in which the Board is authorized to take any of the actions permitted under this subsection, the Board may instead accept an offer in compromise of the charges whereby the accused shall pay to the Board a penalty of not more than five thousand dollars ($5,000). In any case in which the Board is entitled to place a licensee on a term of probation, the Board may also impose a penalty of not more than five thousand dollars ($5,000) in conjunction with such probation."

SECTION 8. G.S. 96-4(t)(2) reads as rewritten:

"(t) Confidentiality of Records, Reports, and Information Obtained from Claimants, Employers, and Units of Government.

...

(2) Job Service Information. – (i) Except as hereinafter otherwise provided it is unlawful for any person to disclose any information obtained by the North Carolina State Employment Service Division from workers, employers, applicants, or other persons or groups of persons in the

course of administering the State Public Employment Service Program. Provided, however, that if all interested parties waive in writing the right to hold such information confidential, the information may be disclosed and used but only for those purposes that the parties and the Commission have agreed upon in writing. (ii) The Employment Service Division shall make public, through the newspapers and any other suitable media, information as to job openings and available applicants for the purpose of supplying the demand for workers and employment. (iii) The Labor Market Information Division shall collect, collate, and publish statistical and other information relating to the work under the Commission's jurisdiction; investigate economic developments, and the extent and causes of unemployment and its remedies with the view of preparing for the information of the General Assembly such facts as in the Commission's opinion may make further legislation desirable. (iv) Except as provided by Commission regulation, any information published pursuant to this ~~subsection (II)~~ subdivision shall not be published in any manner revealing the identity of the applicant or the employing unit.

..."

SECTION 9. G.S. 110-136.13(a) reads as rewritten:

"(a) For purposes of this section, G.S. 110-136.11, 110-136.12, and ~~110-14,~~ 110-136.14, the term "employer" means employer as is defined at 29 U.S.C. § 203(d) in the Fair Labor Standards Act."

SECTION 10. G.S. 143-129.8(b) reads as rewritten:

"(b) Contracts for information technology may be entered into under a request for proposals procedure that satisfies the following minimum requirements:

(1) Notice of the request for proposals shall be given in accordance with ~~G.S. 143-129(a).~~G.S. 143-129(b).

(2) Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the awarding authority. Factors to be considered in awarding contracts shall be identified in the request for proposals."

SECTION 11. G.S. 147-69 reads as rewritten:

"**§ 147-69. Deposits of State funds in banks and savings and loan associations regulated.**

Banks and savings and loan associations having State deposits shall furnish to the Auditor of the State, upon ~~his~~ the Auditor's request, a statement of the moneys which have been received and paid by them on account of the treasury. The Treasurer shall keep in ~~his~~ the Treasurer's office a full account of all moneys deposited in and drawn from all banks and savings and loan associations in which ~~he~~ the Treasurer may deposit or cause to be deposited any of the public funds, and ~~such~~ these accounts shall be open to the inspection of the Auditor. The Treasurer shall sign all checks, and no depository bank or savings and loan association shall be authorized to pay checks not bearing ~~his~~ the Treasurer's official signature. The Treasurer is authorized to use a facsimile signature machine or device in affixing ~~his~~ the Treasurer's signature to warrants, checks or any other instrument ~~he~~ the Treasurer is required by law to sign. The Commissioner of ~~Banks and~~ Banks, the bank examiners, and ~~the Commissioner of Banks and~~ the savings and loan examiners, when so required by the State Treasurer, shall keep the State Treasurer fully informed at all times as to the condition of all ~~such~~ these depository banks and savings and loan associations, so as to fully protect the State from loss. The State Treasurer shall, before making deposits in any bank or savings and loan association, require ample security from the bank or savings and loan association for ~~such deposit.~~ these deposits."

SECTION 12.(a) G.S. 163-278.39B is recodified as G.S. 163-278.38Z under Part 1A of Article 22A of Chapter 163 of the General Statutes, so that the recodified section appears as the first section in Part 1A.

SECTION 12.(b) G.S. 163-278.6 reads as rewritten:

"**§ 163-278.6. Definitions.**

When used in this Article:

...

(2) The term "broadcasting station" means any commercial radio or television station or community antenna radio or television station. Special definitions of 'radio' and 'television' that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

...

(4) The term "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, has otherwise qualified as a candidate in a manner authorized by law, or has received funds or made payments or has given the consent for anyone else to receive funds or transfer anything of value for the purpose of exploring or bringing about that individual's nomination or election to office. Transferring anything of value includes incurring an obligation to transfer anything of value. Status as a candidate for the purpose of this Article continues if the individual is receiving contributions to repay loans or cover a deficit or is making expenditures to satisfy obligations from an election already held. Special definitions of 'candidate' and 'candidate campaign committee' that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

(5) The term "communications media" or "media" means broadcasting stations, carrier current stations, newspapers, magazines, periodicals, outdoor advertising facilities, billboards, newspaper inserts, and any person or individual whose business is polling public opinion, analyzing or predicting voter behavior or voter preferences. Special definitions of 'print media,' 'radio,' and 'television' that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

...

(14) The term "political committee" means a combination of two or more individuals, such as any person, committee, association, organization, or other entity that makes, or accepts anything of value to make, contributions or expenditures and has one or more of the following characteristics:

a. Is controlled by a candidate;

b. Is a political party or executive committee of a political party or is controlled by a political party or executive committee of a political party;

c. Is created by a corporation, business entity, insurance company, labor union, or professional association pursuant to G.S. 163-278.19(b); or

d. Has as a major purpose to support or oppose the nomination or election of one or more clearly identified candidates.

Supporting or opposing the election of clearly identified candidates includes supporting or opposing the candidates of a clearly identified political party.

An entity is rebuttably presumed to have as a major purpose to support or oppose the nomination or election of one or more clearly identified candidates if it contributes or expends or both contributes and expends during an election cycle more than three thousand dollars ($3,000). The presumption may be rebutted by showing that the contributions and expenditures giving rise to the presumption were not a major part of activities of the organization during the election cycle. Contributions to referendum committees and expenditures to support or oppose ballot issues shall not be facts considered to give rise to the presumption or otherwise be used in determining whether an entity is a political committee.

If the entity qualifies as a "political committee" under sub-subdivision a., b., c., or d. of this subdivision, it continues to be a political committee if it receives contributions or makes expenditures or maintains assets or liabilities. A political committee ceases to exist when it winds up its operations, disposes of its assets, and files its final report.

Special definitions of 'political action committee' and 'candidate campaign committee' that apply only in Part 1A of this Article are set forth in G.S. 163-278.38Z.

(15) The term "political party" means any political party organized or operating in this State, whether or not that party is recognized under the provisions of G.S. 163-96. A special definition of 'political party organization' that applies only in Part 1A of this Article is set forth in G.S. 163-278.38Z.

..."

SECTION 13.(a) Section 1 of S.L. 2001-37 is repealed.

SECTION 13.(b) S.L. 2001-37 is amended by adding a new section to read:

"**SECTION 1.1.** G.S. 160A-58.1(b)(5) does not apply to the Cities of Marion, Oxford, and Rockingham and the Towns of Calabash, Catawba, Dallas, Godwin, Louisburg, Mocksville, Pembroke, Rutherfordton, and Waynesville."

SECTION 13.(c) G.S. 160-58.1(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%) of the area within the primary corporate limits of the annexing city.

This subdivision does not apply to the Cities of Claremont, Concord, Conover, Hickory, Marion, Mount Airy, New Bern, Newton, Oxford, Rockingham, Sanford, Salisbury, Southport, and Statesville, and the Towns of Calabash, Catawba, Dallas, Godwin, Kenly, Louisburg, Maiden, Midland, Mocksville, Mooresville, Pembroke, Rutherfordton, Swansboro, ~~and Warsaw.~~ Warsaw, and Waynesville."

SECTION 13.(d) G.S. 160A-58.1(b1) is repealed.

PART II. OTHER CHANGES

SECTION 14. G.S. 1-44.2(b) reads as rewritten:

"(b) ~~Persons claiming ownership contrary to the presumption established in this section shall have a period of one year from the date of enactment of this statute or the abandonment of such easement, whichever later occurs, in which to bring any action to establish their ownership.~~ The presumption established by this section is rebuttable by showing that a party has good and valid title to the land."

SECTION 15.(a) G.S. 1-47(1) reads as rewritten:

"**§ 1-47. Ten years.**

Within ten years an action –

(1) Upon a judgment or decree of any court of the United States, or of any state or territory thereof, from the date of its ~~rendition.~~ entry. No such

action may be brought more than once, or have the effect to continue the lien of the original judgment.

..."

SECTION 15.(b) G.S. 1-52(8) reads as rewritten:

"**§ 1-52. Three years.**

Within three years an action –

...

(8) For fees due to a clerk, sheriff or other officer, by the judgment of a court; within three years from the ~~rendition~~ entry of the judgment, or the issuing of the last execution thereon.

..."

SECTION 16. G.S. 7A-16 reads as rewritten:

"**§ 7A-16. Creation and organization.**

The Court of Appeals is created effective January 1, 1967. It shall consist initially of six judges, elected by the qualified voters of the State for terms of eight years. The Chief Justice of the Supreme Court shall designate one of the judges as Chief Judge, to serve in such capacity at the pleasure of the Chief Justice. Before entering upon the duties of his office, a judge of the Court of Appeals shall take the oath of office prescribed for a judge of the General Court of Justice.

The Governor on or after July 1, 1967, shall make temporary appointments to the six initial judgeships. The appointees shall serve until January 1, 1969. Their successors shall be elected at the general election for members of the General Assembly in November, 1968, and shall take office on January 1, 1969, to serve for the remainder of the unexpired term which began on January 1, 1967.

Upon the appointment of at least five judges, and the designation of a Chief Judge, the court is authorized to convene, organize, and promulgate, subject to the approval of the Supreme Court, such supplementary rules as it deems necessary and appropriate for the discharge of the judicial business lawfully assigned to it.

Effective January 1, 1969, the number of judges is increased to nine, and the Governor, on or after March 1, 1969, shall make temporary appointments to the additional judgeships thus created. The appointees shall serve until January 1, 1971. Their successors shall be elected at the general election for members of the General

Assembly in November, 1970, and shall take office on January 1, 1971, to serve for the remainder of the unexpired term which began on January 1, 1969.

Effective January 1, 1977, the number of judges is increased to 12; and the Governor, on or after July 1, 1977, shall make temporary appointments to the additional judgeships thus created. The appointees shall serve until January 1, 1979. Their successors shall be elected at the general election for members of the General Assembly in November, 1978, and shall take office on January 1, 1979, to serve the remainder of the unexpired term which began on January 1, 1977.

On or after December 15, 2000, the Governor shall appoint three additional judges to increase the number of judges to 15. ~~Each judgeship shall not become effective until the temporary appointment is made, and each appointee shall serve from the date of qualification until January 1, 2005. Those judges' successors shall be elected in the 2004 general election and shall take office on January 1, 2005, to serve terms expiring December 31, 2012.~~

The Court of Appeals shall sit in panels of three judges each. The Chief Judge insofar as practicable shall assign the members to panels in such fashion that each member sits a substantially equal number of times with each other member. He shall preside over the panel of which he is a member, and shall designate the presiding judge of the other panel or panels.

Three judges shall constitute a quorum for the transaction of the business of the court, except as may be provided in ~~§ 7A-32.~~G.S. 7A-32.

In the event the Chief Judge is unable, on account of absence or temporary incapacity, to perform the duties placed upon him as Chief Judge, the Chief Justice shall appoint an acting Chief Judge from the other judges of the Court, to temporarily discharge the duties of Chief Judge."

SECTION 17. G.S. 7B-808(b), as enacted by Section 2 of S.L. 2003-140, reads as rewritten:

"(b) The director of the department of social services shall prepare the predisposition report for the court containing the results of any mental health evaluation ~~of a juvenile~~ under G.S. 7B-503, a placement plan, and a treatment plan the director deems appropriate to meet the juvenile's needs."

SECTION 18. The catch line of G.S. 8-53.5 reads as rewritten:

"§ 8-53.5. Communications between licensed marital and family therapist and client(s)."

SECTION 19.(a) G.S. 14-202.4, as amended by Section 2 of S.L. 2003-98, reads as rewritten:

"**§ 14-202.4. Taking indecent liberties with a student.**

(a) If a defendant, who is a teacher, school administrator, student teacher, school safety officer, or coach, at any age, or who is other school personnel and is at least four years older than the victim, takes indecent liberties with a victim who is a student, at any time during or after the time the defendant and victim were present together in the same school but before the victim ceases to be a student, the defendant is guilty of a Class I felony, unless the conduct is covered under some other provision of law providing for greater punishment. ~~The term "same school" means a school at which the student is enrolled and the defendant is employed, assigned, or volunteers.~~ A person is not guilty of taking indecent liberties with a student if the person is lawfully married to the student.

(b) If a defendant, who is school personnel, other than a teacher, school administrator, student teacher, school safety officer, or coach, and who is less than four years older than the victim, takes indecent liberties with a student as provided in subsection (a) of this section, the defendant is guilty of a Class A1 misdemeanor.

(c) Consent is not a defense to a charge under this section.

(d) For purposes of this section, the following definitions apply:

(1) "Indecent liberties" means:

a. Willfully taking or attempting to take any immoral, improper, or indecent liberties with a student for the purpose of arousing or gratifying sexual desire; or

b. Willfully committing or attempting to commit any lewd or lascivious act upon or with the body or any part or member of the body of a student.

For purposes of this section, the term indecent liberties does not include vaginal intercourse or a sexual act as defined by G.S. 14-27.1.

(1a) "Same school" means a school at which (i) the student is enrolled or is present for a school-sponsored or school-related activity and (ii) the

school personnel is employed, volunteers, or is present for a school-sponsored or school-related activity.

(2) "School" means any public school, charter school, or nonpublic school under Parts 1 and 2 of Article 39 of Chapter 115C of the General Statutes.

(3) "School personnel" means any person included in the definition contained in G.S. 115C-332(a)(2), and any person who volunteers at a school or a school-sponsored activity.

(3a) "School safety officer" means any other person who is regularly present in a school for the purpose of promoting and maintaining safe and orderly schools and includes a school resource officer.

(4) "Student" means a person enrolled in kindergarten, or in grade one through grade 12 in any school."

SECTION 19.(b) This section becomes effective December 1, 2003, and applies to offenses committed on or after that date.

SECTION 20. G.S. 14-298 reads as rewritten:

"**§ 14-298. ~~Gaming tables, illegal punchboards, slot machines, and prohibited video game machines to be destroyed by police officers.~~Seizure of illegal gaming items.**

~~All sheriffs and officers of police are hereby authorized and directed, on information made to them on oath~~Upon a determination that probable cause exists to believe that any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1, is in the illegal possession or use of any person within the limits of their jurisdiction, all sheriffs and law enforcement officers are authorized to seize the items in accordance with applicable State law.~~to destroy the same by every means in their power; and they shall call to their aid all the good citizens of the county, if necessary, to effect its destruction.~~ Any law enforcement agency in possession of that item shall retain the item pending a disposition order from a district or superior court judge. Upon application by the law enforcement agency, district attorney, or owner, and after notice and opportunity to be heard by all parties, if the court determines that the item is unlawful to possess, it shall enter an order releasing the item to the law enforcement agency for destruction or for training purposes. If the court determines that

the item is not unlawful to possess and will not be used in violation of the law, the item shall be ordered released to its owner upon satisfactory proof of ownership. The foregoing procedures for release shall not apply, however, with respect to an item seized for use as evidence in any criminal action or proceeding until after entry of final judgment."

SECTION 21. G.S. 14-401.5 is repealed.

SECTION 22. G.S. 15-190 reads as rewritten:

"**§ 15-190. Person or persons to be designated by warden to execute sentence; supervision of execution; who shall be present.**

Some guard or guards or other reliable person or persons to be named and designated by the warden from time to time shall cause the person, convict or felon against whom the death sentence has been so pronounced to be executed as provided by this Article and all amendments thereto. The execution shall be under the general supervision and control of the warden of the penitentiary, who shall from time to time, in writing, name and designate the guard or guards or other reliable person or persons who shall cause the person, convict or felon against whom the death sentence has been pronounced to be executed as provided by this Article and all amendments thereto. At such execution there shall be present the warden or deputy warden or some person designated by the warden in the warden's place, and the surgeon or physician of the penitentiary. Four respectable citizens, two members of the victim's family, the counsel and any relatives of such person, convict or felon and a minister or member of the clergy or religious leader of the person's choosing may be present if they so desire. The names of persons designated to carry out the execution shall be confidential and exempted under Chapter 132 of the General Statutes and are not subject to discovery or introduction as evidence in any proceeding. The Senior Resident Superior Court Judge for Wake County may compel disclosure of names made confidential by this section after making findings that support a conclusion that disclosure is necessary to a proper administration of justice."

SECTION 23. G.S. 18B-600(f), as amended by Section 1 of S.L. 2003-218, reads as rewritten:

"(f) Township Elections. – An election may be called on any of the propositions listed in G.S. 18B-602 in any township located within:

(1) A county where ABC stores have heretofore been established by petition pursuant to law.

(2) A county where ABC stores have been established pursuant to law, in which county according to data from the North Carolina Department of Commerce: (i) one-third or more of the employment is travel related, (ii) spending on travel exceeds four hundred million dollars ($400,000,000) per year, and where the entirety of two townships consists of one island (and several smaller islands not making up more than one percent (1%) of the total land area of the two townships) where that island:

a. Has a population of 4,000 or over according to the most recent decennial federal census;

b. Is located with one side facing the ocean and another side facing a coastal sound.

~~(3) A county where the population of all cities in the county that have previously approved the sale of any kind of alcoholic beverages comprises more than twenty percent (20%) of the total county population as of the most recent federal census.~~

An election may be called on any of the propositions listed in G.S. 18B-602(a), (d), and (h) in any township located within a county where the population of all cities in the county that have previously approved the sale of any kind of alcoholic beverages comprises more than twenty percent (20%) of the total county population as of the most recent federal census. In the case of subdivision (2) of this section, an election may be called in the two townships voting together on the proposition contained in G.S. 18B-602(h).

The election shall be held by the county board of elections upon request of the county board of commissioners or upon petition of twenty-five percent (25%) of the registered voters of the township, or in the case of subdivision (2) of this section, of the two townships taken together. The election shall be conducted and the results determined in the same manner as county elections held under this Article. For purposes of this Article, townships holding any election under this subsection shall be treated on the same basis as counties, and municipalities located within those townships shall be treated on the same basis as cities. In the case of an election under subdivision (2) of

this subsection, the votes of the two townships counted together shall determine the result of the election.

For purposes of this subsection, the name and boundary of a township is as it is shown on the Redistricting Census 2000 TIGER Files with modifications made by the Legislative Services Office on its computer database as of May 1, 2001.

In any township election held under this subsection, the area within any incorporated municipality is excluded, and no permits may be issued under this subsection in any excluded area.

In order for an establishment to qualify for a permit under this subsection, the establishment's gross receipts from food and nonalcoholic beverages shall be greater than its gross receipts from alcoholic beverages."

SECTION 24.(a) G.S. 18B-900(a) reads as rewritten:

"(a) Requirements. – To be eligible to receive and to hold an ABC permit, a person shall:

...

(6) Not have had an alcoholic beverage permit revoked within three ~~years.~~ years, except where the revocation was based solely on a permittee's failure to pay the annual registration and inspection fee required in G.S. 18B-903(b1)."

SECTION 24.(b) G.S. 18B-903(b1) reads as rewritten:

"(b1) Registration. – Each person holding a malt beverage, fortified wine, or unfortified wine permit issued pursuant to G.S. 18B-902(d)(1) through G.S. 18B-902(d)(6) shall register by May 1 of each year on a form provided by the Commission, in order to provide information needed by the State in enforcing this Chapter and to support the costs of that enforcement. The registration required by this subsection shall be accompanied by an annual registration and inspection fee of two hundred dollars ($200.00) for each permit held. The fee shall be paid by May 1 of each year. A registration fee shall not be refundable. Failure to pay the annual registration and inspection fee shall result in revocation of the permit."

SECTION 25. G.S. 18B-1006(j)(4) is repealed.

SECTION 26. G.S. 18B-1006(m) reads as rewritten:

"(m) Interstate Interchange Economic Development Zones. –

(1) The Commission may issue permits listed in G.S. 18B-1001(10), without approval at an election, to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate highway interchange located in a county that:
   a. Has approved the sale of malt beverages, unfortified wine, and fortified wine, but not mixed beverages;
   b. Operates ABC stores;
   c. Borders on another state; and
   d. Lies north and east of the Roanoke River.

(2) The Commission may issue permits listed in G.S. 18B-1001(1), (3), (5), and (10) to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) and may issue permits listed in G.S. 18B-1001(2) and (4) to qualified establishments defined in G.S. 18B-1000(3) in any county that qualifies for issuance of permits pursuant to G.S. 18B-1006(k)(5). These permits may be issued without approval at an election and shall be issued only to qualified establishments that meet any of the following requirements:
   a. Located within one mile of any interstate highway interchange in that county.
   b. Located within one mile of an establishment issued a permit under G.S. 18B-1006(k)(5).

~~(3) The Commission may issue permits listed in G.S. 18B-1001(10), without approval at an election, to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) located within one mile of an interstate highway interchange located in a county that meets all of the following requirements:~~
   ~~a. Has approved the sale of malt beverages, unfortified wine, fortified wine, but not mixed beverages.~~
   ~~b. Contains one city that has approved the sale of malt beverages, unfortified wine, fortified wine, and mixed beverages.~~
   ~~c. Operates ABC stores.~~

~~d. Lies south and west of the Roanoke River and shares a common border with a county qualifying in subdivision (1) of this subsection.~~

~~This subsection shall also apply to an establishment in a county included in subdivision (3) of this subsection if the establishment is located within two miles of an interstate highway interchange that is within three miles of the common border described in sub-subdivision (3)d. of this subsection.~~"

SECTION 27. G.S. 30-3.6(c), as enacted by Section 5 of S.L. 2003-296, reads as rewritten:

"(c) A written waiver that would have been effective to waive a spouse's right to dissent in estates of decedents dying on or before December 31, 2000, under Article 1 of Chapter 30 of the General Statutes is effective to waive that spouse's right of elective share under this Article for estates of ~~decedent's~~ decedents dying on or after January 1, 2001."

SECTION 28.(a) G.S. 35A-1213(b) reads as rewritten:

"(b) ~~An individual appointed as general guardian or guardian of the estate must be a resident of the State of North Carolina.~~ A nonresident of the State of North Carolina, to be appointed as general guardian, guardian of the ~~person~~ person, or guardian of the estate of a North Carolina resident, must indicate in writing his willingness to submit to the jurisdiction of the North Carolina courts in matters relating to the guardianship and must appoint a resident agent to accept service of process for the guardian in all actions or proceedings with respect to the guardianship. Such appointment must be approved by and filed with the clerk, and any agent so appointed must notify the clerk of any change in the agent's address or legal residence. The clerk ~~may~~ shall require a nonresident guardian of the estate or a nonresident general guardian to post a bond or other security for the faithful performance of the guardian's duties. The clerk may require a nonresident guardian of the person to post a bond or other security for the faithful performance of the guardian's duties."

SECTION 28.(b) G.S. 35A-1290(c) reads as rewritten:

"(c) It is the clerk's duty to remove a ~~guardian~~ guardian, without hearing, in the following cases:

(1) The guardian has been adjudged incompetent by a court of competent jurisdiction and has not been restored to competence.

(2) The guardian has been convicted of a felony under the laws of the United States or of any state or territory of the United States or of the District of Columbia and his citizenship has not been restored.

(3) The guardian was originally unqualified for appointment and continues to be unqualified, or the guardian would no longer qualify for appointment as guardian due to a change in residence, a change in the charter of a corporate guardian, or any other reason.

(4) The guardian is the ward's spouse and has lost his rights as provided by Chapter 31A of the General Statutes.

(5) The guardian fails to post, renew, or increase a bond as required by law or by order of the court.

(6) The guardian refuses or fails without justification to obey any citation, notice, or process served on him in regard to the guardianship.

(7) The guardian fails to file required accountings with the clerk.

(8) The clerk finds the guardian unsuitable to continue serving as guardian for any reason.

(9) The guardian is a nonresident of the State and refuses or fails to obey any citation, notice, or process served on the guardian or the guardian's process agent."

SECTION 29.(a) G.S.40A-3(b) reads as rewritten:

"(b) ~~Local Public Condemnors.~~Standard Provision. – For the public use or benefit, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any property, either inside or outside its boundaries, for the following purposes.

(1) Opening, widening, extending, or improving roads, streets, alleys, and sidewalks. The authority contained in this subsection is in addition to the authority to acquire rights-of-way for streets, sidewalks and highways under Article 9 of Chapter 136. The provisions of this subdivision (1) shall not apply to counties.

(2) Establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for counties.

(3) Establishing, enlarging, or improving parks, playgrounds, and other recreational facilities.

(4) Establishing, extending, enlarging, or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.

(5) Establishing, enlarging, or improving hospital facilities, cemeteries, or library facilities.

(6) Constructing, enlarging, or improving city halls, fire stations, office buildings, courthouse jails and other buildings for use by any department, board, commission or agency.

(7) Establishing drainage programs and programs to prevent obstructions to the natural flow of streams, creeks and natural water channels or improving drainage facilities. The authority contained in this subdivision is in addition to any authority contained in Chapter 156.

(8) Acquiring designated historic properties, designated as such before October 1, 1989, or acquiring a designated landmark designated as such on or after October 1, 1989, for which an application has been made for a certificate of appropriateness for demolition, in pursuance of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part 3B, effective until October 1, 1989, or G.S. 160A-400.14, whichever is appropriate.

(9) Opening, widening, extending, or improving public wharves.

The board of education of any municipality or county or a combined board may exercise the power of eminent domain under this Chapter for purposes authorized by other statutes.

The power of eminent domain shall be exercised by local public condemnors under the procedures of Article 3 of this Chapter."

SECTION 29.(b) G.S. 40A-3(b1), as amended by Section 1 of S.L. 2003-282, reads as rewritten:

"(b1) ~~Local Public Condemnors.~~Modified Provision for Certain Localities. – For the public use or benefit, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or

condemnation any property or interest therein, either inside or outside its boundaries, for the following purposes.

(1) Opening, widening, extending, or improving roads, streets, alleys, and sidewalks. The authority contained in this subsection is in addition to the authority to acquire rights-of-way for streets, sidewalks and highways under Article 9 of Chapter 136. The provisions of this subdivision (1) shall not apply to counties.

(2) Establishing, extending, enlarging, or improving any of the public enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for counties.

(3) Establishing, enlarging, or improving parks, playgrounds, and other recreational facilities.

(4) Establishing, extending, enlarging, or improving storm sewer and drainage systems and works, or sewer and septic tank lines and systems.

(5) Establishing, enlarging, or improving hospital facilities, cemeteries, or library facilities.

(6) Constructing, enlarging, or improving city halls, fire stations, office buildings, courthouse jails and other buildings for use by any department, board, commission or agency.

(7) Establishing drainage programs and programs to prevent obstructions to the natural flow of streams, creeks and natural water channels or improving drainage facilities. The authority contained in this subdivision is in addition to any authority contained in Chapter 156.

(8) Acquiring designated historic properties, designated as such before October 1, 1989, or acquiring a designated landmark designated as such on or after October 1, 1989, for which an application has been made for a certificate of appropriateness for demolition, in pursuance of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part 3B, effective until October 1, 1989, or G.S. 160A-400.14, whichever is appropriate.

(9) Opening, widening, extending, or improving public wharves.

(10) Engaging in or participating with other governmental entities in acquiring, constructing, reconstructing, extending, or otherwise building or improving beach erosion control or flood and hurricane protection works, including, but not limited to, the acquisition of any property that may be required as a source for beach renourishment.

(11) Establishing access for the public to public trust beaches and appurtenant parking areas.

The board of education of any municipality or county or a combined board may exercise the power of eminent domain under this Chapter for purposes authorized by other statutes.

The power of eminent domain shall be exercised by local public condemnors under the procedures of Article 3 of this chapter.

This subsection applies only to Carteret and Dare Counties, the Towns of Atlantic Beach, Carolina Beach, Caswell Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach, and the Village of Bald Head Island."

SECTION 30. G.S. 40A-42(a), as amended by Section 2 of S.L. 2003-282, reads as rewritten:

"(a) (1) Standard Provision. – When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b)(1), (4) or (7), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), or when a local board of education or any combination of local boards of education is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemnor is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10), (12), or (13), title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in

the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41.

(2) Modified Provision for Certain Localities. – When a local public condemnor is acquiring property by condemnation for a purpose set out in G.S. 40A-3(b1)(1), (4), (7), (10), or (11), or when a city is acquiring property for a purpose set out in G.S. 160A-311(1), (2), (3), (4), (6), or (7), or when a county is acquiring property for a purpose set out in G.S. 153A-274(1), (2) or (3), or when a local board of education or any combination of local boards of education is acquiring property for any purpose set forth in G.S. 115C-517, or when a condemnor is acquiring property by condemnation as authorized by G.S. 40A-3(c)(8), (9), (10), (12), or (13), title to the property and the right to immediate possession shall vest pursuant to this subsection. Unless an action for injunctive relief has been initiated, title to the property specified in the complaint, together with the right to immediate possession thereof, shall vest in the condemnor upon the filing of the complaint and the making of the deposit in accordance with G.S. 40A-41.

This subdivision applies only to Carteret and Dare Counties, the Towns of Atlantic Beach, Carolina Beach, Caswell Beach, Emerald Isle, Holden Beach, Indian Beach, Kill Devil Hills, Kitty Hawk, Kure Beach, Nags Head, North Topsail Beach, Oak Island, Ocean Isle Beach, Pine Knoll Shores, Sunset Beach, Surf City, Topsail Beach, and Wrightsville Beach, and the Village of Bald Head Island."

SECTION 31.(a) G.S. 54B-266(1) is repealed.

SECTION 31.(b) G.S. 54C-200(1) is repealed.

SECTION 32. G.S. 58-64-33(a), as amended by Section 8 of S.L. 2003-193, reads as rewritten:

"(a) A provider shall maintain after the opening of a facility: an operating reserve equal to fifty percent (50%) of the total operating costs of the facility forecasted for the 12-month period following the period covered by the most recent disclosure statement filed with the Department. The forecast statements as required by G.S. 58-64-20(a)(12) shall serve as the basis for computing the operating reserve. In addition to total

operating expenses, total operating costs will include debt service, consisting of principal and interest payments along with taxes and insurance on any mortgage loan or other long-term financing, but will exclude depreciation, amortized expenses, and extraordinary items as approved by the Commissioner. If the debt service portion is accounted for by way of another reserve account, the debt service portion may be excluded. If a facility maintains an occupancy level in excess of ninety percent (90%), a provider shall only be required to maintain a twenty-five percent (25%) operating reserve upon approval of the Commissioner, unless otherwise instructed by the Commissioner. The operating reserve ~~must~~ may be funded by cash, by ~~cash equivalents,~~ invested cash, or by investment grade securities, including bonds, stocks, U.S. Treasury obligations, or obligations of U.S. government agencies."

SECTION 33.(a) G.S. 62-3(23) reads as rewritten:

"(23) a. "Public utility" means a person, whether organized under the laws of this State or under the laws of any other state or country, now or hereafter owning or operating in this State equipment or facilities for:

...

i. The term "public utility" shall not include the State, the Office of ~~the State Controller,~~ Information Technology Services, or the Microelectronics Center of North Carolina in the provision or sharing of switched broadband telecommunications services with non-State entities or organizations of the kind or type set forth in G.S. 143B-426.39.

...."

SECTION 33.(b) G.S. 147-33.92 reads as rewritten:

"**§ 147-33.92. Telecommunications services for local governmental ~~units~~ entities and other entities.**

(a) The State Chief Information Officer shall provide cities, counties, and other local governmental ~~units~~ entities with access to a central telecommunications system or service established under G.S. 147-33.91 for State agencies. Access shall be provided on the same cost basis that applies to State agencies.

(b) The State Chief Information Officer shall establish switched broadband telecommunications services and ~~permit~~permit, in addition to State agencies, cities,

counties, and other local government ~~units,~~ entities, the following organizations and entities to share on a not-for-profit basis:

(1) Nonprofit educational institutions.
(2) MCNC.
(3) Research affiliates of MCNC for use only in connection with research activities sponsored or funded, in whole or in part, by MCNC, if such research activities relate to health care or education in North Carolina.
(4) Agencies of the United States government operating in North Carolina for use only in connection with activities that relate to health care or education in North Carolina.
(5) Hospitals, clinics, and other health care facilities for use only in connection with activities that relate to health care or education in North Carolina.

Provided, however, that sharing of the switched broadband telecommunications services by State agencies with entities or organizations in the categories set forth in this subsection shall not cause the State, the Office of Information Technology Services, or the MCNC to be classified as a public utility as that term is defined in G.S. 62-3(23)a.6. Nor shall the State, the Office of Information Technology Services, or the MCNC engage in any activities that may cause those entities to be classified as a common carrier as that term is defined in the Communications Act of 1934, ~~47 U.S.C. § 153(h).~~ 47 U.S.C. § 153(10). Provided further, authority to share the switched broadband telecommunications services with the non-State agencies set forth in subdivisions (1) through (5) of this subsection shall terminate one year from the effective date of a tariff that makes the broadband services available to any customer."

SECTION 34. Article 4 of Chapter 72 of the General Statutes is repealed.

SECTION 35.(a) G.S. 95-138 reads as rewritten:

"**§ 95-138. Civil penalties.**

~~(a) Any employer who willfully or repeatedly violates the requirements of this Article, any standard, rule or order promulgated pursuant to this Article, or regulations prescribed pursuant to this Article, may upon the recommendation of the Director to the Commissioner be assessed by the Commissioner a civil penalty of not more than seventy thousand dollars ($70,000) and not less than five thousand dollars ($5,000) for each willful violation. Any employer who has received a citation for a serious violation~~

~~of the requirements of this Article or any standard, rule, or order promulgated under this Article or of any regulation prescribed pursuant to this Article, shall be assessed by the Commissioner a civil penalty of up to seven thousand dollars ($7,000) for each serious violation. If the violation is adjudged not to be of a serious nature, then the employer may be assessed a civil penalty of up to seven thousand dollars ($7,000) for each nonserious violation. Any employer who fails to correct a violation for which a citation has been issued under this Article within the period allowed for its correction (which period shall not begin to run until the date of the final order of the Board in the case of any appeal proceedings in this Article initiated by the employer in good faith and not solely for the delay or avoidance of penalties), may be assessed a civil penalty of not more than seven thousand dollars ($7,000). The assessment shall be made to apply to each day during which the failure or violation continues. Any employer who violates any of the posting requirements, as prescribed under the provision[s] of this Article, shall be assessed a civil penalty of not more than seven thousand dollars ($7,000) for the violation. The Commissioner upon recommendation of the Director, or the Board in case of an appeal, shall have authority to assess all civil penalties provided by this Article, giving due consideration to the appropriateness of the penalty with respect to the following factors:~~

~~(1) Size of the business of the employer being charged,~~
~~(2) The gravity of the violation,~~
~~(3) The good faith of the employer, and~~
~~(4) The record of previous violations; provided that for purposes of determining repeat violations, only the record within the previous three years is applicable.~~

~~The Commissioner shall adopt uniform standards which the Commissioner, the Board, and the hearing examiner shall apply when considering the four factors for determining appropriateness of the penalty. The report of the hearing examiner and the report, decision, or determination of the Board on appeal shall specify the standards applied in determining the reduction or affirmation of the penalty assessed by the Commissioner.~~

~~(b) The clear proceeds of all civil penalties and interest recovered by the Commissioner, together with the costs thereof, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.~~

(a) The Commissioner, upon recommendation of the Director, may assess penalties against any employer who violates the requirements of this Article, or any standard, rule, or order promulgated pursuant to this Article, as follows:

(1) A minimum penalty of five thousand dollars ($5,000) to a maximum penalty of seventy thousand dollars ($70,000) for each willful or repeat violation.

(2) A maximum penalty of seven thousand dollars ($7,000) for each nonserious or serious violation.

(3) A maximum penalty of seven thousand dollars ($7,000) for each day that an employer fails to correct and abate a violation, within the period allowed for its correction and abatement, which period shall not begin to run until the date of the final Order of the Board in the case of any appeal proceedings in this Article initiated by the employer in good faith and not solely for the delay of avoidance of penalties.

(4) A maximum penalty of seven thousand dollars ($7,000) for violating the posting requirements, as required under the provisions of this Article.

(b) The Commissioner shall adopt uniform standards that the Commissioner, the Board, and the hearing examiner shall apply when determining appropriateness of the penalty. The following factors shall be used in determining whether a penalty is appropriate:

(1) Size of the business of the employer being charged.

(2) The gravity of the violation.

(3) The good faith of the employer.

(4) The record of previous violations; provided that for purposes of determining repeat violations, only the record within the previous three years is applicable.

The report of the hearing examiner and the report, decision, or determination of the Board on appeal shall specify the standards applied in determining the reduction or affirmation of the penalty assessed by the Commissioner.

(c) The clear proceeds of all civil penalties and interest recovered by the Commissioner, together with the costs thereof, shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

SECTION 35.(b) This section is effective October 1, 2003, and applies to violations occurring on or after that date.

SECTION 36. G.S. 105-129.6(b) reads as rewritten:

"(b) Reports. – The Department of Revenue shall publish by ~~March 1~~April 1 of each year the following information itemized by credit and by taxpayer for the 12-month period ending the preceding December 31:

..."

SECTION 37. G.S. 108A-25 is amended by adding a new subsection to read:

"(d) Each Community Care network organization designated by the Department of Health and Human Services as responsible for coordinating the health care of individuals eligible for medical assistance in a county is hereby deemed to be a public agency that is a local unit of government for the sole and limited purpose of all grants-in-aid, public assistance grant programs, and other funding programs."

SECTION 38.(a) G.S. 110-90(1a), as enacted by Section 34.12(a) of S.L. 2003-284, reads as rewritten:

"The Secretary shall have the following powers and duties under the policies and rules of the Commission:

...

(1a) ~~To establish~~The Secretary shall charge child care centers a nonrefundable annual license-monitoring ~~fee for the licensing of child care centers.~~ fee. The fee does not apply to a religious-sponsored child care center operated pursuant to a letter of compliance. The amount of the fee ~~may not exceed~~shall be the amount listed in this subdivision.

Capacity of Center	**~~Maximum~~ Fee**
12 or fewer children	$ 35.00
13-50 children	$125.00
51-100 children	$250.00
101 or more children	$400.00

Failure to pay the license-monitoring fee shall result in suspension of a license unless the fee is paid as governed by G.S. 150B-3.

..."

SECTION 38.(b) Section 5.1(p) of S.L. 2003-284 reads as rewritten:

"**SECTION 5.1.(p)** The sum of ~~one million six hundred thousand dollars ($1,600,000)~~two million five hundred fifty thousand dollars ($2,550,000) appropriated in this section in the TANF Block Grant to the Department of Health and Human Services, Division of Social Services, for fiscal year 2003-2004 shall be used to support various child welfare training projects as follows:

(1) Provide a regional training center in southeastern North Carolina.
(2) Support the Masters Degree in Social Work/Baccalaureate Degree in Social Work Collaborative.
(3) Provide training for residential child care facilities.
(4) Provide for various other child welfare training initiatives."

SECTION 38.(c) Section 5.1(a) of S.L. 2003-284 is amended by deleting the language 'Division of Social Services – Child Caring Agencies' in item 17 of the SOCIAL SERVICES BLOCK GRANT and substituting 'Transfer from TANF Block Grant for Division of Social Services – Child Caring Agencies' in item 17 of the SOCIAL SERVICES BLOCK GRANT.

SECTION 38.(d) Subsection (a) of this section becomes effective October 1, 2003. Subsections (b) and (c) of this section are effective July 1, 2003.

SECTION 39.(a) G.S. 110-139.2(b1), as enacted by Section 4 of S.L. 2003-288, reads as rewritten:

"(b1) The Department of Health and Human Services Child Support Enforcement Agency may notify any financial institution doing business in this State that an obligor who maintains an identified account with the financial institution has a delinquent child support obligation that may be eligible for levy on the account in an amount that satisfies some or all of the delinquency. In order to be able to attach a lien on and levy an obligor's account, the obligor's child support obligation shall be in arrears in an amount not less than the amount of support owed for six months or one thousand dollars ($1,000), whichever is less.

Upon certification of the arrears amount in accordance with G.S. 44-86(c), the Child Support Agency shall serve or cause to be served upon the obligor and the financial institution a notice as provided by this subsection. The notice shall be served in any manner provided in Rule 4 of the North Carolina Rules of Civil ~~Procedure and~~ Procedure, except that a notice may be served on a financial institution in any other manner that the financial institution has agreed to in writing at any time prior to the time

the notice is sent. The notice shall include the name of the obligor, the financial institution where the account is located, the account number of the account to be levied to satisfy the lien, the certified arrears amount, information for the obligor on how to remove the lien or contest the lien in order to avoid the levy, and a copy of the applicable law, G.S. 110-139.2. Upon service of the notice, the financial institution shall proceed in the following manner:

(1) Immediately attach a lien to the identified account.

(2) Notify the Child Support Agency of the balance of the account and date of the lien or that the account does not meet the requirement for levy under this subsection.

In order for an obligor to contest the lien, within 10 days after the obligor is served with the notice, the obligor shall send written notice of the basis of the obligor's contest to the Child Support Agency and shall request a hearing before the district court in the county where the support order was entered. The lien may be contested only on the basis that the arrearage is an amount less than the amount of support owed for six months, or is less than one thousand dollars ($1,000), or the obligor is not the person subject to the court order of support. The district court may assess court costs against the nonprevailing party. If no response is received from the obligor within 10 days of the service of the notice, the Child Support Agency shall notify the financial institution to submit payment, up to the total amount of the child support arrears, if available. This amount is to be applied to the debt of the delinquent obligor.

A financial institution shall not be liable to any person for complying in good faith with this subsection.

This levy procedure is to be available for direct use by all states' child support programs to financial institutions in this State."

SECTION 39.(b) This section becomes effective when Section 4 of S.L. 2003-288 becomes effective.

SECTION 40. G.S. 114-19.12, as enacted by Section 4 of S.L. 2003-214 is recodified as G.S. 114-19.14, to avoid a conflict with S.L. 2003-182.

SECTION 41. G.S. 115C-84.2(d) reads as rewritten:

"(d) Opening and Closing Dates. – Local boards of education shall determine the dates of opening and closing the public schools under subdivision (a)(1) of this section. A local board may revise the scheduled closing date if necessary in order to comply

with the minimum requirements for instructional days or instructional time. Different opening and closing dates may be fixed for schools in the same administrative unit.

~~Local boards and individual schools shall give teachers at least 14 calendar days' notice before requiring a teacher to work instead of taking vacation leave on days scheduled in accordance with subdivision (4) or (5) of this subsection. A teacher may elect to waive this notice requirement for one or more such days.~~"

SECTION 42.(a) G.S. 115C-238.29D(d) reads as rewritten:

"(d) The State Board of Education may grant the initial charter for a period not to exceed ~~five~~ 10 years and may renew the charter upon the request of the chartering entity for subsequent periods not to exceed ~~five~~ 10 years each. The State Board of Education shall review the operations of each charter school at least once every five years to ensure that the school is meeting the expected academic, financial, and governance standards.

A material revision of the provisions of a charter application shall be made only upon the approval of the State Board of Education.

It shall not be considered a material revision of a charter application and shall not require the prior approval of the State Board for a charter school to increase its enrollment during the charter school's second year of operation and annually thereafter (i) by up to ten percent (10%) of the school's previous year's enrollment or (ii) in accordance with planned growth as authorized in the charter. Other enrollment growth shall be considered a material revision of the charter application, and the State Board may approve such additional enrollment growth of greater than ten percent (10%) only if the State Board finds that:

(1) The actual enrollment of the charter school is within ten percent (10%) of its maximum authorized enrollment;

(2) The charter school has commitments for ninety percent (90%) of the requested maximum growth;

(3) The board of education of the local school administrative unit in which the charter school is located has had an opportunity to be heard by the State Board of Education on any adverse impact the proposed growth would have on the unit's ability to provide a sound basic education to its students;

(4) The charter school is not currently identified as low-performing;

(5) The charter school meets generally accepted standards of fiscal management; and

(6) It is otherwise appropriate to approve the enrollment growth."

SECTION 42.(b) G.S. 115C-238.29F(e)(1) reads as rewritten:

"(1) An employee of a charter school is not an employee of the local school administrative unit in which the charter school is located. The charter school's board of directors shall employ and contract with necessary teachers to perform the particular service for which they are employed in the school; at least seventy-five percent (75%) of these teachers in grades kindergarten through five, at least fifty percent (50%) of these teachers in grades six through eight, and at least fifty percent (50%) of these teachers in grades nine through 12 shall hold teacher certificates. All teachers in grades six through 12 who are teaching in the core subject areas of mathematics, science, social studies, and language arts shall be college graduates.

The board also may employ necessary employees who are not required to hold teacher certificates to perform duties other than teaching and may contract for other services. The board may discharge teachers and noncertificated employees."

SECTION 42.(c) This section is effective when it becomes law. Subsection (a) of this section applies to charters granted or renewed on or after that date. Subsection (b) of this section applies to persons employed by charter schools for the 2003-2004 and subsequent school years.

SECTION 43. Part 3 of Article 1 of Chapter 116 of the General Statutes is amended by adding the following new section to read:

"**§ 116-40.7. Internal auditors.**

(a) Internal auditors within The University of North Carolina and its constituent institutions shall provide independent reviews and analyses of various functions and programs within The University of North Carolina that will provide management information to promote accountability, integrity, and efficiency within The University of North Carolina.

(b) An internal auditor shall have access to any records, data, or other information of The University of North Carolina or the relevant constituent institution that the internal auditor believes necessary to carry out the internal auditor's duties.

(c) An internal auditor shall maintain, for 10 years, a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under the internal auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of that auditor's office shall be retained in accordance with Chapter 132 of the General Statutes. To promote cooperation and avoid unnecessary duplication of audit effort, audit work papers related to issued audit reports shall be, unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal governments in connection with some matter officially before them. Except as otherwise provided in this subsection, or upon subpoena issued by a duly authorized court or court official, audit work papers shall be kept confidential and shall not be open to examination or inspection under G.S. 132-6. Audit reports shall be public records to the extent that they do not include information that, under State laws, is confidential and exempt from Chapter 132 of the General Statutes or would compromise the security systems of The University of North Carolina."

SECTION 44. G.S. 116-238.1, as enacted by S.L. 2003-284, is amended by adding a new subsection to read:

"(f) Notwithstanding any other provision of this section, no tuition grant awarded to a student under this section shall exceed the cost of tuition of the constituent institution at which the student is enrolled. If a student, who is eligible for a tuition grant under this subsection, also receives a scholarship or other grant covering the cost of tuition at the constituent institution for which the tuition grant is awarded, then the amount of the tuition grant shall be reduced by an appropriate amount determined by the State Education Assistance Authority. The State Education Assistance Authority shall reduce the amount of the tuition grant so that the sum of all grants and scholarship aid covering the cost of tuition received by the student, including the tuition grant under this section, shall not exceed the cost of tuition for the constituent institution at which the student is enrolled."

SECTION 45. G.S. 116-243, as rewritten by Section 1 of S.L. 2003-102, reads as rewritten:

"**§ 116-243. Board of directors established; appointments.**

A board of directors to govern the operation of the Arboretum is established, to be appointed as follows:

(1) Two by the Governor, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year ~~terms;~~terms.

(2) Two by the General Assembly, in accordance with G.S. 120-121, upon the recommendation of the President Pro Tempore of the Senate, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year ~~terms;~~terms.

(3) Two by the General Assembly, in accordance with G.S. 120-121, upon the recommendation of the Speaker of the House of Representatives, initially, one for a two-year term, and one for a four-year term. Successors shall be appointed for four-year ~~terms;~~terms.

(4) The President of The University of North Carolina or ~~his~~ the President's designee to serve ex ~~officio;~~officio.

(5) The chancellors, chief executive officers, or their designees of the following institutions of higher education: North Carolina State University, Western Carolina University, The University of North Carolina at Asheville, Mars Hill College, and Warren Wilson College, to serve ex ~~officio;~~officio.

(6) The President of Western North Carolina Arboretum, Inc., to serve ex ~~officio;~~officio.

(7) Six by the Board of Governors of The University of North Carolina, initially, three for one-year terms, and three for three-year terms. Successors shall be appointed for four-year terms. One shall be an active grower of nursery stock, and one other shall represent the State's garden ~~clubs;~~clubs.

(8) The executive director of the Arboretum and the Executive Vice President of Western North Carolina Development Association shall serve ex officio as nonvoting members of the board of directors.

All appointed members may serve two full four-year terms following the initial appointment and then may not be reappointed until they have been absent for at least

one year. Members serve until their successors have been appointed. Appointees to fill vacancies serve for the remainder of the unexpired term. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122. Initial terms begin July 1, 1986.

The chairman of the board of directors shall be elected biennially by majority vote of the directors.

The executive director of the Arboretum shall report to the board of directors."

SECTION 46.(a) The title of Article 6 of Chapter 120 of the General Statutes reads as rewritten:

"Article 6.

~~Acts and Journals.~~Acts, Journals, and Reports to the General Assembly."

SECTION 46.(b) Article 6 of Chapter 120 of the General Statutes is amended by adding the following new section to read:

"**§ 120-29.5. State agency reports to the General Assembly.**

Whenever a report is directed by law or resolution to be made to the General Assembly, the State agency preparing the report shall deliver one copy of the report to each of the following officers: the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the House Principal Clerk, and the Senate Principal Clerk; and two copies of the report to the Legislative Library. The State agency is encouraged to inform members of the General Assembly that an electronic copy is available. This section does not affect any responsibilities for depositing documents with the State Library or the State Publications Clearinghouse under Chapter 125 of the General Statutes."

SECTION 46.(c) This section becomes effective October 1, 2003.

SECTION 47.(a) G.S. 120-47.2(d) reads as rewritten:

"(d) Within 20 days after the convening of each session of the General Assembly, the Secretary of State shall furnish each member of the General Assembly and the ~~State~~ Legislative Library a list of all persons who have registered as lobbyists and whom they represent. A supplemental list shall be furnished periodically each 20 days thereafter as the session progresses."

SECTION 47.(b) G.S. 143-47.7(a) reads as rewritten:

"(a) Within 60 days after acceptance of appointment by a person appointed to public office, the appointing authority shall file written notice of such appointment with

the Governor, the Secretary of State, the ~~State~~ Legislative Library, the State Library, and the State Controller. For the purposes of this section, a copy of the letter from the appointing authority or a copy of the properly executed Commission of Appointment shall be sufficient to be filed if such copy contains the information required in subsection (b) of this section."

SECTION 47.(c) G.S. 147-16.2 reads as rewritten:

"**§ 147-16.2. Duration of boards and councils created by executive officials; extensions.**

(a) Any executive order of the Governor that creates a board, committee, council, or commission expires two years after the effective date of the executive order, unless the Governor specifies an expiration date in the order; provided, however, that any such executive order that was in effect on July 1, 1983, expires on June 30, 1985, unless the Governor specified a different expiration date in any such order. The Governor may extend any such executive order before it expires for additional periods of up to two years by doing so in writing; copies of the writing shall be filed by the Governor with the Secretary of State and the ~~State~~ Legislative Library.

(b) Any other State board, committee, council, or commission created by the Governor or by any other State elective officer specified in Article III of the North Carolina Constitution expires two years after it was created; provided, however, that any such board, committee, council, or commission existing as of July 1, 1984, expires on June 30, 1985, unless it was due to expire on an earlier date. The elective officer creating any such board, committee, council, or commission may extend the board, committee, council, or commission before it expires for additional periods of up to two years by doing so in writing; copies of the writing shall be filed by the elective officer with the Secretary of State and the ~~State~~ Legislative Library.

(c) Any State board, committee, council, or commission created by any official in the executive branch of State government, other than by those officials specified in subsections (a) and ~~(b),~~ (b) of this section, expires two years after it was created; provided, however, that any board, committee, council, or commission existing as of July 1, 1984, expires on June 30, 1985, unless it was due to expire on an earlier date. The Governor may extend any such board, committee, council, or commission before it expires for additional periods of up to two years by executive order; copies of the

executive order shall be filed by the Governor with the Secretary of State and the ~~State~~ Legislative Library.

The words, "official in the executive branch of State government," as used in this section, do not include officials of counties, cities, towns, villages, other municipal corporations or political subdivisions of the State or any agencies of such subdivision, or local boards of education, other local public districts, units or bodies of any kind, or community colleges as defined in G.S. 115D- 2(2), or private corporations created by act of the General Assembly.

(d) Any elective officer specified in subsection (b) of this section and any other official in the executive branch of State government who creates a board, committee, council, or commission shall do so in writing and shall file copies of the writing with the Secretary of State and the ~~State~~ Legislative Library."

SECTION 48. G.S. 121-4(16) is repealed.

SECTION 49.(a) G.S. 135-3(8)c. reads as rewritten:

"c. **(Effective until June 30, 2004 – See note)** 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 during the 12-month period immediately following the effective date of retirement or 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 six months and has not been employed in any capacity, except as a substitute teacher or a part-time tutor, with a public school for at least six months immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach on a substitute, interim, or permanent basis in a public ~~school.~~school or a charter school. The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit or a charter school under the provisions of this sub-subdivision and as a retired teacher as the term is defined under the provisions of 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 49.(b) G.S. 115C-325(a)(5a) reads as rewritten:

"(5a) **(Effective until June 30, 2004)** "Retired teacher" means a beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who has been retired at least six months, has not been employed in any capacity, other than as a substitute teacher or a part-time tutor, with a local board of education or a charter school for at least six months, immediately preceding the effective date of reemployment, is determined by a local board of education or a charter school to have had satisfactory performance during the last year of employment by a local board of ~~education,~~education or the charter school, and who is employed to teach as provided in G.S. 135-3(8)c. A retired teacher at a school other than a charter school shall be treated the same as a probationary teacher except that (i) a retired teacher is not eligible for career status and (ii) the performance of a retired

teacher who had attained career status prior to retirement shall be evaluated in accordance with a local board of education's policies and procedures applicable to career teachers."

SECTION 49.(c) This section expires June 30, 2004.

SECTION 50. G.S. 135-40.8(e), as enacted in Section 30.19C.(b) of S.L. 2003-284, reads as rewritten:

"(e) Where qualified ~~out-of-state~~ preferred providers of medical care are not reasonably available in medical emergencies, the Plan pays the amounts covered by subsection (a) of this section. Any amount of charges for services under this section that exceeds the amount allowed by the Plan for the services of qualified preferred providers under this section shall be negotiated between the Plan and the provider of medical services, and the Plan shall ensure that the Plan member is not held financially responsible for the amount of these excess charges. ~~If a Plan member is not capable of making a decision about choosing an in-State qualified preferred provider and emergency services personnel transport the Plan member to a provider outside of the Plan network, then the coverage under this subsection shall apply.~~ As used in this section, a 'medical emergency' is the sudden and unexpected onset of a condition manifesting itself by acute symptoms of sufficient severity that, in the absence of immediate medical care, could imminently result in injury or danger to self or others."

SECTION 51. G.S. 136-180(a), as amended by Section 29.11(a) of S.L. 2003-284, reads as rewritten:

"(a) Funds allocated from the Trust Fund for urban loops may be used only for the following urban loops:

Loop	Description	Affected Counties
...		
Greensboro Loop	Multilane facility on new location encircling City of Greensboro including interchanges with Cone Boulevard Extension and	Guilford

~~Lewis-Fleming~~ Lewiston-Fleming
Road Extension
..."

SECTION 52. G.S. 143B-437.54(d) reads as rewritten:

"~~(d) Public Notice. – The Committee shall do all of the following at least 15 business days prior to the adoption of or amendment to any proposed criteria:~~

~~(1) Publish the proposed criteria on the Department of Commerce's web site.~~

~~(2) Provide notice to persons who have requested notice of proposed criteria.~~

~~(3) Accept oral and written comments on the proposed criteria.~~

(d) Public Notice. – At least 20 business days before the effective date of any criteria or nontechnical amendments to criteria, the Committee must publish the proposed criteria on the Department of Commerce's web site and provide notice to persons who have requested notice of proposed criteria. In addition, the Committee must accept oral and written comments on the proposed criteria during the 15 business days beginning on the first day that the Committee has completed these notifications. For the purpose of this subsection, a technical amendment is either of the following:

(1) An amendment that corrects a spelling or grammatical error.

(2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment."

SECTION 53. G.S. 147-33.89, as enacted by S.L. 2003-172, is recodified as G.S. 147-33.90, to avoid a conflict with S.L. 2003-153.

SECTION 54.(a) G.S. 148-22.2, as rewritten by Section 8 of S.L. 2003-13, reads as rewritten:

"**§ 148-22.2. Procedure when surgical operations on inmates are necessary.**

The medical staff of any penal institution of the State of North Carolina is hereby authorized to perform or cause to be performed by competent and skillful surgeons surgical operations upon any inmate when such operation is necessary for the improvement of the physical condition of the inmate. The decision to perform an operation shall be made by the chief medical officer of the institution, with the approval of the superintendent of the institution, and with the advice of the medical staff of the

institution. No operation shall be performed without the consent of the inmate; or, if the inmate is a minor, without the consent of a responsible member of the inmate's family, a guardian, or one having legal custody of the minor; or, if the inmate be non compos mentis, then the consent of a responsible member of the inmate's family or of a guardian shall be obtained. Any surgical operations on inmates of State penal institutions shall also be subject to the provisions of Article 1A of Chapter 90 of the General ~~Statutes and~~ Statutes, ~~G.S. 90-21.13~~G.S. 90-21.13, and ~~G.S. 90-21.14.~~G.S. 90-21.16.

If the operation on the inmate is determined by the chief medical officer to be an emergency situation in which immediate action is necessary to preserve the life or health of the inmate, and the inmate, if sui juris, is unconscious or otherwise incapacitated so as to be incapable of giving consent or in the case of a minor or inmate non compos mentis, the consent of a responsible member of the inmate's family, guardian, or one having legal custody of the inmate cannot be obtained within the time necessitated by the nature of the emergency situation, then the decision to proceed with the operation shall be made by the chief medical officer and the superintendent of the institution with the advice of the medical staff of the institution.

In all cases falling under this ~~Article,~~ section, the chief medical officer of the institution and the medical staff of the institution shall keep a careful and complete record of the measures taken to obtain the permission for the operation and a complete medical record signed by the medical superintendent or director, the surgeon performing the operation and all surgical consultants of the operation performed."

SECTION 54.(b) G.S. 148-46.2 reads as rewritten:

"**§ 148-46.2. Procedure when consent is refused by prisoner.**

When the Secretary of Correction finds as a fact that the injury to any prisoner was willfully and intentionally self-inflicted and that an operation or treatment is necessary for the preservation or restoration of the health of the prisoner and that the prisoner is competent to act for himself or herself; and that attempts have been made to obtain consent for the proposed operation or treatment but such consent was refused, and the findings have been reduced to writing and entered into the prisoner's records as a permanent part thereof, then the chief medical officer of the prison hospital or prison institution shall be authorized to give or withhold, on behalf of the prisoner, consent to the operation or treatment.

In all cases coming under the provisions of this ~~Article,~~ section, the medical staff of the hospital or institution shall keep a careful and complete medical record of the treatment and surgical procedures undertaken. The record shall be signed by the chief medical officer of the hospital or institution and the surgeon performing any surgery. Any treatment of self-inflicted injuries shall also be subject to the provisions of G.S. 90-21.13 and ~~90-21.14.~~G.S. 90-21.16."

SECTION 55. G.S. 148-32.1(a) reads as rewritten:

"(a) The Department of Correction shall pay each local confinement facility a standard sum set by the General Assembly in its appropriation acts at a per day, per inmate rate, for the cost of providing food, clothing, personal items, supervision and necessary ordinary medical services to those inmates committed to the custody of the local confinement facility to serve criminal sentences of 30 days or more. This reimbursement shall not include any period of detention prior to actual commitment by the sentencing court. The Department shall also pay to the local confinement facility extraordinary medical expenses incurred for the inmates, defined as follows:

(1) Medical expenses incurred as a result of providing health care to an inmate as an inpatient (hospitalized);

(2) Other medical expenses when the total cost exceeds thirty-five dollars ($35.00) per occurrence or illness as a result of providing health care to an inmate as an outpatient (nonhospitalized); and

(3) Cost of replacement of eyeglasses and dental prosthetic devices if those eyeglasses or devices are broken while the inmate is incarcerated, provided the inmate was using the eyeglasses or devices at the time of his commitment and then only if prior written consent of the Department is obtained by the local facility.

In order to obtain reimbursement for any of the expenses authorized by this section, a local confinement facility shall submit an invoice to the Department within one year of the date of commitment by the sentencing court."

SECTION 56.(a) G.S. 150B-21.1(a), as amended by Section 2 of S.L. 2003-229, reads as rewritten:

"(a) Adoption. – An agency may adopt a temporary rule when it finds that adherence to the notice and hearing requirements of G.S. 150B-21.2 would be contrary

to the public interest and that the immediate adoption of the rule is required by one or more of the following:

(1) A serious and unforeseen threat to the public health, safety, or welfare.

(2) The effective date of a recent act of the General Assembly or the United States Congress.

(3) A recent change in federal or State budgetary policy.

(4) A recent federal regulation.

(5) A recent court order.

(6) The need for ~~the~~ a rule establishing review criteria as authorized by G.S. 131E-183(b) to ~~implement~~ complement or be made consistent with the State Medical Facilities Plan approved by the Governor, if the rule addresses a matter included in the State Medical Facilities ~~Plan.~~Plan, and the proposed rule and a notice of public hearing is submitted to the Codifier of Rules prior to the effective date of the Plan.

(7) The need for the Wildlife Resources Commission to establish any of the following:

a. No wake zones.

b. Hunting or fishing seasons.

c. Hunting or fishing bag limits.

d. Management of public game lands as defined in G.S. 113-129(8a).

(8) The need for the Secretary of State to implement the certification technology provisions of Article 11A of Chapter 66 of the General Statutes and to adopt uniform Statements of Policy that have been officially adopted by the North American Securities Administrators Association for the purpose of promoting uniformity of state securities regulation.

(9) The need for the Commissioner of Insurance to implement the provisions of G.S. 58-2-205.

(10) The need for the Chief Information Officer to implement the information technology procurement provisions of Article 3D of Chapter 147 of the General Statutes.

(11) The need for the State Board of Elections to adopt a temporary rule after prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical for one or more of the following:
a. In accordance with the provisions of G.S. 163-22.2.
b. To implement any provisions of state or federal law for which the State Board of Elections has been authorized to adopt rules.
c. The need for the rule to become effective immediately in order to preserve the integrity of upcoming elections and the elections process.

(12) The need for an agency to adopt a temporary rule to implement the provisions of any of the following acts until all rules necessary to implement the provisions of the act have become effective as either temporary or permanent rules:
a. Repealed by Session Laws 2000, ch. 148, s. 5, effective July 1, 2002.
b. Repealed by Session Laws 2000, ch. 69, s. 5, effective July 1, 2003.

(13) The need for the Secretary of Transportation to adopt temporary rules concerning the permitted height of mobile and modular homes.

(14) The need for the Secretary of Transportation to adopt temporary rules pursuant to G.S. 113A-11(b) to establish a class of minimum criteria projects.

(15) The need for the Department of Health and Human Services to adopt temporary rules concerning the placement of individuals in facilities licensed under Article 2 of Chapter 122C of the General Statutes and the enrollment of providers of services to such individuals in the Medicaid program.

(a1) A recent act, change, regulation, or order as used in subdivisions (2) through (5) of this subsection means an act, change, regulation, or order occurring or made effective no more than 210 days prior to the submission of a temporary rule to the Rules Review Commission. Upon written request of the agency, the Commission may waive the 210-day requirement upon consideration of the degree of public benefit, whether the agency had control over the circumstances that required the requested waiver, notice to

and opposition by the public, the need for the waiver, and previous requests for waivers submitted by the agency."

SECTION 56.(b) G.S. 150B-21.1(a1), as enacted by Section 2 of S.L. 2003-229, reads as rewritten:

"~~(a1)~~(a2) Unless otherwise provided by law, at least 30 business days prior to adopting a temporary rule, the agency shall:

(1) Submit the rule and a notice of public hearing to the Codifier of Rules, and the Codifier of Rules shall publish the proposed temporary rule and the notice of public hearing on the Internet to be posted within five business days.

(2) Notify persons on the mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule and of the public hearing.

(3) Accept written comments on the proposed temporary rule for at least 15 business days prior to adoption of the temporary rule.

(4) Hold at least one public hearing on the proposed temporary rule no less than five days after the rule and notice have been published.

(a3) An agency must also prepare a written statement of its findings of need for a temporary rule stating why adherence to the notice and hearing requirements in G.S. 150B-21.2 would be contrary to the public interest and why the immediate adoption of the rule is required. The statement must be signed by the head of the agency adopting the temporary rule."

SECTION 56.(c) G.S. 150B-21.1A(a), as enacted by Section 3 of S.L. 2003-229, reads as rewritten:

"(a) Adoption. – An agency may adopt an emergency rule without prior notice or hearing or upon any abbreviated notice or hearing the agency finds practical when it finds that adherence to the notice and hearing requirements of this Part would be contrary to the public interest and that the immediate adoption of the rule is required by a serious and unforeseen threat to the public health or safety. When an agency adopts an emergency rule, it must simultaneously commence the process for adopting a temporary rule by submitting the rule to the Codifier of Rules for publication on the Internet in accordance with ~~G.S. 150B-21.1(a1).~~ G.S. 150B-21.1(a2). The Department of Health and Human Services or the appropriate rule-making agency within the Department may

adopt emergency rules in accordance with this section when a recent act of the General Assembly or the United States Congress or a recent change in federal regulations authorizes new or increased services or benefits for children and families and the emergency rule is necessary to implement the change in State or federal law."

SECTION 56.(d) G.S. 150B-21.12(c), as amended by Section 10 of S.L. 2003-229, reads as rewritten:

"(c) Changes. – When an agency changes a rule in response to an objection by the Commission, the Commission must determine whether the change satisfies the Commission's objection. If it does, the Commission must approve the rule. If it does not, the Commission must send the agency a written statement of the Commission's continued objection and the reason for the continued objection. The Commission must also determine whether the change is substantial. In making this determination, the Commission shall use the standards set forth in G.S. 150B-21.2(g). If the change is substantial, the revised rule shall be published and reviewed in accordance with the procedure set forth in ~~G.S. 150B-21.1(a1)~~ G.S. 150B-21.1(a2) and G.S. 150B-21.1(b)."

SECTION 56.(e) Section 14 of S.L. 2003-229 reads as rewritten:

"**SECTION 14.** Nothing in this act shall be construed to limit or repeal any specific grant of temporary rule-making authority to an agency enacted by the General Assembly prior to the effective date of this act. Any temporary rule adopted after the effective date of this act shall be adopted in accordance with the procedure set forth in G.S. 150B-21.1 as amended by this act."

SECTION 57.(a) In order to reflect the rewrite of G.S. 150B-21.1 by S.L. 2003-229, effective July 1, 2003, G.S. 150B-21.1(a11), as enacted by Section 3 of S.L. 2003-184, is recodified as G.S. 150B-21.1(a)(16) and reads as rewritten:

"(16) ~~Notwithstanding the provisions of subsection (a) of this section, the~~ The need for the Department of Transportation ~~may~~ to adopt temporary rules concerning logo signs pursuant to G.S. 136-89.56. ~~After having the proposed temporary rule published in the North Carolina Register and at least 30 days prior to adopting a temporary rule pursuant to this subsection, the Department shall:~~

~~(1) Notify persons on its mailing list maintained pursuant to G.S. 150B-21.2(d) and any other interested parties of its intent to adopt a temporary rule.~~

~~(2) Accept oral and written comments on the proposed temporary rule.~~

~~(3) Hold at least one public hearing on the proposed temporary rule.~~

~~When the Department adopts a temporary rule pursuant to this subsection, the Department shall submit a reference to this subsection as the Department's statement of need to the Codifier of Rules.~~

~~Notwithstanding any other provision of this Chapter, the Codifier of Rules shall publish in the North Carolina Register a proposed temporary rule received from the Department in accordance with this subsection.~~"

SECTION 57.(b) This section does not affect the July 1, 2005, expiration of Section 3 of S.L. 2003-184.

SECTION 58.(a) Since G.S. 150B-21.1(a8) expired prior to the effective date of S.L. 2003-229, the Revisor of Statutes shall give no effect to the recodification and amendment of that statute.

SECTION 58.(b) Since G.S. 150B-21.1(a9) expired prior to the effective date of S.L. 2003-229, the Revisor of Statutes shall give no effect to the recodification and amendment of that statute.

SECTION 59.(a) Chapter 152 of the General Statutes is not applicable to Johnston County.

SECTION 59.(b) This section becomes effective upon the expiration of the term of the current coroner in Johnston County.

SECTION 60. G.S. 160A-176.2 reads as rewritten:

"**§ 160A-176.2. Ordinances effective in Atlantic Ocean.**

(a) A city may adopt ordinances to regulate and control swimming, personal watercraft operation, surfing and littering in the Atlantic Ocean and other waterways adjacent to that portion of the city within its boundaries or within its extraterritorial jurisdiction; provided, however, nothing contained herein shall be construed to permit any city to prohibit altogether swimming or surfing or to make these activities unlawful.

(b) Subsection (a) of this section applies to the Towns of Atlantic Beach, Calabash, Cape Carteret, Carolina Beach, Caswell Beach, Duck, Emerald Isle, Holden Beach, Kill Devil Hills, Kitty Hawk, Manteo, Nags Head, Oak Island, Ocean Isle

Beach, Southern Shores, Sunset Beach, Topsail Beach, and Wrightsville Beach, and the City of Southport only."

SECTION 61. G.S. 160A-635(a) reads as rewritten:

"**§ 160A-635. Membership; officers; compensation.**

(a) The governing body of an authority is the Board of Trustees. The Board of Trustees shall consist of:

(1) The mayor of the four cities within the service area that have the largest population, or a member of the city council designated by the city council to serve in the absence of the mayor.

(2) Two members of the Board of Transportation appointed by the Secretary of Transportation, to serve as ex officio nonvoting members.

(3) The chair of each Metropolitan Planning Organization in the territorial jurisdiction. The chair of the Metropolitan Planning Organization may appoint the Chair of the Transportation Advisory Committee, or a designee approved by the Transportation Advisory Committee, as his or her designee.

(4) The chair of the board of commissioners of any county within the territorial jurisdiction or a member of the board of commissioners designated by the board to serve in the absence of the chair, but only if the Board of Trustees by resolution has expanded the Board of Trustees to include the chair of the board of commissioners of that county and the board of commissioners of that county has consented by resolution.

(5) The chair of the principal airport authority or airport commission of each of the two most populous counties within the territorial jurisdiction, as determined by the most recent decennial federal census. The chair of the airport authority or airport commission may appoint a designee. The designee is not required to be a member of the airport authority or airport commission."

SECTION 62. G.S. 163-34 reads as rewritten:

"**§ 163-34. Power of county board of elections to maintain order.**

Each county board of elections shall possess full power to maintain order, and to enforce obedience to its lawful commands during its sessions, and shall be constituted

an inferior court for that purpose. If any person shall refuse to obey the lawful commands of any county board of elections, or by disorderly conduct in its hearing or presence shall interrupt or disturb its proceedings, it may, by an order in writing, signed by its chairman, and attested by its secretary, commit the person so offending to the common jail of the county for a period not exceeding 30 days. Such order shall be executed by any sheriff ~~or constable~~ to whom the same shall be delivered, or if a sheriff ~~or constable~~ shall not be present, or shall refuse to act, by any other person who shall be deputed by the county board of elections in writing, and the keeper of the jail shall receive the person so committed and safely keep him for such time as shall be mentioned in the commitment: Provided, that any person committed under the provisions of this section shall have the right to post a two hundred dollar ($200.00) bond with the clerk of the superior court and appeal to the superior court for a trial on the merits of his commitment."

SECTION 63. G.S. 163-35(b) reads as rewritten:

"(b) Appointment, Duties; Termination. – Upon receipt of a nomination from the county board of elections stating that the nominee for director of elections is submitted for appointment upon majority selection by the county board of elections the Executive Director shall issue a letter of appointment of such nominee to the chairman of the county board of elections within 10 days after receipt of the nomination. Thereafter, the county board of elections shall enter in its official minutes the specified duties, responsibilities and designated authority assigned to the director by the county board of elections. A copy of the specified duties, responsibilities and designated authority assigned to the director shall be filed with the State Board of Elections.

The county board of elections may, by petition signed by a majority of the board, recommend to the Executive Director of the State Board of Elections the termination of the employment of the county board's director of elections. The petition shall clearly state the reasons for termination. Upon receipt of the petition, the Executive Director shall forward a copy of the petition by certified mail, return receipt requested, to the county director of elections involved. The county director of elections may reply to the petition within 15 days of receipt thereof. Within 20 days of receipt of the county director of elections' reply or the expiration of the time period allowed for the filing of the reply, the State Executive Director shall render a decision as to the termination or retention of the county director of elections. The decision of the Executive Director of

the State Board of Elections shall be final unless the decision is, within 20 days from the official date on which it was made, deferred by the State Board of Elections. If the State Board defers the decision, then the State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard and to present witnesses and information to the State Board, and then notify the Executive Director of its decision in writing. Any one or more members of the State Board designated by the remaining members of the State Board may conduct the hearing and make a final determination on the termination. For the purposes of this subsection, the member(s) designated by the remaining members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23. If the decision, rendered ~~by the State Board of Elections,~~ after the hearing, results in concurrence with the decision entered by the Executive Director, the decision becomes final. If the decision rendered ~~by the Board~~ after the hearing is contrary to that entered by the Executive Director, then the Executive Director shall, within 15 days from the written notification, enter an amended decision consistent with the results of the decision by the State Board of ~~Elections.~~ Elections or its designated member(s).

Upon majority vote on the recommendation of the Executive Director, the State Board of Elections may initiate proceedings for the termination of a county director of elections for just cause. If the State Board votes to initiate proceedings for termination, the State Board shall state the reasons for the termination in writing and send a copy by certified mail, return receipt requested, to the county director of elections. The director has 15 days to reply in writing to the notice. The State Board of Elections shall also notify the chair of the county board of elections and the chair of the county board of commissioners that the State Board has initiated termination proceedings. The State Board shall make a final decision on the termination after giving the county director of elections an opportunity to be heard, present witnesses, and provide information to the State Board. ~~The State Board of Elections shall notify the chair of the county board of elections and the chair of the county board of commissioners that the State Board has initiated termination proceedings.~~ Any one or more members of the State Board designated by the remaining members of the State Board may conduct the hearing and make a final decision. For the purposes of this subsection, the member(s) designated by the remaining members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23.

A county director of elections may be suspended, with pay, without warning for causes relating to personal conduct detrimental to service to the county or to the State Board of Elections, pending the giving of written reasons, in order to avoid the undue disruption of work or to protect the safety of persons or property or for other serious reasons. Any suspension may be initiated by the Executive Director but may not be for more than five days. Upon placing a county director of elections on suspension, the Executive Director shall, as soon as possible, reduce to writing the reasons for the suspension and forward copies to the county director of elections, the members of the county board of elections, the chair of the county board of commissioners, and the State Board of Elections. If no action for termination has been taken within five days, the county director of elections shall be fully reinstated.

Termination of any county director of elections shall comply with this subsection. ~~For the purposes of this subsection, the individual designated by the remaining four members of the State Board shall possess the same authority conferred upon the chairman pursuant to G.S. 163-23.~~"

SECTION 64.(a) G.S. 163-166.12, as enacted in Section 16 of S.L. 2003-226, is amended by adding a new subsection to read:

"(b1) For purposes of this section, if a voter registration applicant, as permitted in G.S. 163-82.6, delegates transporting the application form to another person, the county board of elections shall treat that form as being submitted in the manner it is submitted by the person who accepted the delegation."

SECTION 64.(b) This section becomes effective January 1, 2004, and applies with respect to all primaries and elections held on or after that date.

SECTION 65.(a) G.S. 163-278.7(b)(7) reads as rewritten:

"(b) Each appointed treasurer shall file with the Board at the time required by G.S. 163-278.9(a)(1) a statement of organization that includes:

...

(7) A listing of all banks, safety deposit boxes, or other depositories used, including the names and numbers of all accounts maintained and the numbers of all such safety deposit boxes used, provided that the Board shall keep any account number included in any report filed after March 1, 2003, and required by this Article confidential except as necessary to conduct an audit or investigation, except as required by a court of

competent jurisdiction, or unless confidentiality is waived by the treasurer. Disclosure of an account number in violation of this subdivision shall not give rise to a civil cause of action. This limitation of liability does not apply to the disclosure of account numbers in violation of this subdivision as a result of gross negligence, wanton conduct, or intentional wrongdoing that would otherwise be actionable.

..."

SECTION 65.(b) This section is effective on and after January 1, 2003.

SECTION 66. G.S. 163-278.12A is repealed.

SECTION 67. G.S. 163-278.64(d)(5) reads as rewritten:

"(5) A candidate and the candidate's committee shall limit the use of all revenues permitted by this subsection to expenditures for campaign-related purposes only. The Board shall publish guidelines outlining permissible campaign-related expenditures. In establishing those guidelines, the Board shall differentiate expenditures that reasonably further a candidate's campaign from expenditures for personal use that would be incurred in the absence of the candidacy. In establishing the guidelines, the Board shall review relevant provisions of G.S. 163-278.42(e), the Federal Election Campaign Act and rules adopted pursuant to it, and similar provisions in other states."

SECTION 68. G.S. 168-2 reads as rewritten:

"**§ 168-2. Right of access to and use of public places.**

Handicapped persons have the same right as the able-bodied to the full and free use of the streets, highways, sidewalks, walkways, public buildings, public facilities, and all other buildings and facilities, both publicly and privately owned, which serve the public. The Department of Health and Human Services shall develop, print, and promote the publication ACCESS NORTH CAROLINA. It shall make copies of the publication available to the Department of Commerce for its use in Welcome Centers and other appropriate Department of Commerce offices. The Department of ~~Economic and Community Development~~ Commerce shall promote ACCESS NORTH CAROLINA in its publications (including providing a toll-free telephone line and an address for requesting copies of the publication) and provide technical assistance to the Department

of Health and Human Services on travel attractions to be included in ACCESS NORTH CAROLINA. The Department of Commerce shall forward all requests for mailing ACCESS NORTH CAROLINA to the Department of Health and Human Services."

SECTION 69.(a) G.S. 168-4.2 reads as rewritten:

"**§ 168-4.2. May be accompanied by ~~assistance dog.~~service animal.**

Every mobility impaired person, as defined in this section, visually impaired person, as broadly defined to include visual disability, ~~or~~ hearing impaired person, as defined in G.S. 8B-1(2), or person with a seizure disorder has the right to be accompanied by ~~an assistance dog~~ a service animal especially trained for the purpose of providing assistance to a person with the same impairing condition as the person wishing to be accompanied, in any of the places listed in G.S. 168-3, and has the right to keep the ~~assistance dog~~ service animal on any premises the person leases, rents, or uses. The person qualifies for these rights upon the showing of a tag, issued by the Department of Health and Human Services, ~~pursuant to~~ under G.S. 168-4.3, stamped "NORTH CAROLINA ~~ASSISTANCE DOG~~ SERVICE ANIMAL PERMANENT REGISTRATION" and stamped with a registration number, or upon a showing that the ~~dog~~ animal is being trained or has been trained as ~~an assistance dog. An assistance dog~~ a service animal. The service animal may accompany a person in any of the places listed in G.S. 168-3 but may not occupy a seat in any of these places. The ~~trainer of the assistance dog may be accompanied by the dog~~ service animal may accompany that animal's trainer during training sessions in any of the places listed in G.S. 168-3.

A mobility impaired person is a person with a physiological deficiency, regardless of its cause, nature, or extent, that renders the individual unable to move about without the aid of crutches, a wheelchair, or other form of support, or that limits the person's functional ability to ambulate, climb, descend, sit, rise, or perform any other related function."

SECTION 69.(b) G.S. 168-4.3 reads as rewritten:

"**§ 168-4.3. Training and registration of ~~assistance dog.~~service animal.**

The Department of Health and Human Services, shall adopt rules for the registration of ~~assistance dogs~~ service animals and shall issue registrations to a visually impaired person, a hearing impaired person, ~~or~~ a mobility impaired ~~person~~ person, or a person with a seizure disorder who makes application for registration of ~~a dog~~ an animal that serves as ~~an assistance dog.~~ a service animal. The rules adopted regarding registration

shall require that the ~~dog~~ animal be trained as ~~an assistance dog~~ a service animal by an appropriate agency, and that the certification and registration be permanent for the particular ~~dog~~ animal and need not be renewed while that particular ~~dog~~ animal serves the person applying for registration as ~~an assistance dog.~~ a service animal. No fee may be charged the person for the application, registration, tag, or replacement in the event the original is lost. The Department of Health and Human Services may, by rule, issue a certification or accept the certification issued by the appropriate training facilities."

SECTION 69.(c) G.S. 168-4.4 reads as rewritten:

"**§ 168-4.4. Responsibility for ~~assistance dog.~~service animal.**

The visually impaired person, hearing impaired person, ~~or~~ mobility impaired ~~person~~ person, or person with a seizure disorder who is accompanied by ~~an assistance dog~~ a service animal may not be required to pay any extra compensation for the ~~dog.~~ animal. The person has all the responsibilities and liabilities placed on any person by any applicable law when that person owns or uses any ~~dog,~~ animal, including liability for any damage done by the ~~dog.~~ animal."

SECTION 70.(a) Section 9.2 of Chapter 707 of the 1963 Session Laws, as amended by S.L. 2002-66, reads as rewritten:

"Sec. 9.2. Beginning with the 2003-2004 fiscal year, the base amount of funding for current expense expenditures from local funds shall include the previous ~~years'~~ year's level of current expense expenditures (for example, eight million seven hundred thousand dollars ($8,700,000) in 2002-2003), multiplied by one plus the average percentage change in local current expense school expenditures for the two most recent available fiscal ~~year~~ years for low-wealth counties in North Carolina (all local expenditures shall include local current expense expenditures incurred by charter schools within the appropriate districts), as determined by the Superintendent of Public Instruction or that person's designee. The average percentage change shall be calculated by (i) adding together for each of the two previous fiscal years the total current local expense expenditures for all low-wealth counties, (ii) dividing each of those totals, respectively, by the number of low-wealth counties receiving low-wealth funding in each year to obtain an average low-wealth county local current expense expenditure for each year, and (iii) comparing the two averages. The average percentage change shall equal the percent difference between the averages for the two years. The resulting product shall then be multiplied by a ratio consisting of the Average Daily Membership

used to distribute State funding for the succeeding fiscal year as provided by the Department of Public Instruction, divided by the Average Daily Membership used to distribute funding for the current fiscal year, as determined by the Superintendent of Public Instruction, or that person's designee. ~~The resulting number shall be added to or subtracted from the previous year's amount of current expense expenditures from local funds. This sum~~ The resulting product shall be the required level of current expense funding to be appropriated by the Board of Commissioners from any local sources, including both general and supplemental tax revenues, and not including fines and forfeitures or restricted use sales taxes authorized by Article 40 or 42 of Chapter 105 of the General Statutes."

SECTION 70.(b) The remainder of Chapter 707 of the 1963 Session Laws is not changed by this section except to the extent any previously enacted provisions for the establishment and funding of current expense expenditures are inconsistent with the provisions of this section.

SECTION 71.(a) Section 6(a) of Chapter 246, Session Laws of 1991, as rewritten by Section 14 of Chapter 358 of the 1993 Session Laws, reads as rewritten:

"Sec. 6. Orange County Civil Rights Ordinance. (a) The Board of Commissioners of Orange (hereafter 'Board of Commissioners') may adopt an ordinance (hereafter 'the Ordinance') to prohibit discrimination in ~~employment, housing,~~ housing and public accommodations on the basis of race, color, religion, gender, national origin, age, disability, marital status, familial status, and veteran status.

The Board of Commissioners may include in the Ordinance a prohibition of language or conduct or both directed at an individual or at a group of individuals because of that individual's or group of individuals' actual or perceived race, color, religion, gender, national origin, age, disability, marital status, familial status, or veteran status which communicates in a threatening manner words that incite imminent lawless action or which tend to incite an immediate breach of the peace."

SECTION 71.(b) Section 6(b)(9) of Chapter 246, Session Laws of 1991, as rewritten by Section 14 of Chapter 358 of the 1993 Session Laws, reads as rewritten:

"(b) The Board of Commissioners may, in the Ordinance, adopt procedures and delegate powers to the Orange County Human Relations Commission (hereafter 'the Commission') which are necessary and proper for carrying out and enforcing the

Ordinance. To assist in the enforcement of the Ordinance, the Commission has, but is not limited to, the following powers:

...

(9) Making application, in its discretion, to the Office of Administrative Hearings for the designation of an administrative law judge to preside over a hearing in cases involving allegedly unlawful ~~employment practices, public accommodations,~~ public accommodations or other conduct made unlawful by subsection (a) of this section after conciliation efforts have failed; and

..."

SECTION 71.(c) Section 6(d) of Chapter 246, Session Laws of 1991, as rewritten by Section 14 of Chapter 358 of the 1993 Session Laws, reads as rewritten:

"(d) The administrative law judge may recommend the imposition of mandatory and prohibitory injunctive relief, compensatory damages (which, as provided by the 1991 Civil Rights Act, includes emotional pain, humiliation, embarrassment, and inconvenience), punitive damages, and any other relief the administrative law judge deems appropriate; provided that:

(1) Punitive damages may be recommended only if the administrative law judge finds that the respondent engaged in a practice made unlawful under the ordinance with malice or with reckless indifference to the protected rights of the ~~complainant; and~~ complainant.

~~(2) In cases involving unlawful employment practices, the administrative law judge may recommend reinstatement, hiring, and/or back pay.~~

In all cases wherein the Commission applies to the Office of Administrative Hearings for the designation of an administrative law judge, the Commission shall be the complainant and the case in support of the Commission shall be presented by the Commission's attorney.

The administrative law judge may, in his or her discretion, recommend that the respondent be awarded reasonable costs and attorneys' fees in the event the respondent prevails."

SECTION 72. S.L. 1997-182 is repealed. This also repeals G.S. 18B-1006(l).

SECTION 73. Section 17.1(f) of S.L. 2000-138, as amended by S.L. 2002-180, reads as rewritten:

"**Section 17.1.(f)** Members of the Commission ~~shall not~~may receive per diem or reimbursement for travel or subsistence. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the per diem of the Commission established by this Part."

SECTION 74. Section 7.13(b) of S.L. 2002-126 reads as rewritten:

"**SECTION 7.13.(b)** The Office of State Budget and Management shall ~~issue a Request for Proposals for~~ conduct an analysis of the structure and operation of the Department of Public ~~Instruction that identifies~~ Instruction. The analysis shall identify potential efficiencies and savings in the operations of the Department. The analysis may consider consolidation of functions with other agencies and automation of functions.

~~The Request for Proposals may include contingency proposals based on potential savings.~~

The Office of State Budget and Management shall ~~consult with~~ report its findings to the State Board of Education. The State Board of Education shall report to the Joint Legislative Education Oversight Committee ~~prior to the award of the contract.~~by March 15, 2004, on the results of the analysis."

SECTION 75.(a) Section 61.5 of S.L. 2002-159 is repealed.

SECTION 75.(b) Section 1.1 of S.L. 2002-162 is repealed.

SECTION 76. The introductory language of the second Section 3 of S.L. 2003-31 reads as rewritten:

"**SECTION ~~3.~~3.1.** Section 36(b) of S.L. 2002-159, as amended by Section 1 of S.L. 2003-2, reads as rewritten:"

SECTION 77. The introductory language of Section 1 of S.L. 2003-103 reads as rewritten:

"**SECTION 1.** Article 1 of Chapter 166A of the General ~~Statues~~ Statutes is amended by adding a new section to read:"

SECTION 78.(a) G.S. 20-141(o), as enacted by S.L. 2003-110, reads as rewritten:

"**SECTION 1.** G.S. 20-141 is amended by adding a new subsection to read:

(o) A violation of G.S. 20-123.2 shall be a lesser included offense in any violation of this section. No drivers license points or insurance surcharge shall be assessed on account of a violation of this subsection."

SECTION 78.(b) This section becomes effective December 1, 2003.

SECTION 79. Section 2 of S.L. 2003-128 reads as rewritten:

"**SECTION 2.(a)** A ~~county~~ county, city, or town may adopt ordinances to regulate the removal and preservation of existing trees and shrubs prior to development within a perimeter buffer zone of up to 50 feet along public roadways and property boundaries adjacent to developed properties and up to 25 feet along property boundaries adjacent to undeveloped properties."

"**SECTION 2.(b)** Ordinances adopted pursuant to this section shall:

(1) Provide that the required buffer area shall not exceed twenty percent (20%) of the area of the tract, net of public road rights-of-way and any required conservation easements.

(2) Provide that buffer zones that adjoin public roadways shall be measured from the edge of the public road right-of-way.

(3) Provide that tracts of two acres or less, net of public road rights-of-way, that are zoned for single-family residential use are exempt from the requirements of the ordinances.

(4) Provide that the ordinances are limited to situations where undeveloped property is planned or zoned in accordance with adopted planning and zoning regulations.

(5) Provide that a survey of individual trees is not required.

(6) Include reasonable provisions for access onto and within the subject property.

(7) Exclude normal forestry activities on property taxed under the present-use value standard or conducted pursuant to a forestry management plan prepared or approved by a forester registered pursuant to Chapter 89B of the General Statutes. However, for such properties, a ~~county~~ county, city, or town may deny a building permit or refuse to approve a site or subdivision plan for a period of three years following completion of the harvest if all or substantially all of the perimeter buffer trees that should have been protected were

removed from the tract of land for which the permit or plan approval is sought. A ~~county~~ county, city, or town may deny a permit or refuse to approve a site or subdivision plan for a period of two years if the owner replants the buffer area within 120 days of harvest with plant material that is consistent with buffer areas required under the county's ordinances.

"**SECTION 2.(c)** Before adopting an ordinance under this section, the county board of commissioners or governing body of the city or town shall hold a public hearing on the proposed ordinance. Notice of the public hearing shall be given in accordance with G.S. ~~153A-323.~~153A-323 or G.S. 160A-364, as appropriate.

"**SECTION 2.(d)** ~~This~~ As to county ordinances, this section does not apply to areas located within the corporate limits or extraterritorial planning jurisdiction under Article 19 of Chapter 160A of the General Statutes of any municipality.

"**SECTION 2.(e)** This section applies to the Town of Rutherfordton and to Wake County only."

SECTION 80.(a) Section 5 of S.L. 2003-147 is repealed.

SECTION 80.(b) G.S. 115C-264 reads as rewritten:

"**§ 115C-264. Operation.**

In the operation of their public school food programs, the public schools shall participate in the National School Lunch Program established by the federal government. The program shall be under the jurisdiction of the Division of School Food Services of the Department of Public Instruction and in accordance with federal guidelines as established by the Child Nutrition Division of the United States Department of Agriculture.

Each school may, with the approval of the local board of education, sell soft drinks to students so long as soft drinks are not sold (i) during the lunch period, (ii) at elementary schools, or (iii) contrary to the requirements of the National School Lunch Program.

All school food services shall be operated on a nonprofit basis, and any earnings therefrom over and above the cost of operation as defined herein shall be used to reduce the cost of food, to serve better food, or to provide free or reduced-price lunches to indigent children and for no other purpose. The term "cost of operation" shall be defined as actual cost incurred in the purchase and preparation of food, the salaries of all

personnel directly engaged in providing food services, and the cost of nonfood supplies as outlined under standards adopted by the State Board of Education. "Personnel" shall be defined as food service supervisors or directors, bookkeepers directly engaged in food service record keeping and those persons directly involved in preparing and serving food: Provided, that food service personnel shall be paid from the funds of food services only for services rendered in behalf of lunchroom services. Any cost incurred in the provisions and maintenance of school food services over and beyond the cost of operation shall be included in the budget request filed annually by local boards of education with boards of county commissioners. ~~It shall not be mandatory that the provisions of G.S. 115C-522(a) and 143-129 be complied with~~ Public schools are not required to comply with G.S. 115C-522(a) in the purchase of supplies and food for such school food services."

SECTION 80.(c) Section 12 of S.L. 2003-147 reads as rewritten:

"**SECTION 12.** Sections 1 through ~~8~~ 9 of this act become effective for a local school administrative unit when the unit is certified by the Department of Public Instruction as being E-Procurement compliant, as provided in Section ~~9~~ 10 of this act, or April 1, 2004, whichever occurs first. The remainder of this act is effective when it becomes law."

SECTION 80.(d) Subsections (a) and (b) of this section become effective for a local school administrative unit when the Department of Public Instruction certifies that unit as being E-Procurement compliant as provided in Section 10 of S.L. 2003-147, or April 1, 2004, whichever occurs first.

SECTION 81. Section 2 of S.L. 2003-194 reads as rewritten:

"**SECTION 2.** This act is effective when it becomes law and applies to the 2003-2004 academic ~~year~~ year, beginning with the Spring 2004 semester, and each subsequent year."

SECTION 82.(a) The introductory language of Section 26.(e) of S.L. 2003-212 reads as rewritten:

"**SECTION 26.(e)** ~~G.S. 58-6-30~~ G.S. 58-15-30 reads as rewritten:".

SECTION 82.(b) G.S. 58-31-66, as enacted in Section 27 of S.L. 2003-212, reads as rewritten:

"**§ 58-31-66. Public construction contract surety bonds.**

~~(a)~~ Neither the State nor any county, city, or other political subdivision of the State, or any officer, employee, or other person acting on behalf of any such entity shall, with respect to any public building or construction contract, require any contractor, bidder, or proposer to procure a bid bond, payment bond, or performance bond from a particular surety, agent, producer, or broker.

~~(b) Nothing in this section prohibits an officer or employee acting on behalf of the State or a county, city, or other political subdivision of the State from:~~

~~(1) Approving the form, sufficiency, or manner of execution of the surety bonds furnished by the surety selected by the bidder to underwrite the bonds.~~

~~(2) Disapproving, on a reasonable, nondiscriminatory basis, the surety selected by the bidder to underwrite the bonds~~ because ~~of the financial condition of the surety.~~

~~(c) A violation of this section renders the public building or construction contract void ab initio.~~"

SECTION 82.(c) Subsection (a) of this section becomes effective January 1, 2004. Subsection (b) of this section becomes effective October 1, 2003.

SECTION 83. Section 2.2(a) of S.L. 2003-284 reads as rewritten:

"**SECTION 2.2.(a)** The General Fund availability used in developing the 2003-2005 biennial budget is shown below:

	FY 2003-2004	**FY 2004-2005**
...		
Adjustments to Availability: 2003 Session		
...		
~~Attorney General Settlement Funds~~	~~10,000,000~~	~~0~~
Conflicts of Interest Global Settlement	10,000,000	0

..."

SECTION 84. Section 3.1 of S.L. 2003-284 reads as rewritten:

"**SECTION 3.1.** Appropriations from the State Highway Fund for the maintenance and operation of the Department of Transportation, and for other purposes as enumerated, are made for the biennium ending June 30, 2005, according to the following schedule:

	Current Operations – Highway Fund	**2003-2004**	**2004-2005**
(1)	Transportation Admin. (84210)	$72,776,692	$72,898,916
(2)	Transportation Operations (84220)	28,190,393	28,150,605
(3)	Transportation Programs (84230)		
	State Construction		
	Secondary	89,600,000	90,590,000
	Urban	28,000,000	~~14,000,000~~
			28,000,000
	Public Access	2,000,000	2,000,000
	Spot Safety	9,100,000	9,100,000
	Contingency	15,000,000	10,000,000
	Federal Aid Match	4,160,000	4,280,000
	Maintenance	582,507,482	573,436,154
	Asphalt Plant/OSHA	425,000	425,000
	Capital	-	-
	Ferry Operations	19,677,283	19,677,283
	Aid to Municipalities	89,600,000	90,590,000
	Rail	15,090,919	15,531,153
	Public Transit	79,705,266	80,302,926
(4)	Governor's Highway Safety (84240)	292,449	293,118
(5)	Transportation Regulation (84260)	102,032,933	102,896,913
(6)	Reserves, Transfers, Other Agencies (84270)	214,626,257	217,352,347
TOTAL		**$1,352,784,674**	~~**$1,331,524,415**~~
			$1,345,524,415"

SECTION 85. Section 6.3(b) of S.L. 2003-284 reads as rewritten:

"**SECTION 6.3.(b)** ~~The~~ Except as provided in G.S. 116-30.1 through G.S. 116-30.4, the Office of State Budget and Management shall report the necessary adjustments to the General Assembly no later than 10 days after the convening of the 2004 Regular Session of the 2003 General Assembly. The Director of the Budget shall include the adjustments prepared in accordance with subsection (a) of this section in the recommended adjustments to the authorized budget for the 2004-2005 fiscal year."

SECTION 86. Section 7.36 of S.L. 2003-284 reads as rewritten:

"**SECTION 7.36.** The State Board of ~~Education~~ Education, in consultation with the State Board of Community Colleges and the Board of Governors of The University of North Carolina, shall study the issue of weighted grades for high school students who take university and community college courses. The State Board of Education shall report the results of the study and its recommendations on the issue to the Joint Legislative Education Oversight Committee by December 15, 2003."

SECTION 87. Section 7.5 of S.L. 2003-284 reads as rewritten:

"**SECTION 7.5.**~~(a) Funds in the Reserve for Experience Step Increase for Teachers and Principals in Public Schools shall be used for experience step increases for employees of schools operated by a local board of education, the Department of Health and Human Services, the Department of Correction, or the Department of Juvenile Justice and Delinquency Prevention who are paid on the teacher salary schedule or the principal and assistant principal salary schedule.~~

~~**SECTION 7.5.(b)**~~ Effective July 1, 2003, any permanent certified personnel employed on July 1, 2003, and paid on the teacher salary schedule with 29+ years of experience shall receive a one-time bonus equivalent to the average increase of the 26 to 29 year steps. Effective July 1, 2003, any permanent personnel employed on July 1, 2003, and paid at the top of the principal and assistant principal salary schedule shall receive a one-time bonus equivalent to two percent (2%). For permanent part-time personnel, the one-time bonus shall be adjusted pro rata. Personnel defined under G.S. 115C-325(a)(5a) are not eligible to receive the bonus."

SECTION 88. Section 10.5 of S.L. 2003-284 reads as rewritten:

"**SECTION 10.5.** ~~The Department of Health and Human Services may administer the "Senior Cares" prescription drug access program approved by the Health and Wellness Trust Fund Commission and funded from the Health and Wellness Trust Fund.~~ (a) The Department of Health and Human Services may apply to the Center for Medicare and Medicaid Services (CMS) for a Medicaid waiver under section 1115 of the Social Security Act to provide federal matching funds for limited prescription drug and insulin coverage, prescription assistance and medication management for elderly persons. The waiver shall provide a prescription drug benefit of not more than one thousand dollars ($1,000) per person per benefit year for eligible individuals. The waiver shall require copayments of not less than five dollars ($5.00) per prescription for

generic drugs and not less than fifteen dollars ($15.00) per prescription for brand name drugs. Eligible individuals shall be persons who:

(1) Are sixty-five years of age or older;
(2) Are ineligible for Medicaid prescription drug and insulin coverage;
(3) Are without coverage for prescription drugs or insulin under other public or private health insurance; and
(4) Have a family income that is two hundred percent (200%) or less of the federal poverty level.

The Department shall limit enrollment in the Senior Cares Program based on availability of funds.

"**SECTION 10.5.(b)** Funds previously allocated by the Health and Wellness Trust Fund Commission for Senior Care, as reflected in the Memorandum of Understanding with the Department of Health and Human Services dated May 14, 2002, and the funds allocated by the Commission for the medication management and prescription assistance programs shall be used as the required State and local match for the waiver. No funds from the General Fund may be used to support the waiver. Funds for the waiver shall be from the Health and Wellness Trust Fund and other available non-General Fund funds for the duration of the waiver.

"**SECTION 10.5.(c)** The administration of the Senior Care Program by the Department of Health and Human Services, as authorized in Section 10.5 of S.L. 2003-284, shall include eligibility determination.

"**SECTION 10.5.(d)** The Department of Health and Human Services shall administer the Senior Cares Program and shall implement the waiver in accordance with this section.

"**SECTION 10.5.(e)** This section is effective when this act becomes law and expires upon the expiration or termination of the CMS waiver or at the time funds for the Program are terminated, whichever occurs first.

"**SECTION 10.5.(f)** The Department of Health and Human Services shall, within 30 days of receipt of the waiver, report to the Joint Legislative Oversight Committee on Governmental Operations on administration of the Senior Cares Program and implementation of the waiver authorized by this section."

SECTION 89. S.L. 2003-284 is amended by adding a new section following Section 10.8F to read:

"CHILD FATALITY TASK FORCE ADMINISTRATIVE SUPPORT

SECTION 10.8G. The Department of Health and Human Services shall use existing resources to continue to provide administrative support for the North Carolina Child Fatality Task Force."

SECTION 90. S.L. 2003-284 is amended by adding a new section following Section 10A.1 to read:

"MAINTENANCE MECHANIC POSITION FOR DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

SECTION 10A.2.(a) Of the funds appropriated in this act to the Department of Agriculture and Consumer Services, the sum of twenty-seven thousand eight hundred eighty dollars ($27,880) for the 2003-2004 fiscal year may be used to establish and support one Maintenance Mechanic position at the Oxford Research Station and the sum of thirty-seven thousand one hundred seventy-three dollars ($37,173) for the 2004-2005 fiscal year may be used to continue and support the Maintenance Mechanic position at the Oxford Research Station.

SECTION 10A.2.(b) This section becomes effective October 1, 2003."

SECTION 91. S.L. 2003-284 is amended by adding a new section following Section 10A.2, as enacted in Section 90 of this act, to read:

"DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES GRAPE GROWERS FUNDS DO NOT REVERT

SECTION 10A.3.(a) Pursuant to G.S. 105-113.81A, funds credited to the Department of Agriculture and Consumer Services for the North Carolina Grape Growers Council for the 2002-2003 fiscal year shall not revert to the General Fund but shall remain available to the Council.

SECTION 10A.3.(b) This section becomes effective June 30, 2003."

SECTION 92. Section 11.4(e) of S.L. 2003-284 reads as rewritten:

"**SECTION 11.4.(e)** It is the intent of the General Assembly that the funds under ~~subsection (c)~~ subsection (d) of this section are recurring funds."

SECTION 93. Section 12.6C(a) of S.L. 2003-284 reads as rewritten:

"**SECTION 12.6C.(a)** The North Carolina Industrial Commission may retain the additional revenue generated by raising the fee charged to parties for the filing of compromised settlements from two hundred dollars ($200.00) to an amount that does not exceed two hundred fifty dollars ($250.00) for the purpose of replacing existing

computer hardware and software used for the operations of the Commission. These funds may also be used to prepare any assessment of hardware and software needs prior to purchase. The Commission may not retain any fees ~~under this section~~for the purpose of computer system replacement unless they are in excess of the current two-hundred-dollar ($200.00) fee charged by the Commission for filing a compromise settlement."

SECTION 94. Section 12.6C(e) of S.L. 2003-284 reads as rewritten:

"**SECTION 12.6C.(e)** The Commission may retain additional fees as authorized by subsection (a) of this section only in the 2003-2005 fiscal biennium and ~~shall not retain any additional fees after the 2003-2005 fiscal biennium.~~the 2005-2007 fiscal biennium."

SECTION 95. Section 12.11(d)(1)b. of S.L. 2003-284 reads as rewritten:

"b. $197,410 in each fiscal year for direct grants to local community development corporations that have not previously received State ~~funds; and~~funds or are in the start-up phase; and".

SECTION 96. Section 17.1 of S.L. 2003-284 is amended by adding the following new subsection to read:

"**SECTION 17.1.(d)** This section becomes effective October 1, 2003."

SECTION 97. Section 21.2(a) of S.L. 2003-284 is rewritten to read:

"**SECTION 21.2.(a)** Notwithstanding the cash management provisions of G.S. 146-86.11, the State Controller may authorize the Office of Information Technology Services (ITS) to purchase not more than four infrastructure maintenance agreements for periods not exceeding two years where the terms of those maintenance agreements require payment of the full purchase price at the beginning of the maintenance period. The State Controller shall not authorize the agreements authorized by this section unless all of the following conditions are met:

(1) The proposed infrastructure maintenance agreement is entered into after June 30, 2003, and before July 1, 2004.

(2) The State Controller receives conclusive evidence that the proposed infrastructure agreement would be more cost-effective than any similar agreement that complies with G.S. 146-86.11.

(3) The State Controller verifies that the savings resulting from the proposed infrastructure agreement will be passed on to users in the form of lower rates for ITS services.

(4) The purchase of the proposed maintenance agreement complies in all other respects with applicable statutes and rules.

(5) ITS shall make adjustments of excess revenue, based on IRMC-approved rates, over allowable costs."

SECTION 98. Section 29.21 of S.L. 2003-284 reads as rewritten:

"**SECTION 29.21.** The Joint Legislative Transportation Oversight Committee shall contract with an independent consultant to study the project delivery process of the Department of Transportation. The study shall examine all aspects of the project delivery process, including (i) Department of Transportation planning, design, and contract letting procedures, and (ii) the effect of other resource and regulatory agency decisions and processes on the project delivery process. The study shall identify all significant causes of delay in the project delivery process, and suggest specific, practical solutions to decrease the time it takes to deliver a transportation project from inception to completion. The Committee shall endeavor to complete this study by April 1, ~~2003.~~ 2004. The provisions of G.S. 120-32.02 shall apply to any contract with a consultant pursuant to this section."

SECTION 99. Section 30.3 of S.L. 2003-284 reads as rewritten:

"**SECTION 30.3.** The annual salaries, payable monthly, for the 2003-2004 and 2004-2005 fiscal years for the following executive branch officials are:

Executive Branch Officials	**Annual Salary**
Chairman, Alcoholic Beverage Control Commission	$92,946
State Controller	130,078
Commissioner of Motor Vehicles	92,946
Commissioner of Banks	104,523
Chairman, Employment Security Commission	129,913
State Personnel Director	102,119
Chairman, Parole Commission	84,871
Members of the Parole Commission	78,356
Chairman, Utilities Commission	116,405
Members of the Utilities Commission	104,523

Executive Director, Agency for Public Telecommunications	78,356
~~General Manager, Ports Railway Commission~~	~~70,755~~
Director, Museum of Art	95,240
Executive Director, North Carolina Housing Finance Agency	115,031
Executive Director, North Carolina Agricultural Finance Authority	90,470
State Chief Information Officer	130,000"

SECTION 100.(a) Section 30.20(k) of S.L. 2003-284 is repealed.

SECTION 100.(b) G.S. 135-106(a), as rewritten by Section 30.20(l) of S.L. 2003-284, reads as rewritten:

"(a) Upon the application of a beneficiary or participant or of his legal representative or any person deemed by the Board of Trustees to represent the participant or beneficiary, any beneficiary or participant who has had five or more years of membership service may receive long-term disability benefits from the Plan upon approval by the Board of Trustees, commencing on the first day succeeding the conclusion of the short-term disability period provided for in G.S. 135-105, provided the beneficiary or participant makes application for such benefit within 180 days after the short-term disability period ceases, after salary continuation payments cease, or after monthly payments for Workers' Compensation cease, whichever is later; Provided, that the beneficiary or participant withdraws from active service by terminating employment as a teacher or State employee; Provided, that the Medical Board shall certify that such beneficiary or participant is unable to perform any occupation ~~for which the beneficiary or participant is reasonably qualified for by~~ or employment commensurate to the beneficiary's or participant's education, training or experience, which is available in the same commuting area for State employees or within the same local school administrative unit for school personnel, without an adverse impact on the beneficiary's or participant's career status, and in which the beneficiary or participant can be expected to earn not less than sixty-five percent (65%) of that beneficiary's or participant's predisability earnings, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent; Provided further that the Medical Board shall not certify any beneficiary or participant as disabled who is in receipt of any payments on account of the same incapacity which existed when the beneficiary first established membership in the Retirement System. The Board of Trustees may extend this 180-day filing requirement

upon receipt of clear and convincing evidence that application was delayed through no fault of the disabled beneficiary or participant and was delayed due to the employers' miscalculation of the end of the 180-day filing period. However, in no instance shall the filing period be extended beyond an additional 180 days.

The Board of Trustees may require each beneficiary who becomes eligible to receive a long-term disability benefit to have an annual medical review or examination for the first five years and thereafter once every three years after the commencement of benefits under this section. However, the Board of Trustees may require more frequent examinations and upon the advice of the Medical Board shall determine which cases require such examination. Should any beneficiary refuse to submit to any examination required by this subsection or by the Medical Board, his long-term disability benefit shall be suspended until he submits to an examination, and should his refusal last for one year, his benefit may be terminated by the Board of Trustees. If the Medical Board finds that a beneficiary is no longer unable to perform any occupation for which the beneficiary or participant is reasonably qualified for by training or experience, the Department of State Treasurer and the Board of Trustees may terminate the beneficiary's long-term disability benefits effective on the last day of the month in which the Medical Board certifies that the beneficiary is no longer disabled.

As to the requirement of five years of membership service, any participant or beneficiary who does not have five years of membership service within the 96 calendar months prior to conclusion of the short-term disability period or cessation of salary continuation payments, whichever is later, shall not be eligible for long-term disability benefits.

Notwithstanding the requirement that the incapacity was incurred at the time of active employment, any participant who becomes disabled while on an employer approved leave of absence and who is eligible for and in receipt of temporary total benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, will be eligible for all benefits provided under this Article."

SECTION 100.(c) Subsection (a) of this section becomes effective July 1, 2003. Subsection (b) of this section becomes effective July 1, 2004, and applies only to persons who are not vested in the disability plan in question on July 1, 2004.

SECTION 101. Section 45.12 of S.L. 2003-284 reads as rewritten:

"**SECTION 45.12.** Sections 45.2 through 45.5, Section 45.6, and Sections ~~45.8~~ 45.9 through 45.10 of this act become effective July 15, 2003. Sections 45.6A, 45.7, 45.8, and 45.11 become effective October 1, 2003. Section 45.5A and Section 45.6B become effective January 1, 2004. The remainder of this part is effective when it becomes law."

SECTION 102. Section 46.1 of S.L. 2003-284 reads as rewritten:

"**SECTION 46.1.** Repair and Renovation. – This section authorizes the issuance or incurrence of special indebtedness in a maximum aggregate principal amount of three hundred million dollars ($300,000,000) to be used only in accordance with this section for the repair and renovation of State facilities and related infrastructure that are supported from the General Fund.

Proceeds of the Repair and Renovation special indebtedness shall be used only for the purposes and in accordance with the procedures provided in G.S. 143-15.3A, the Repairs and Renovations Reserve ~~Account.~~Account and Section 31.5 of this act, as provided in this section.

Except in the case of an emergency as provided in G.S. 143-15.3A, the Director of the Budget shall use the Repair and Renovations funds only for repairs and renovations that have been approved by an act of the General Assembly or, if the General Assembly is not in session, for repairs and renovations about which the Director of the Budget has first consulted with the Joint Legislative Commission on Governmental Operations under G.S. 143-15.3A(c).

For debt to be issued during the 2003-2004 fiscal year, the Director of the Budget shall select repair and renovation projects as follows: an amount equal to forty-six percent (46%) of the debt shall be issued for projects identified by the Board of Governors of The University of North Carolina in accordance with Section 31.5 of this act and fifty-four percent (54%) shall be issued for projects identified by the Office of State Budget and Management in accordance with Section 31.5 of this act.

The Director of the Budget shall direct the State Treasurer to carry out the financing for repair and renovation projects selected pursuant to this section. Special indebtedness authorized by this section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of the General Statutes, as enacted by this part."

SECTION 103. The lead-in language of Section 46.2 of S.L. 2003-284 is rewritten to read:

"**SECTION 46.2.** Article 9 of Chapter 142 of the General Statutes, as enacted by S.L. 2003-314, is rewritten to read:".

SECTION 104. Section 3 of S.L. 2003-300 reads as rewritten:

"**SECTION 3.** Waiver of Deadlines, Fees, and Penalties. – Except as prohibited by the Constitution, the Governor may extend deadlines and waive penalties or fees as is necessary to alleviate hardship created for deployed military personnel serving in Operation Iraqi Freedom. This authority includes the authority to do all of the following:

(1) Extend for up to 90 days from the end of deployment the validity of a permanent or temporary drivers license issued under G.S. 20-7 to deployed military personnel.

(2) Waive civil penalties and restoration fees under G.S. 20-309 for any deployed military personnel whose motor vehicle liability insurance lapsed during the period of deployment or within 90 days after the military member returned to North Carolina if the military member certifies to the Division of Motor Vehicles that the motor vehicle was not driven on the highway by anyone during the period in which the motor vehicle was uninsured and that the owner now has liability insurance on the motor vehicle.

(3) Allow up to 90 days from the end of deployment for any deployed military personnel to renew ~~a license as defined in G.S. 93B-1.~~ an occupational license. During the period of deployment or active duty and until the expiration of the 90-day period provided for in this subdivision, expired occupational licenses that are within the scope of this act remain valid, as if they had not expired. For the purposes of this section, the term "occupational license" means any license (other than a privilege license), certificate, or other evidence of qualification that an individual is required to obtain before the individual may engage in or represent himself or herself to be a member of a particular profession or occupation.

(4) Require that any renewal fee applicable to the renewal of a license under subdivision (3) of this section be prorated over the period

covered by the license and reduced in proportion to the period of time that the licensee was deployed outside the State."

SECTION 105. Since Section 2 of S.L. 2003-315 has enacted the same matter, if House Bill 47, 2003 Regular Session, becomes law, then Section 2 of House Bill 47 is repealed, and G.S. 145-19, as enacted by House Bill 47, is recodified as G.S. 145-20.

SECTION 106. If House Bill 1028, 2003 Regular Session, becomes law, then G.S. 113A-115.1(b), as enacted by Section 3 of House Bill 1028, reads as rewritten:

"(b) No person shall construct a permanent erosion control structure in an ocean shoreline. The Commission shall not permit the construction of a temporary erosion control structure that consists of anything other than sandbags in an ocean shoreline. This section shall not apply to (i) any permanent erosion control structure that is approved pursuant to an exception set out in a rule adopted by the Commission prior to 1 July 2003 or (ii) any permanent erosion control structure that was originally constructed prior to 1 July 1974 and that has since been in continuous use to protect an inlet that is maintained for navigation. This section shall not be construed to limit the authority of the Commission to adopt rules to designate or protect areas of environmental concern, to govern the use of sandbags, or to govern the use of erosion ~~coastal~~ control structures in estuarine shorelines."

SECTION 107. Section 1 of S.L. 2003-320 reads as rewritten:

"**SECTION 1.** Mayland Community College may, with prior approval of the State Board of Community Colleges and notwithstanding G.S. 115D-15 or Article 12 of Chapter 160A of the General Statutes:

(1) Notwithstanding the provisions of G.S. 160A-272, lease the former Lexington Furniture Building for terms it deems appropriate ~~Lease at private sale the former Lexington Furniture Building for such consideration as it deems sufficient;~~ and

(2) Sell at private sale the former Hampshire Hosiery Building to Mitchell County Development Foundation, Inc., for such consideration as it deems sufficient."

SECTION 108. If Senate Bill 236, 2003 Regular Session, becomes law, Section 12 of that bill reads as rewritten:

"**SECTION 12.** Parts 1 and 8 of this act are effective for taxable years beginning on or after January 1, 2003. Part 5 of this act becomes effective July 1, 2003. ~~Part 9 of this act is effective for taxable years beginning on or after January 1, 2003, and shall expire for taxable years beginning on or after January 1, 2005.~~ Part 10 of this act becomes effective January 1, 2004. The remainder of this act is effective when it becomes law."

SECTION 109.(a) If Senate Bill 668, 2003 Regular Session, becomes law, then G.S. 18B-1001.1(b), as enacted by that law, reads as rewritten:

"(b) A wine shipper permittee that ships to addresses in the State more than 1,000 cases of wine in a calendar year must appoint at least one wholesaler to offer and sell the products of the wine shipper permittee under Article 12 of this Chapter if the wine shipper permittee is contacted by a wholesaler that wishes to sell the products of the wine shipper permittee. This provision shall not be construed to require the wine shipper permittee to appoint the wholesaler that originally contacted the wine shipper permittee. Wine purchased by a resident of the State at the premises of the wine shipper permittee and shipped to an address in the State under G.S. ~~18B-109(b)~~18B-109(d) shall not be included in calculating the total of 1,000 cases per year."

SECTION 109.(b) This section becomes effective October 1, 2003.

SECTION 110.(a) If Senate Bill 919, 2003 Regular Session, becomes law, G.S. 50B-3.1(h) as enacted by that law, reads as rewritten:

"(h) Disposal of Firearms. – If the defendant does not file a motion requesting the return of any firearms, ammunition, or permits surrendered within the time period prescribed by this section, if the court determines that the defendant is precluded from regaining possession of any firearms, ammunition, or permits surrendered, or if the defendant or third-party owner fails to remit all fees owed for the storage of the firearms or ammunition within 30 days of the entry of the order granting the return of the firearms, ammunition, or permits, the sheriff who has control of the firearms, ammunition, or permits shall give notice to the defendant, and the sheriff shall apply to the court for an order of disposition of the firearms, ammunition, or permits. The judge, after a hearing, may order the disposition of the firearms, ammunition, or permits in one or more of the ways authorized by law, including subdivision (4), (4a), (5), or (6) of G.S. 14-269.1. If a sale by the sheriff does occur, any proceeds from the sale after deducting any costs associated with the sale, and in accordance with all applicable State

and federal law, shall be provided to the defendant, if requested by the defendant by motion made before the hearing or at the hearing and if ordered by the judge."

SECTION 110.(b) This section becomes effective December 1, 2003, and applies to offenses committed on or after that date.

SECTION 111. Wherever the term "Public Campaign Financing Fund" appears in Chapter 105 or Chapter 163 of the General Statutes, in any other Chapter of the General Statutes, or in any act of the General Assembly, the term is changed to read "Judicial Elections Fund."

SECTION 112. If House Bill 1182, 2003 Regular Session, becomes law, then the title of that act is amended by adding the following immediately before the period: "AND PROVIDE ADDITIONAL CONSUMER PROTECTIONS".

SECTION 113.(a) If by 10:00 A.M. on February 9, 2004, an act to redistrict the State House of Representatives or the State Senate has not been approved under section 5 of the Voting Rights Act of 1965 or is otherwise prohibited by law from being implemented, the State Board of Elections shall postpone the primary election for all offices in G.S. 163-1 until a date the State Board determines to be fair to all parties, potential candidates, and voters. The State Board shall make its decision as soon as practical, taking into account the likelihood of receiving a final approval of any pending redistricting plan.

SECTION 113.(b) If the filing period or primary election or both are postponed under this section, the State Board of Elections shall adopt rules for the implementation of the primary election schedule. Adoption of those rules is not subject to Chapter 150B of the General Statutes. Those rules shall include a postponed filing period and other necessary parts of the election schedule. The rules shall include reset dates for absentee balloting that shall as nearly as practical provide the same amount of time for voters and election officials set forth in Article 20 of Chapter 163 of the General Statutes. The State Board shall, as soon as practical, distribute its rules, including a Revised Primary Timetable, to county boards of elections.

SECTION 113.(c) The State Board of Elections shall be governed by the following limitations:

(1) Any postponement of the candidate filing period or the primary shall apply to all offices in G.S. 163-1 whose primary elections are regularly scheduled on primary day, so that there is one candidate filing period

for all those offices and one primary election for all those offices. The postponement shall also apply to any elections to local office held on that date (such as elections for boards of education under G.S. 115C-37) and the filing period for those offices.

(2) The State Board of Elections does not have the authority to dispense with a second primary. The State Board shall provide for a second primary in its schedule to any candidate entitled to call for a second primary under the provisions of G.S. 163-111.

(3) The State Board shall set a filing period no shorter than 10 business days.

(4) Before making its decision to postpone a filing period or primary election under this section, the State Board of Elections shall consult with the President Pro Tempore of the Senate, the Speakers of the House of Representatives, and the leaders of both political parties in the House and Senate.

SECTION 113.(d) If the primary election is postponed under subsection (a) of this section, any local act for election of a board of education elected at the primary which provides that persons elected shall take office in July of the year of the election is modified for the 2004 election only to provide that the persons elected shall take office in September of the year of the election.

SECTION 113.(e) For the 2004 primary election only, G.S. 163-112 shall be applied by substituting "10 days" for "30 days" wherever it appears.

SECTION 113.(f) The provisions of this section apply during the 2004 election year only.

SECTION 114. The personnel reductions in the Department of Revenue, as provided in Item #73 on page J32 of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, June 28, 2003, are amended by deleting "# 4784-0000-0076-639" and substituting "#4784-0000-0074-116."

SECTION 115. The budget reductions in the Department of Administration, as provided in Item #5 on page J2 of the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets, June 28, 2003, are amended by deleting the amounts listed under "Old Amount" in the following table and substituting the amounts listed under "New Amount":

Line Item	Old Amount	New Amount
531461 EPA & SPA Long.	(59,814)	(51,036)
531511 Social Sec. Contr.	(4,584)	(3,912)
531521 Retirement Contr.	(1,820)	(1,553)
532220 Energy-natural gas	(36,880)	(36,875)
532230 Energy Serv.Water/sewer	(8,604)	(8,597)
533510 Clothing and Uniforms	(14,127)	(0)
532210 Energy Electric	(149,636)	(173,492).

SECTION 116.(a) The Department of Environment and Natural Resources may identify positions in the Administrative Divisions and Regional Offices, in addition to the operating costs in the Administrative Divisions and Regional Offices, to comply with a reduction of two hundred thousand dollars ($200,000) for the 2003-2004 fiscal year and for the 2004-2005 fiscal year in operating support in the Administrative Divisions and Regional Offices required by Section 2.1, S.L. 2003-284, as set forth in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets. Notwithstanding G.S. 143-23 or G.S. 143-34.1, the Department of Environment and Natural Resources may continue and support the positions identified under this subsection from receipts rather than from its General Fund appropriation in order to fulfill the reduction of two hundred thousand dollars ($200,000) under this subsection.

SECTION 116.(b) The Department of Environment and Natural Resources may identify operating support reductions in the Division of Parks and Recreation, in addition to reductions to seasonal staff in the Division of Parks and Recreation, to comply with a reduction of one hundred forty-four thousand dollars ($144,000) for the 2003-2004 fiscal year and for the 2004-2005 fiscal year in seasonal staff in the Division of Parks and Recreation required by Section 2.1, S.L. 2003-284, as set forth in the Joint Conference Committee Report on the Continuation, Expansion and Capital Budgets.

SECTION 116.(c) The Department of Environment and Natural Resources shall report to the Joint Legislative Commission on Governmental Operations no later than 30 days after the 2003 Regular Session of the 2003 General Assembly adjourns to a date certain the specific line items from which the reductions under subsection (a) and subsection (b) of this section were identified.

SECTION 117.(a) Section 30.16 of S.L. 2003-284 is amended by adding the following new subsection to read:

"**SECTION 30.16.(f)** In lieu of the maximum annual employer contributions to the Teachers' and State Employees' Comprehensive Major Medical Plan in subsections (d) and (e) of this section, employers, including the State Retirement Systems, may make contributions, payable monthly, each monthly payment not to exceed sixty dollars and fifty cents ($60.50), on behalf of each covered employee or retired employee to sponsors of TRICARE Supplemental Health Insurance programs for employees or retired employees who elect to be covered by the TRICARE Military Health System's standard benefit option and who elect not to be covered by the Teachers' and State Employees' Comprehensive Major Medical Plan."

SECTION 117.(b) This section becomes effective January 1, 2004.".

SECTION 118. Funds appropriated in S.L. 2003-284 for Lumbee Memorial Recognition shall not be paid to the Lumbee Tribe Self-Determination Commission but shall be paid to the Lumbee Tribe of North Carolina.

SECTION 118.5. The Secretary of Health and Human Services shall appoint a planning committee to assist in the development of a State Plan for Public Health Services. The planning committee shall include representatives of the Division of Public Health, the Division of Medical Assistance, and the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services in the Department of Health and Human Services, local health departments (including district health departments and rural and urban area health departments), boards of county commissioners, local boards of health, and consumers, appointed by the Secretary. The planning committee shall also include ~~four~~ eight members of the General Assembly, ~~two~~ four appointed by the President Pro Tempore of the Senate, and ~~two~~ four appointed by the Speakers of the House of Representatives. The Secretary shall appoint the chair of the planning committee. The Secretary shall provide to the Committee public health priorities submitted by local public health agencies for consideration in the development of a State Plan for Public Health Services. The planning committee shall address the following:

(1) The vision and mission of the State Public Health System.

(2) Strategies for strengthening the stability of the public health infrastructure.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 137

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S137-ARH-85 [v.2]

(3) Strategies for strengthening the competencies of the State and local public health workforce.
(4) Priorities and goals for the State Public Health System concerning public health outcomes and improvements.
(5) A plan to identify resources to provide adequate funding to provide essential public health services and functions.
(6) Other issues relating to providing leadership for the provision of essential public health services and functions.

The Secretary shall report to the Joint Legislative Health Care Oversight Committee on or before May 1, 2004, on the status of the State Plan for Public Health Services.

PART III. MUNICIPAL SERVICE DISTRICTS";

and further moves to amend the bill by renumbering Sections 1 through 4 to be Sections 119 through 122.

and further moves to amend the bill on page 5, line 15, by rewriting that line to read:

"**SECTION 123.** Sections 83 through 103, Sections 114 through 115, and Section 118 of this act become effective July 1, 2003, unless otherwise provided in those sections. Unless otherwise provided, the remainder of this act is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

47595 SHIELDS BUSINESS FORMS, RALEIGH, NC 27605

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NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

S. B. No. 137

COMMITTEE SUBSTITUTE _____

DATE 7-19-03

Amendment No. H2

(to be filled in by Principal Clerk)

Rep.) Luebke
)
Sen.)

AMENDMENT #1

moves to amend ~~the bill~~ on page 2, line 9

( ) WHICH CHANGES THE TITLE:

by adding after the word "applied" and before the period ~~,~~ the following:

"unless the person has applied for an identification card solely".

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 137

AMENDMENT NO. #3
(to be filled in by
Principal Clerk)

S137-ARH-86 [v.1]

Date 7-19 ,2003

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Representative Lenoble

moves to amend the bill as amended by Amendment No. ___ (S137-ARH-85[v.2]) by adding the following new SECTION 102.1 in PART II to read:

"**SECTION 102.1.** Each State department or other agency and each constituent institution or affiliated institution of The University of North Carolina that awards or enters into contracts for the erection, construction, alteration, or repair of buildings shall develop and implement a program to further increase opportunities for small, minority, and historically underutilized construction and construction-related firms to participate in such contracts. The program shall include (i) efforts to reduce barriers to bonding and capital accessibility on all construction-related projects and (ii) a plan to stimulate jobs and economic growth among the State's small, minority, and historically underutilized businesses." .

SIGNED Paul Luebke
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Dot

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.B. 137 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE MUNICIPAL SERVICE DISTRICTS FOR TRANSIT-ORIENTED DEVELOPMENT AND TO AUTHORIZE CITIES TO USE SPECIAL OBLIGATION FINANCING FOR PROJECTS WITHIN MUNCIPAL SERVICE DISTRICTS.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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, unfavorable as to Senate committee substitute bill.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 34
Second Edition Engrossed 3/11/03

Short Title:	Highway Trust Fund Study Committee.	(Public)
Sponsors:	Senators Gulley; Carpenter and Shubert.	
Referred to:	Rules and Operations of the Senate.	

February 13, 2003

A BILL TO BE ENTITLED

AN ACT TO REESTABLISH THE HIGHWAY TRUST FUND STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Study Committee Established. – There is established a Highway Trust Fund Study Committee to report to the Joint Legislative Transportation Oversight Committee.

SECTION 1.(b) Membership. – The Study Committee shall be composed of 20 members as follows:

(1) The Chairs of the Joint Legislative Transportation Oversight Committee.

(2) Five Representatives and four public members appointed by the Speaker of the House of Representatives.

(3) Five Senators and four public members appointed by the President Pro Tempore of the Senate.

The appointing authorities shall make their appointments to reflect the urban-rural diversity of the population of the State.

SECTION 1.(c) Duties of the Study Committee. – The Committee may study all aspects of the Highway Trust Fund. The study shall include the examination of all the following:

(1) The current status, cost estimates, and feasibility of Highway Trust Fund projects currently listed in Article 14 of Chapter 136 of the General Statutes.

(2) Unanticipated problems with the structure of the Highway Trust Fund.

(3) The gap between transportation funding structures and the actual transportation needs of the State.

(4) Allocation issues raised by the structure of the transportation funding equity distribution formula in G.S. 136-17.2A.

(5) The feasibility of altering the project eligibility requirements of the Highway Trust Fund, including permitting the Department of Transportation to add projects as long as adding those projects does not delay projects already to be funded by the Highway Trust Fund, projects scheduled under the 2002-2008 Transportation Improvement Program, and does not impair the cash-flow provisions of G.S. 136-176(a1).

(6) The feasibility of altering the funding allocation structure of the Highway Trust Fund, including the possible use of the Highway Trust Fund to provide the State match for available federal aid highway funds as long as using the funds in this manner does not delay projects already funded by the Highway Trust Fund, projects scheduled under the 2002-2008 Transportation Improvement Program, and does not impair the cash-flow provisions of G.S. 136-176(a1).

(7) Any other issue related to the Highway Trust Fund or transportation funding.

SECTION 1.(d) Vacancies. – The appointing authority shall fill any vacancy on the Study Committee.

SECTION 1.(e) Cochairs. – Cochairs of the Study Committee shall be the cochairs of the Joint Legislative Transportation Oversight Committee. The Study Committee shall meet upon the call of the Chairs. A quorum of the Study Committee shall be nine members.

SECTION 1.(f) Expenses of Members. – Members of the Study Committee shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 1.(g) Staff. – The Legislative Services Office shall assign professional and clerical staff to the assist the Study Committee in its work.

SECTION 1.(h) Consultants. – The Study Committee may hire consultants to examine specific issues and subjects related to the study, in accordance with G.S. 120-32.02.

SECTION 1.(i) Meetings During Legislative Session. – The Study Committee may meet during a regular or extra session of the General Assembly.

SECTION 1.(j) Meeting Location. – The Study Committee may meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Study Committee in the State Legislative Building or the Legislative Office Building.

SECTION 1.(k) Report. – The Committee may make interim reports, and shall make a final report to the Joint Legislative Transportation Oversight Committee no later than November 1, 2004. Regardless of whether it has filed an interim or final report, the Committee shall terminate on November 1, 2004.

SECTION 1.(l) Funding. – The Study Committee shall be funded from funds available to the Joint Legislative Transportation Oversight Committee, in accordance with G.S. 120-70.52.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 34
Second Edition Engrossed 3/11/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S34-CSST-66 [v.2]

7/19/2003 7:38:08 PM

Short Title: Highway Trust Fund Study Committee. (Public)

Sponsors:

Referred to:

February 13, 2003

A BILL TO BE ENTITLED

AN ACT CONCERNING STUDIES.

The General Assembly of North Carolina enacts:

PART I. TITLE

SECTION 1. This act shall be known as "The Studies Act of 2003".

PART II. LEGISLATIVE RESEARCH COMMISSION

SECTION 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 2003 Regular Session of the 2003 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The following groupings are for reference only:

(1) Government Regulatory Issues:
- a. Naturopathic physician licensure (H.B. 1142 – Hill)
- b. Authorizing local boards of health to impose fees for the regulation of food and lodging facilities (Reeves)
- c. Landscape/irrigation contractors (H.B. 947 – Gibson, McHenry)
- d. Fire safety in local confinement facilities (H.B. 1050 – Frye)
- e. Regulating ticket brokers (H.B. 1072 – Miner, Gibson)

(2) Transportation Issues:
- a. Handheld cell phone use while driving (H.B. 623 – Bowie, Luebke, McAllister)

b. State ports (H.B. 1249 – McComas)
c. Purchasing alternative-fuel or low-emission school buses (S.J.R. 768 – Bingham)
d. Dangers posed by issuing drivers licenses without verifying identity or residence (Shubert)
e. Commercial drivers license requirements and emergency situations (Sloan)

(3) Consumer Issues:
a. Debt collection practices (H.B. 1039 – Weiss; Rand)

(4) Insurance Issues:
a. Workers' compensation/agricultural employment (S.B. 632 – Clodfelter; H.B. 922 – Luebke)

(5) Health Issues:
a. Nursing shortage (S.J.R. 142 – Forrester, Purcell)
b. Medical errors (S.J.R. 634 – Forrester)
c. Environmental causes of cancer (S.J.R. 143 – Forrester, Purcell)
d. Educating the public on ovarian cancer risks and prevention (S.J.R. 636 – Forrester)
e. Reducing prescription drug costs (H.B. 1234 – Insko, Glazier, Ross)
f. Bulk purchasing of pharmaceutical drugs (S.J.R. 968 – Kinnaird)
g. Pain management and palliative care (Luebke)

(6) Criminal Law Issues:
a. Execution delay (S.B. 972 – Kinnaird, Carpenter, Holloman, Shaw, Clodfelter, Dorsett, Malone, Dannelly, Gulley, Lucas; H.B. 1199 – Luebke, Hackney, Miner, Alexander)
b. No profit from crime (H.B. 911 – Eddins, Holliman)
c. Reclassify statutory rape (H.B. 243 – Haire)
d. Amend habitual felon law (H.B. 242 – Haire)
e. Restructure prior criminal record points (H.B. 247 – Haire)
f. Sentence lengths (H.B. 264 – Haire; S.B. 208 – Gulley)
g. Adjust penalties for B1 to E offenses (H.B. 246 – Haire)
h. Arson offenses (H.B. 244 – Haire)
i. Drug trafficking laws (H.B. 241 – Haire)
j. Provide a high felony classification for discharging a weapon on school property (Hackney)
k. Judicial approval for pleas in certain cases (H.B. 1139; Clodfelter)

(7) State Employee Issues:
a. Pay equity (H.B. 544 – Alexander, Clary, Weiss, Insko; S.B. 747 – Lucas)
b. Job sharing (H.J.R. 958 – Glazier)
c. State government employment (H.B. 861 – Earle, Wainwright)

d. Reemployment of retirees (H.B. 219 – Glazier; S.B. 10 – Garwood)
e. The adequacy and timeliness of public employee benefit plan disclosure (Shubert)

(8) Other:
a. Repealing Dillon's Rule in certain circumstances (S.B. 160 – Clodfelter)
b. Modernizing city and county planning (S.B. 914 – Clodfelter)
c. Trafficking of persons (H.J.R. 1086 – Alexander)
d. Guardianship (H.B. 156 – Warren, Earle; S.B. 273 – Swindell, Purcell)
e. Dix Hospital property (H.B. 960 – Ross, Weiss, Munford, Stam; S.B. 413 – Reeves)
f. Assistance to dairy farmers (H.B. 1143 – Hill; Brubaker; Albertson)
g. Job growth (H.B. 740 – C. Wilson)
h. Immigration (S.J.R. 553 – Albertson)
i. Marine fisheries (S.B. 838 – Albertson; H.B. 989 – Wainwright)
j. Magistrate supervision (Gulley of Durham)
k. Casino nights for nonprofit organizations (H.B. 149 – Owens)
l. Soil and water conservation issues (Brubaker)
m. Compensation for eugenic sterilization (H.B. 1236 – Womble, Parmon, Insko, Ross).

SECTION 2.1.(a) Size/Scope of Boards and Commissions (S.J.R. 924 – Rand; H.J.R. 1067 – Dockham, Owens) – The Commission may study boards and commissions. If this study is undertaken, the Commission shall establish a schedule for reviewing boards and commissions so that approximately twenty-five percent (25%) of the total number of State boards and commissions are reviewed each year for the next four years. In reviewing boards and commissions, the Commission shall consider the following:

(1) The consolidation of boards and commissions, where appropriate.
(2) Reducing the number of members serving on boards and commissions.
(3) Reducing the number of meetings of boards and commissions.
(4) The scope and authority of boards and commissions.
(5) The elimination of boards and commissions, where appropriate.

SECTION 2.1.(b) Availability of Health Insurance for Small Businesses and Trade Associations (S.B.758 – Rand, Clodfelter, Soles) – The Commission may study the availability of health insurance for small employers. The Commission shall examine the Small Employer Group Health Insurance Reform Act to determine whether its provisions should be revised to increase the availability of health insurance offered to small employers in North Carolina. The Commission shall also examine whether North Carolina laws conflict with federal law regarding the ability of a trade association to obtain health insurance through a commercial carrier.

SECTION 2.1.(c) Availability of Health Insurance for Uninsurable Individuals (Rand) – The Commission may study ways to make insurance available to individuals who have difficulty obtaining health insurance coverage. In conducting the study, the Commission shall consider methods employed by other states to meet this need, and possible administrative structures, funding mechanisms, and coverages.

SECTION 2.1.(d) Housing Equity Gap (S.B. 894 – Queen, Malone) – The Commission may study the housing equity gap in North Carolina. The study may include the following:

(1) Reasons for the housing equity gap, including the extent to which certain public policies and rules unnecessarily increase the cost of housing, lack of availability and terms of financing, and any other identifiable barrier to the availability of housing.

(2) Ways to remove barriers to affordable housing and enhance housing choice while stimulating a viable economic climate and the homebuilding and real estate industries.

(3) Ways to raise the percentage of people who own their homes in this State.

(4) Ways to increase the availability of affordable housing in quality neighborhoods, thus enhancing equity growth.

(5) Input from persons directly affected by the gap.

(6) Input from public agencies and private nonprofit organizations that have an interest in housing equity, including builders, developers, local government officials, and persons involved in the areas of finance, real estate, development, economic development, and community development.

SECTION 2.1.(e) Wind Energy (Queen) – The Commission may study the economic, environmental, and social issues associated with the development and use of wind energy in the State including, but not limited to, the following:

(1) The environmental benefits of wind energy development, including the reduction of: (i) emissions such as sulfur dioxides, nitrogen oxides, and mercury and greenhouse gases; (ii) waste ash in landfills; and (iii) water and air quality degradation associated with the extraction and transport of fossil fuels.

(2) The environmental benefits of conserving rural lands for traditional uses.

(3) The environmental challenges to wind energy development in the State, including existing laws, aesthetic issues, the impact on birds and the ecology, and secondary development associated with wind energy development.

(4) The potential for wind energy to support rural economic development by broadening the tax base and creating new jobs.

(5) Initiatives taken in other states to address wind energy development.

(6) Options for permitting windmills in the State, including suggestions for public involvement and environmental review.

(7) Opportunities for wind pilot projects in the State.

In conducting the study, the Commission may solicit input from wind energy industry representatives, utility representatives, the State Energy Office, conservationists, environmentalists, leaders in rural economic development, tourism industry representatives, academics, local elected officials, and legislators from the eastern and western regions of the State.

SECTION 2.1.(f) Centralized Agency to Conduct Criminal Record Checks (Rand) – The Commission may study ways to effectively and efficiently conduct criminal record checks, including legislative, fiscal, and logistical issues related to creating a centralized agency to conduct all criminal record checks for both public and private industry. If it undertakes the study, the Commission shall examine the following:

(1) Federal and state laws, regulations, and policies governing criminal record checks.

(2) Approaches taken by other states to effectively and efficiently conduct criminal record checks for public and private industry.

(3) Costs associated with establishing and implementing a centralized agency or unit to perform this service.

(4) Available federal and State revenue sources.

(5) Technical or logistical issues associated with the transition to a centralized approach for performing this service.

(6) Technical or logistical issues related to compiling and disseminating the information obtained as a result of the checks.

(7) The appropriate location for the centralized agency and the ability of the agency to disseminate information to nonpublic entities expediently.

(8) Other issues relevant to establishing a centralized unit for performing criminal background checks.

SECTION 2.1.(g) Pawnbrokers (Glazier, Dickson) – The Commission may study the laws regulating pawnbrokers and those nonregulated retail outlets engaging in similar business and acting as pawnbrokers. If undertaken by the Commission, the study shall include an examination of the advisability, viability, and cost of all of the following modifications to existing law with the goal of more efficiently monitoring pawnshop businesses that are engaging in similar business and to more effectively aid in the speedy recovery of stolen property:

(1) Picture identification of sellers or pledgers.

(2) Thumbprints on each pawn or sales receipt.

(3) Machine printed or otherwise legible pawn and sales receipts.

(4) Requirements for time and date on pawn or sales receipts.

(5) Recordation of any visible owner applied numbers or markings on property.

(6) Prohibition on receipt and sale of new property.

(7) Authorization of fees to support local pawnbroker related law enforcement.

(8) Computerization of pawnshop records.
(9) Requirement that pawnbroker records be made available to law enforcement.

SECTION 2.1.(h) Medicaid funding (H.B. 540 – Daughtridge, Carney) – The Commission may study the feasibility of eliminating county financial participation in the Medicaid program. In conducting the study, the Commission may consider alternative funding methods to ensure that the short and long-term impact on State funds of eliminating county financial participation in Medicaid is revenue neutral when calculated on a statewide basis. The Commission may also consider retaining the county contribution to administrative costs of the Medicaid program. In making its recommendations to the General Assembly, the Commission shall include a fiscal analysis of the impact on State revenue and Medicaid expenses estimated to result from eliminating county participation in the Medicaid program.

SECTION 2.1.(i) Abandoned junk vehicles (Culpepper) – The Commission may study issues relating to the environmental, aesthetic and other public benefits derived from the abatement and recycling of junked and abandoned automobiles. If it undertakes this study, the Commission shall consider:

(1) Whether the abatement program can best be undertaken on a county-by-county basis or a central statewide basis.
(2) The funding method for the abatement program.
(3) The process whereby junked vehicles might be delivered to scrap processors as expeditiously as possible.
(4) The merits of use of a tax credit so as to encourage the expedited collection and recycling of used and junked automobiles.
(5) Determination of the costs to the State and to local governments associated with abandoned and junked automobiles and landfilling of those automobiles.
(6) Any other related issues.

SECTION 2.1.(j) Study VoCATS – The Commission may study the VoCATS program, which is the accountability system for vocational education courses. If it undertakes this study, the Commission shall consider the following:

(1) Whether the State-developed tests are the appropriate means to measure student mastery of the knowledge and skills taught in vocational education courses, with specific focus on the agriculture curriculum.
(2) The system for development of appropriate tests and methods of measuring student achievement and program performance in vocational and technical education.
(3) The public school system of measuring student performance in the vocational and technical area as compared to the community college system of measuring student performance in the vocational and technical area.
(4) Alternatives to the current tests, methods, and techniques provided through VoCATS.

SECTION 2.1.(k) Availability and delivery of government services to Hispanics (Barnhart, McComas; Reeves, Malone) – The Commission may study the current State and local policies regarding the availability and delivery of government services to the State's increasing Hispanic population, the issues confronted by governmental agencies in effectively delivering those services, and the issues confronted by members of the Hispanic community in obtaining those services. If it undertakes this study, the Commission shall focus particularly on services in the areas of education, health, and public safety. As part of its study, the Commission may consider how all of the following complicate the delivery and receipt of government services within the State's Hispanic community:

(1) Cultural differences.
(2) Language barriers.
(3) Difficulties encountered by members of the Hispanic community in obtaining the personal identification documents that are often required to obtain government services.
(4) Difficulties encountered by members of the Hispanic community in obtaining drivers licenses, occupational licenses, professional licenses, and other types of licenses required to qualify for governmental services or to do business in the State.
(5) Federal immigration laws, the failure to comply with those laws, and how the fear of discovery of noncompliance with federal immigration laws affects the delivery and receipt of services, and in some instance even the willingness to apply for those services.
(6) The increasing economic, personnel, and time demands placed on State and local government agencies in responding to the growing needs for governmental services.
(7) Any other issue relevant to this study.

If it undertakes this study, the Commission shall also identify those issues that are best addressed at the local level, those that are best addressed at the State level, and those best addressed at the federal level.

SECTION 2.1.(l) Office of State Energy (Daughtridge) – The Commission may study the functions, duties, and responsibilities of the Office of State Energy and may make a determination of whether these functions, duties, and responsibilities support the legislative purpose for the Office or whether the purpose should be modified in any way.

SECTION 2.1.(m) Comprehensive Statewide Emergency Communications Planning (Culpepper, Clodfelter) – The Commission may study and recommend legislation, funding needs, interoperability, and policy to:

(1) Enact a comprehensive first and second responder statewide communications goals and plan that includes, at a minimum, law enforcement, fire, medical, utilities, and emergency management agencies.
(2) Coordinate and assist grant applications from State and local organizations for federal communications funding.

SECTION 2.1.(n) Veterans' Nursing Homes (S.B. 958 – Thomas, Carpenter) – The Commission may study the funding of the construction and operation of veterans' nursing homes, including availability of federal funds, ongoing cost, availability of matching funds for construction needs, and potential savings to the State. If it undertakes this study:

(1) The Speakers of the House of Representatives shall appoint three members and the President Pro Tempore of the Senate shall appoint three members to the study.

(2) The Director of Division of Veterans Affairs in the Department of Administration shall serve as an ex officio member.

(3) The Administrator of the North Carolina State's Veterans Nursing Home in Fayetteville shall serve as an ex officio member.

SECTION 2.1.(o) Begin Schools After Labor Day (S.B. 779 – Dannelly; Thomas; H.B. 863 – C. Wilson, Hill) – The Commission may study whether the first instructional day of the school year should be set after Labor Day. If it undertakes this study:

(1) The Speakers of the House of Representatives shall appoint five members and the President Pro Tempore of the Senate shall appoint five members to the study.

(2) The Commission shall consult with representatives of the tourism and hospitality industries and shall consider the following:

(a) The economic impact of setting the first instructional day of the school year after Labor Day.

(b) The impact on elementary students of setting the first instructional day of the school year after Labor Day.

(c) The impact of the school calendar on the quality of education.

(d) The performance of students on block schedules as compared to students on traditional schedules.

(e) The performance of students who take examinations before Christmas as compared to those who take exams after Christmas.

(f) The school calendars of other states.

(g) The impact of weather on lost school days.

(h) The impact of an early August school start on family economics and culture.

SECTION 2.2. For each Legislative Research Commission committee created during the 2003-2005 biennium, the cochairs of the Legislative Research Commission shall appoint the committee membership.

SECTION 2.3. For each of the topics the Legislative Research Commission decides to study under this part or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly and shall make a final report to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 2.4. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

PART III. STATEWIDE EMERGENCY PREPAREDNESS STUDY COMMISSION (S.B. 615 – Dannelly)

SECTION 3.1. Commission established. – There is established the Statewide Emergency Preparedness Study Commission.

SECTION 3.2. Membership. – The Commission membership shall be representative of the different geographical regions of the State and shall include members from rural areas of the State to the extent practicable. The Commission shall consist of 22 members, as follows:

(1) The President Pro Tempore of the Senate shall appoint eight members: two members of the Senate, one practicing paramedic, one trauma center surgeon, one State trauma system regional advisory committee coordinator, one volunteer fire or rescue worker, one air medical rescue worker, and one former trauma patient.

(2) The Speakers of the House of Representatives shall appoint eight members: two members of the House of Representatives, one trauma center nurse, one representative of the North Carolina Medical Care Commission, one career firefighter, one representative of the American College of Surgeons' Committee on Trauma, one 911 or other dispatch worker, and one emergency room department director.

(3) The Governor shall appoint six members: one representative of the Office of Emergency Medical Services, one trauma center finance or operations director, one representative of a law enforcement agency that is also an EMS first responder, one representative of the State Emergency Medical Services Advisory Council, one trauma center physician recommended by the North Carolina College of Emergency Physicians, and one EMS administrator or educator.

SECTION 3.3. Duties. – The Commission shall study the delivery of emergency medical services in this State and shall do all of the following:

(1) Determine the most effective method for the regional distribution of funds provided to the Office of Emergency Medical Services through license restoration fees collected under G.S. 20-16.5(j).

(2) Analyze impediments to the seamless delivery of care to trauma victims, including legal, administrative, logistical, and other barriers, and determine means of streamlining the delivery of improved and more efficient care.

(3) Examine ways of improving the quality and delivery of care to trauma and emergency victims in terms of transportation, equipment, education, and personnel needs, as well as the need for additional trauma centers and improved coordination of existing centers.

(4) Examine methods of improving North Carolina's readiness to handle trauma resulting from massive disasters.

(5) Study any other matters related to the delivery of emergency medical services.

SECTION 3.4. Reports. – The Commission shall submit a final written report of its findings and recommendations to the General Assembly not later than the convening of the 2005 General Assembly. The Commission may submit a progress report to the 2004 Regular Session of the 2003 General Assembly. The Commission may include in its progress reports or in its final report recommendations for the best use of funds provided to the Office of Emergency Medical Services through license restoration fees collected under G.S. 20-16.5(j), as well as any recommendations for further streamlining the delivery of care through regional trauma systems. The reports shall also include legislative proposals necessary to implement the Commission's recommendations and an analysis of the fiscal impact of each recommendation. The Commission shall terminate upon the earlier of the filing of its final report or upon the convening of the 2005 General Assembly.

SECTION 3.5. Expenses of members. – Members of the Commission shall be paid per diem, subsistence, and travel expenses, as follows:

(1) Commission members who are members of the General Assembly shall be paid in accordance with G.S. 120-3.1.

(2) Commission members who are officials or employees of the State or local government agencies shall be paid in accordance with G.S. 138-6.

(3) All other Commission members shall be paid in accordance with G.S. 138-5.

SECTION 3.6. Cochairs; meetings. – The Speakers of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission from their respective appointees. The Commission shall meet upon the call of the chairs. A majority of the Commission members shall constitute a quorum. The Commission may meet during a regular or special session of the General Assembly, subject to the approval of the President Pro Tempore of the Senate and the Speakers of the House of Representatives. The Legislative Services Commission may provide meeting space to the Commission in the State Legislative Building or in the Legislative Office Building.

SECTION 3.7. Staff. – With the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist in the work of the Commission.

SECTION 3.8. Cooperation by government agencies. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision of the State for facilities, data, or other assistance. All State departments and agencies, local governments, and their subdivisions shall cooperate with the Commission and, upon request, shall furnish the Commission and its staff any information in their possession or available to them.

SECTION 3.9. Part XV of S.L. 2002-180 is repealed.

SECTION 3.10. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART IV. ALCOHOLIC BEVERAGE CONTROL ISSUES STUDY COMMISSION (H.B. 1009 – Gibson; H.B. 920 - Sutton)

SECTION 4.1. Alcoholic Beverage Control Issues Study Commission. Study Commission Established. – There is established a Alcoholic Beverage Control Issues Study Commission.

SECTION 4.2. Membership. – The Commission shall be composed of members as follows:

(1) The Chairs of the Alcohol Beverage Control Committee of the House of Representatives and the Commerce Committee of the Senate.
(2) Five members of the House of Representatives.
(3) Five members of the Senate.
(4) Two commissioners from counties where the sale of alcoholic beverages is permitted countywide appointed by the President Pro Tempore of the Senate.
(5) Two commissioners from counties where the sale of alcoholic beverages is prohibited countywide but where there are municipalities where the sale of alcoholic beverages is permitted appointed by the Speakers of the House of Representatives.
(6) Two members of local ABC boards appointed by the Speakers of the House of Representatives.
(7) One member representing the wine industry in North Carolina appointed by the President Pro Tempore of the Senate.
(8) One member representing the malt beverage industry in North Carolina appointed by the President Pro Tempore of the Senate.
(9) Two members representing the spirituous liquor industry in North Carolina appointed by the Speakers of the House of Representatives.
(10) One member representing retail merchants appointed by the Speakers of the House of Representatives.
(11) One member of the convenience store industry appointed by the President Pro Tempore of the Senate.
(12) The Chairman of the Alcoholic Beverage Control Commission, the Secretary of Crime Control and Public Safety, and the Secretary of Health and Human Services, or their designees shall serve as ex officio members.
(13) One elected or appointed municipal official appointed by the President Pro Tempore of the Senate.
(14) One elected or appointed municipal official appointed by the Speakers of the House of Representatives.

(15) One local ABC officer appointed by the President Pro Tempore of the Senate.

(16) One member representing retail ABC permittees appointed by the Speakers of the House of Representatives.

(17) One member representing restaurant ABC permittees appointed by the President Pro Tempore of the Senate.

SECTION 4.3. Duties of the Commission. – The Commission shall study all aspects of alcoholic beverage control in this State. The study shall include an examination of all the following:

(1) Whether the current method of regulating the sale and distribution of alcoholic beverages, and specifically the sale and distribution of fortified wine and spirituous liquor, in North Carolina is the most efficient and effective method as compared to different systems in other states.

(2) Whether the current statutory and regulatory scheme contained in Chapter 18B of the General Statutes is legally sufficient in light of recent legal challenges and judicial decisions, and if so, whether or not Chapter 18B should be recodified.

(3) The effectiveness of enforcement of alcoholic beverage control laws and regulations.

(4) Any other matter relating to alcoholic beverage control in North Carolina.

SECTION 4.4. Vacancies. –Vacancies on the Commission shall be filled by the initial appointing authority.

SECTION 4.5. Cochairs. – The Speakers of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. The Study Commission shall meet upon the call of the Cochairs. A quorum of the Study Commission shall be a majority of the members.

SECTION 4.6. Expenses of Members. – Members of the Study Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 4.7. Staff. – The Legislative Services Office shall assign professional and clerical staff to assist the Study Commission in its work.

SECTION 4.8. Consultants. – The Study Commission may hire consultants to examine specific issues and subjects related to the study, in accordance with G.S. 120-32.02.

SECTION 4.9. Meetings During Legislative Session. – The Study Commission may meet during a regular or extra session of the General Assembly.

SECTION 4.10. Meeting Location. – The Study Commission may meet at various locations around the State in order to promote greater public participation in its deliberations. The Legislative Services Commission shall grant adequate meeting space to the Study Commission in the State Legislative Building or the Legislative Office Building.

SECTION 4.11. Report. – The Commission may make interim reports and shall make a final report to the General Assembly no later than January 15, 2005. Regardless of whether it has filed an interim or final report, the Commission shall terminate on January 15, 2005. The final report shall include Commission recommendations for legislation to implement recommendations made by the Commission.

SECTION 4.12. Funding. – From the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART V. NORTH CAROLINA CENTRAL UNIVERSITY STUDY (H.B. 862 – Earle, Wainwright)

SECTION 5.1. North Carolina Central University, in conjunction with its Department of Sociology, may study whether there is an overrepresentation of minority youth in North Carolina youth development centers. If it undertakes the study, the University shall:

(1) Compile and analyze data of youth development center commitments for the years 1992 to 2002, including data of the race, age, gender, and level of offense of all juveniles committed to youth development centers in all 100 counties of the State during those years;

(2) Survey all programs throughout the State that serve as prevention programs and alternatives to commitment for juveniles adjudicated delinquent in order to analyze the impact these programs have in deterring minority youth commitment;

(3) Assess the availability and accessibility of prevention programs and programs that serve as alternatives to commitment to minority and at-risk youth in all 100 counties of the State, including the percentage of minority and at-risk youth adjudicated delinquent who are placed in programs that serve as alternatives to commitment; and

(4) Test data for variables contributing to minority youth overrepresentation in State youth development centers, including data related to the role of the court system in either committing juveniles to youth development centers or placing them in alternative programs.

SECTION 5.2. If it undertakes this study, North Carolina Central University shall present its findings, including policy recommendations and legislative proposals, to the Department of Juvenile Justice and Delinquency Prevention and the General Assembly on or before May 1, 2005.

PART VI. STUDY COMMISSION ON RESIDENTIAL AND URBAN DEVELOPMENT ENCROACHMENT ON MILITARY BASES AND TRAINING AREAS (Rand)

SECTION 6.1. There is created the Study Commission on Residential and Urban Development Encroachment on Military Bases and Training Areas. The Commission shall consist of 17 members as follows:

(1) Two county commissioners appointed by the President Pro Tempore of the Senate.

(2) Two county commissioners appointed by the Speakers of the House of Representatives.

(3) The commanding generals of Fort Bragg, Pope Air Force Base, Seymour Johnson Air Force Base, Camp Lejeune, and Cherry Point Air Station, or the general's designee.

(4) Three Senators appointed by the President Pro Tempore of the Senate.

(5) Three Representatives appointed by the Speakers of the House of Representatives.

(6) One elected or appointed municipal official appointed by the President Pro Tempore of the Senate.

(7) One elected or appointed municipal official appointed by the Speakers of the House of Representatives.

The Speakers of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 6.2. The Commission shall study the following concerning residential and urban development encroachment on military bases and training areas:

(1) Restricting the zoning in the areas around military bases and training areas.

(2) How encroachment affects deed registration.

(3) Protecting the areas around military bases and training areas by purchasing development rights and buffers using all available State trust funds and other available funding mechanisms.

(4) Any other issue the Commission considers relevant.

SECTION 6.3. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 6.4. The Commission shall submit a final report of its findings and recommendations, including any legislative recommendations, to the 2004 Regular Session of the 2003 General Assembly upon its convening. The Commission shall terminate upon the convening of the 2004 Regular Session of the 2003 General Assembly.

SECTION 6.5. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART VII. LEGISLATIVE STUDY COMMISSION ON STATE PERSONNEL STATUTES (Reeves, Gibson)

SECTION 7.1. There is established a Legislative Study Commission on State Personnel Statutes to review and recommend changes to Chapter 126 of the North Carolina General Statutes.

SECTION 7.2. The Commission shall consist of 10 members appointed as follows:

(1) Five Senators appointed by the President Pro Tempore of the Senate, and

(2) Five Representatives appointed by the Speakers of the House of Representatives.

SECTION 7.3. The Speakers of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 7.4. There is also established a Task Force within the Office of State Personnel to prepare background information and make recommendations to the Legislative Study Commission on State Personnel Statutes.

SECTION 7.5. The Task Force shall consist of 12 members designated as follows:

(1) Four members, one from each of the four regions within the State Employees Association of North Carolina, designated by the State Employees Association of North Carolina.

(2) One member from the Executive Committee of the State Employees Association of North Carolina, designated by the State Employees Association of North Carolina.

(3) One member that is currently employed as a human resource professional in a Cabinet agency, designated by the Governor.

(4) One member that is currently employed as a human resource professional in a Council of State agency, designated by the Council of State.

(5) One member that is currently employed in the University System, designated by The Board of Governors of The University of North Carolina.
(6) Two members currently employed in the Office of State Personnel, designated by the Office of State Personnel.
(7) One member from the Office of the Attorney General, designated by the Attorney General.
(8) One member designated by the County Commissioners Association to represent the interests of local government employees subject to the State Personnel Act.

SECTION 7.6. The Office of State Personnel and the State Employees Association of North Carolina shall jointly designate a chair of the Task Force. Vacancies on the Task Force shall be filled by the same appointing authority as made the initial appointment. The Office of State Personnel shall staff and provide support to the Task Force.

SECTION 7.7. The Task Force shall prepare background information and make recommendations to the Legislative Study Commission on State Personnel Statutes by January 2004. The Task Force may make recommendations to the Commission on any of the issues within the Study Commission's purview. The Task Force shall terminate upon the convening of the 2004 Regular Session of the 2003 General Assembly.

SECTION 7.8. In conducting its study, the Commission may:

(1) Review Chapter 126 of the General Statutes to determine the need for recodification or revision of existing laws. Specific areas of study may include: the State Personnel Commission and the need for a separate State Employee Appeal Board; and improvements to the State Employee Incentive Bonus Program.
(2) Review potential innovations and initiatives including demonstration or pilot projects.
(3) Review the necessity of the age adjustment factor in the severance wages computation.
(4) Review the recommendations submitted by the Task Force.
(5) Review recommendations submitted by the Office of State Personnel.

SECTION 7.9. The Commission shall submit a final report of its findings and recommendations, including any legislative recommendations, to the 2004 Regular Session of the 2003 General Assembly upon its convening. The Commission shall terminate upon the convening of the 2004 Regular Session of the 2003 General Assembly.

SECTION 7.10. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 7.11. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part only.

PART VIII. JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE STUDIES

SECTION 8.1. The Joint Legislative Education Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly and shall submit a final report to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 8.2. Teacher assistant salary schedule (Holloman; H.B. 800 – Warner, Pate) – The Committee may study establishing a salary schedule for teacher assistants.

SECTION 8.3. Rural schools (S.B.703 – Metcalf, Swindell, Holloman) – The Committee may study the unique issues that concern the rural schools in this State.

SECTION 8.4. Physical restraints/seclusion in schools (S.B. 977 – Dorsett) – The Committee may study the use of physical restraints and seclusion in public schools.

SECTION 8.5. High school graduation rate incentives (H.B. 1251 – Glazier; S.B. 949 – Lucas) – The Committee may study whether bonuses should be paid to principals for increased graduation rates.

SECTION 8.6. At-risk students single funding (H.B. 1250 – Glazier; S.B. 954 – Lucas) – The Committee may study whether a single funding stream should be targeted to at-risk students.

SECTION 8.7. Job sharing for school employees other than teachers (H.B. 271 – Glazier, Warner, Lucas, Insko) – The Committee may study issues relating to job sharing by public school employees other than teachers. If it undertakes this study, the Committee shall study the need to facilitate job sharing for these employees, the cost to the local school administrative unit to hire employees in job-sharing positions, and the impact of job sharing on the Teachers' and State Employees' Retirement System and the Comprehensive Major Medical Plan.

SECTION 8.8. Close achievement gap (H.B. 938 – Michaux; S.B. 599 – Lucas) – The Committee may study the best practices and methodologies for closing the achievement gap among children of various demographic groups who are performing below grade level.

SECTION 8.9. E-textbooks for students (H.B. 940 – Miller) – The Committee may study issues related to the availability and use of electronic copies of textbooks for public school students.

SECTION 8.10. Attracting teachers to become coaches (Nesbitt) – The Committee may study the need to attract teachers into assuming additional duties of coaching interscholastic athletic teams in middle and high schools. If it undertakes this study, the Committee shall consider the feasibility of establishing a coaching fellowship program to attract students preparing to enter teaching through higher education coursework into coaching.

SECTION 8.11. Kindergarten admission requirements (Kerr; Pate) – The Committee may study the issue of modifying kindergarten admission requirements as it relates to student readiness to enter kindergarten.

SECTION 8.12. Update the job description for school counselors (Metcalf; H.B. 463 – Bell) – The Committee may study updating and clarifying the job description for public school guidance counselors.

SECTION 8.13. Testing reform (Metcalf, Lucas, Apodaca) – The Joint Legislative Education Oversight Committee may study the State's testing program. If it undertakes this study, the Committee shall consider:

(1) The number of tests currently mandated at the State level and the process and cost of developing, validating, and scoring them.

(2) Whether the State should consider the use of nationally developed tests as a substitute to State developed tests. In particular, the Committee shall determine whether this use would (i) affect the ABCs Program, (ii) adequately measure student achievement and performance, (iii) provide more than minimum levels of achievement, (iv) provide a better comparison to student achievement and performance in other states, (v) be practical for high school courses or higher level courses, (vi) reduce the need for field testing, and (vii) offer any cost savings to the State.

(3) The number of grades in which State tests are given. The Committee shall determine the necessity for testing all grades in third through eighth grades, whether a reduction in the grades tested would affect the receipt of federal money, and the extent to which a reduction would impair the State's ability to identify schools under the ABCs Program.

(4) The high school courses for which State tests are given and whether there is an appropriate distribution of tests across grades nine through 12 and that test an appropriate array of the minimum courses required for admission to the constituent institutions of The University of North Carolina. In addition, the Committee shall examine whether students who take higher level courses and students in 12th grade are held accountable for their academic growth and performance.

(5) The advantages and disadvantages of using a composite of end-of-course tests or other tests such as the SAT, AP tests, or other nationally standardized tests in high school rather than developing a

high school exit exam. If the Committee finds a high school exit exam is preferable, then it shall determine whether it must be administered to all students or limited to certain students, for example, those who do not take the SAT or a certain number of courses for which there are end-of-course tests.

(6) The extent to which additional testing, including field testing, practice testing, and locally mandated testing, is occurring and whether this should be limited or prohibited.

(7) Evaluate alternative schools to determine how educational achievement is being advanced in these alternative school programs and that placement in these programs is to improve student performance rather than improve the performance of the school in which the student originally was assigned.

(8) The number of school days that are spent on testing.

(9) Any other issue the Committee considers relevant.

SECTION 8.14. School of engineering at Fayetteville State University (Shaw) – The Committee may study establishing a school of engineering at Fayetteville State University.

SECTION 8.15. Total Teacher Program (S.B. 1001 – Ballantine) – The Committee may study the Total Teacher Program, which is an instructional program designed to be used with the North Carolina public school curriculum. In the course of the study, the Committee may consider the effectiveness of the Program, the experience of schools in other states in using the Program, the cost and potential cost savings due to the Program, and other matters related to the Program.

SECTION 8.16. School Construction (Garrou) – The Committee may study issues relating to school construction and school capacity.

PART IX. REVENUE LAWS STUDY COMMITTEE

SECTION 9.1. The Revenue Laws Study Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly and shall submit a final report to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 9.2. Valuation of Lots in Subdivisions (S.B. 520 – Dalton; H.B. 528 – Moore, Clary, England) – The Committee may study the valuation of partially improved, undeveloped lots in subdivisions.

SECTION 9.3. Simplified Business Entity Taxation (S.B. 860 – Clodfelter) – The Committee may study comprehensive reform and simplification of the existing State taxes on business entities, including corporations, limited liability companies, partnerships, business trusts, associations, and other entities engaged in business.

SECTION 9.4. Private Activity Bonds (Rand) – The Committee may study private activity bonds.

SECTION 9.5. Conform Bank Expense Deduction (H.B. 1290 – McComas; H.B. 827 – Weiss, Luebke, Insko, Glazier) – The Committee may study whether the State income tax on banks should be conformed to the federal income tax.

SECTION 9.6. Subsidiary Dividend Taxes (H.B. 1291 – McComas) – The Committee may study whether the expense attribution law as it applies to deductible dividends should be modified.

SECTION 9.7. Income Tax Derived from Manufacturing (H.B. 1268 – Blackwood) – The Committee may study whether income derived from manufacturing should be exempt from income taxation.

SECTION 9.8. Tax Foreclosures (H.B. 981 – A. Williams) – The Property Tax Subcommittee of the Revenue Laws Study Committee may study the issue of foreclosures on tax liens, including proposals for expediting the foreclosure action.

SECTION 9.9. Comparative Tax Burden (H.B. 1247 – McComas) – The Committee may study the comparative tax burden on residents of South Carolina and residents of North Carolina.

SECTION 9.10. Tax Incentives to Promote Preservation of Open Spaces (H.B. 887 – G. Allen, Hackney; S.B. 950 – Lucas) – The Committee may study whether tax incentives should be provided to promote the preservation of open spaces.

SECTION 9.11. Sales and Use Tax Exemption (Kerr; Pate) – The Committee may study the issue of allowing local school administrative units a sales and use tax exemption instead of a sales and use tax refund and methods to fund this change.

SECTION 9.12. Tax Preferences (H.B. 959 – Glazier) – The Committee may study whether tax expenditures should be reviewed at least once every 10 years.

SECTION 9.13. Reduce Utility Equipment Sales Tax (H.B. 759 – Goforth) – The Committee may study whether light construction equipment should be given preferential sales and use tax treatment.

SECTION 9.14. (West) The effect of land acquisitions by the Clean Water Management Trust Fund and other government owners on property tax revenue.

PART X. JOINT LEGISLATIVE HEALTH CARE OVERSIGHT COMMITTEE

SECTION 10.1. The Joint Legislative Health Care Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly and shall submit a final report to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 10.2. Benefits for State Employee Dependents (Rand) – The Committee may study alternative benefit plans for dependents of State employees.

SECTION 10.3. Consolidation of State Health Care Services (Rand) – The Committee may study whether a State entity should be established to purchase health care services provided with State funds and to administer data consolidation and claims processing systems in order to enhance quality of care, promote cost containment, and achieve administrative efficiency and effectiveness in the system of services provided by the State.

PART XI. STUDY OF VARIOUS WAYS TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS IN STATE SPENDING (Rand)

SECTION 11.1. The University of North Carolina (through the Office of the President), the Judicial Branch (through the Administrative Office of the Courts), the Executive Branch (through the Department of Administration), the Legislative Branch (through the Legislative Services Office), the Community College System (through the President's Office), and the Department of Public Instruction shall jointly study various ways to promote government efficiency and savings on State spending, including the following proposals:

(1) Consolidate Administrative Functions (S.B. 805, S.B. 808 – Rand; H.B. 1052 – Owens, Dockham)
(2) Statewide Benefit Committee Established (H.B. 1068 – Dockham, Owens)
(3) DMV-NCDL/Registration Extensions (S.B. 804 – Rand)
(4) Combine State Safety Programs (S.B. 807 – Rand)
(5) Increase Use of Public Defenders (S.B. 810 – Rand)
(6) Controller's Fee – (S.B. 813 – Rand)
(7) Deferred Retirement Option Program (S.B. 817 – Rand)

SECTION 11.2. The Department of Administration shall report the results of this study to the Legislative Research Commission by February 15, 2004.

PART XII. JOINT LEGISLATIVE GROWTH STRATEGIES OVERSIGHT COMMITTEE STUDY (S.B. 896 – Queen)

SECTION 12.1. The Joint Legislative Growth Strategies Oversight Committee may work with private and public institutions and with individuals to identify the major opportunities and challenges facing the urban cores of this State and to develop practical proposals for meeting these challenges to be submitted to the legislative and executive branches of government.

If it undertakes this study, the Committee shall:

(1) Study legislation and State programs currently available to support vitality in urban areas, including redevelopment laws and tax incentives, and recommend changes to make them more effective.
(2) Research tools used in other states to enhance urban core effectiveness.
(3) Study the role of town centers and medium-size cities as economic engines for their regions and surrounding rural areas.
(4) Identify examples of successful ways to revitalize distressed quarters of our urban cores and town centers.
(5) Study organizational models for Statewide assistance to local governments and communities in efforts to improve urban performance.

(6) Identify existing obstacles that impede the effectiveness of our urban cores and develop legislative proposals for addressing these challenges.

SECTION 12.2. The Committee may include its findings and recommendations on this study in its final report to the General Assembly.

PART XIII. JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE STUDIES

SECTION 13.1. The Joint Legislative Transportation Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly and shall submit a final report to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 13.2. I-95 Tolls (Rand) – The Committee may study the feasibility of establishing tolls on Interstate 95 from the South Carolina to Virginia borders. Section 13.2 of S.L. 2002-180 is repealed.

SECTION 13.3. Paving of subdivision roads – The Committee may study paving subdivision roads, particularly as it relates to the impact on economic development.

SECTION 13.4. Registration of all terrain vehicles (H.B. 473 – Baker) – The Committee may study whether all terrain vehicles should be registered and regulated.

SECTION 13.5. Alternative fuels (Daughtridge) – The Committee may study the use, availability, benefits, and disadvantages of alternative fuels. The study may include consideration of the following issues:

(1) The existence and availability of federal grants or other incentive programs for alternative fuels and alternative fuel vehicles and the impact of these programs on the need or desirability for a State program.

(2) The impact of increased alternative fuel vehicle use on the collection of motor fuel taxes and highway use taxes and whether the taxation of alternative fuels or vehicles using nonliquid or hybrid fuels needs to be modified.

SECTION 13.6. Weight limit changes (S.B. 377 – Garwood) – The Committee may study the issue of adjusting the weight limits and penalties for trucks transporting bulk commodities.

PART XIV. COMMISSION ON CHILDHOOD OBESITY (S.B. 582 – Purcell)

SECTION 14.1. There is established the Commission on Childhood Obesity.

SECTION 14.2. The Commission on Childhood Obesity shall be composed of 27 members who have knowledge and interest in reversing the epidemic of childhood

obesity and who are taking steps to prevent obesity. The members shall be appointed as follows:

(1) The Superintendent of Public Instruction or his or her designee.

(2) One member of the Health and Wellness Trust Fund Commission appointed by the chair of the Health and Wellness Trust Fund.

(3) Two parents of public school children and one public high school student appointed by the Governor after receiving recommendations from the North Carolina State Parent Teacher Association.

(4) Two members of the Senate appointed by the President Pro Tempore of the Senate.

(5) Two members of the House of Representatives appointed by the Speakers of the House of Representatives.

(6) Two members of a local board of education appointed by the Governor, after receiving recommendations from the North Carolina School Boards Association.

(7) One public school child nutrition director appointed by the Governor, after receiving recommendations from the Superintendent of Public Instruction.

(8) One public school nutrition education specialist appointed by the Governor, after receiving recommendations from the Superintendent of Public Instruction.

(9) One at-large member appointed by the Governor.

(10) Five members appointed by the President Pro Tempore of the Senate. In making these appointments, the President Pro Tempore shall appoint the following:

a. One public school health education teacher.
b. One representative from the Smart Start Program.
c. One pediatrician.
d. One psychologist or psychiatrist, specializing in obesity.
e. One school administrator.

Professional associations representing teachers, school administrators, and the medical community may recommend appointees to the President Pro Tempore of the Senate.

(11) Five members appointed by the Speakers of the House of Representatives. In making these appointments, the Speakers of the House of Representatives shall appoint the following:

a. One public school physical education specialist.
b. One representative from the More At Four Program.
c. One dentist.
d. One member of the research community addressing the obesity epidemic.
e. One school administrator.

Professional associations representing teachers, school administrators, and dentists may recommend appointees to the Speakers of the House of Representatives.

(12) One representative of the vending machine industry, who is appointed by the Health and Wellness Trust Fund Commission, after receiving recommendations from the North Carolina Citizens for Business and Industry.

(13) One nutritionist, who is appointed by the Health and Wellness Trust Fund Commission, after receiving recommendations from professional associations.

(14) One economist, with expertise in the socioeconomic issues associated with obesity, who is appointed by the Health and Wellness Trust Fund Commission, after receiving recommendations from the research community.

Each of the following organizations or agencies may select a representative from its organization or agency to advise the Commission. These members shall provide information to the Commission about the obesity epidemic in North Carolina: North Carolina Department of Health and Human Services, Division of Public Health; North Carolina Department of Public Instruction, Child Nutrition Services; Be Active North Carolina, Inc.; NC Prevention Partners; American Cancer Society Inc.; American Heart Association Inc.; Action for Healthy Kids NC; Healthy Weight Initiative; American Diabetes Association; and the Office of the Governor.

SECTION 14.3. The Speakers of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission from their appointees. The Commission shall meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 14.4. The study shall include the following:

(1) The causes of obesity in North Carolina's children.

(2) The socioeconomic issues associated with childhood obesity.

(3) How the State should deal with childhood obesity.

(4) The steps that should be taken to prevent obesity in North Carolina.

SECTION 14.5. The Commission shall make recommendations that include the following:

(1) Nutritional guidelines for food served in public schools outside of the National School Lunch and School Breakfast Programs.

(2) Physical education in public schools.

(3) Physical activities in public schools.

(4) Healthy and nutritional behavior by North Carolina students and, when possible, their families.

The Commission is encouraged to explore different settings for its recommendations, including families, schools, child care, communities, health care, social marketing, and surveillance and research.

SECTION 14.6. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 14.7. The Commission shall submit a final written report of its findings and recommendations to the Joint Legislative Health Care Oversight Committee, the Joint Legislative Education Oversight Committee, and the Health and Wellness Trust Fund Commission no later than Friday, May 7, 2004. The final report may contain a summary of recommendations for changes to any law, rule, and policy that would lower or eradicate the obesity rates in North Carolina and our schools. Upon the earlier of the filing its final report or May 7, 2004, the Commission shall terminate.

SECTION 14.8. Subject to the provisions of G.S. 120-32.03, the Commission may apply for, receive, or accept grants and contributions from any source to support the work of the Commission established by this Part. The Legislative Services Commission may allocate not more than fifteen thousand dollars ($15,000) to support the Commission established by this Part.

PART XV. ENVIRONMENTAL REVIEW COMMISSION STUDIES

SECTION 15.1. The Environmental Review Commission may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly or to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 15.2. Clean Air Trust Fund (S.B. 981 – Metcalf) – The Commission may study establishing a Clean Air Trust Fund.

SECTION 15.3. Enable revocation of contracts under certain circumstances (S.B. 878 – Horton)

SECTION 15.4. Water restriction guidelines (Gibson) – The Commission may study water restriction guidelines created by the Department of Environment and Natural Resources and implemented by local governments. If it undertakes this study, the Commission shall consider the State's role and authority to regulate water usage during times of drought conditions and shall also consider:

(1) The economic impact of water conservation measures.

(2) The balance between protecting water supply and economic impact on local communities.

(3) Recommendations on establishing consistency across the State with respect to Classes of Water use, specifically the use of the terms essential and nonessential use.

SECTION 15.5. Plan to Share Floodplain Mapping Information (H.J.R.. 1157 – Daughtridge) – The Commission may study whether the information compiled on a regular basis by the Statewide Floodplain Mapping Unit would be useful and relevant to dam operators, local agencies, and State agencies with regard to making decisions about coordinating and controlling water releases from dams, flood control, floodplain management, and emergency evacuation procedures. If it undertakes this study, the Commission may consider the type of information compiled by the Statewide Floodplain Mapping Unit and the value of that information in assisting with decisions regarding flood control techniques, floodplain management, and the time, frequency, and manner of water releases from dams. The Commission may also consider the feasibility of making that information readily available to dam operators, appropriate local agencies, and appropriate State agencies. The Commission may also consider whether it is appropriate to incorporate the information available from the Statewide Floodplain Mapping Unit into local emergency management plans and downstream inundation maps. The Commission may also study any other issues relevant to this topic.

SECTION 15.6. Effectiveness of Environmental Programs – The Commission may study the overall effectiveness of the State's efforts to protect the environment and conserve the natural resources of North Carolina. This study should include a comprehensive evaluation of the implementation of existing legal mandates and of the organizational structure of the Department of Environment and Natural Resources. This study should also consider:

(1) The adequacy of current funding levels, additional funding needs, and funding options, including increasing fees to cover the cost of permitting, inspections, and enforcement.

(2) Options to improve efficiency and reduce costs, including the consolidation of permitting, inspection, and enforcement functions.

(3) The adequacy of current staffing levels.

(4) Options to improve coordination among programs.

(5) The adequacy of current inspection and enforcement activities and options to improve compliance with environmental laws and rules, including improvements in the use of civil penalties.

SECTION 15.7. Deterrents to stormwater runoff (Horton) – The Commission may study the feasibility of encouraging permeable surfaces as a deterrent to stormwater runoff.

SECTION 15.8. Protecting property owners adjacent to activities for which a stormwater permit is issued (S.B. 888 – Rucho) – The Commission may study ways to protect a property owner whose land is adjacent or downstream from a site on which alterations of the existing flow of stormwater will occur.

PART XVI. UNC BOARD OF GOVERNORS STUDY COMMISSION

SECTION 16.1. There is created the UNC Board of Governors Study Commission. The Commission shall consist of 10 members appointed as follows: five by the President Pro Tempore of the Senate and five by the Speakers of the House of Representatives. The Speakers of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. Vacancies on the Commission shall be filled by the appointing authority. The Commission shall meet upon the call of the chairs. A majority of the members of the Commission shall constitute a quorum.

SECTION 16.2. The Commission shall study the method of election or appointment of members of the Board of Governors, the length of members' terms, the number of terms a member may serve, and the size of the Board of Governors. As part of the study, the Commission may examine the governing boards of other states' institutions of higher education. The Commission may submit an interim report to the 2004 Regular Session of the 2003 General Assembly that contains its recommendations, legislative proposals, and cost analyses. The Commission shall make a final report to the 2005 Regular Session of the 2005 General Assembly.

SECTION 16.3. Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 16.4. Subject to the approval of the Legislative Services Commission, the Commission may meet in the State Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist in the work of the Commission. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. All State departments and agencies and local governments and their subdivisions shall furnish the Commission with information in their possession or available to them. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

SECTION 16.5. Part XXXI of S.L. 2001-491 is repealed.

SECTION 16.6. The Commission shall terminate upon the filing of its final report.

PART XVII. WILDLIFE RESOURCES COMMISSION STUDY (S.B. 790 – Queen)

SECTION 17.1. The Wildlife Resources Commission may study the current state of trout fishing in Western North Carolina and determine methods for:

(1) Expanding the management of, and access to, trout water resources for trout production, environmental improvements, and water trails and greenway improvements.

(2) Promoting trout as an important aspect of the region's identity.

(3) Otherwise enhancing trout fishing in the streams of Western North Carolina.

SECTION 17.2. If it undertakes this study, the Wildlife Resources Commission shall report its findings and recommendations to the 2004 Regular Session of the 2003 General Assembly.

PART XVIII. GENERAL STATUTES COMMISSION STUDY (H.B. 1198 – Alexander)

SECTION 18.1. The General Statutes Commission may recommend legislation to amend the General Statutes to delete the words "handicap" and "handicapped" whenever they appear and substitute the appropriate phrase to describe persons with disabilities, unless the words are required by federal law or describe some other situation. If undertaken, the report shall be made to the General Assembly no later than April 1, 2004.

PART XIX. DEPARTMENT OF ADMINISTRATION STUDY (H.B. 1146 – Nesbitt)

SECTION 19.1. The Department of Administration may study retainage from payment on public construction projects. If it undertakes this study, the Department shall consider the following:

(1) Retainage by public owners from payment to contractors and retainage by those contractors from payment to subcontractors.

(2) Retainage from periodic progress payments and final payment, including a maximum allowable amount of retainage.

(3) A time certain for the owner's release of retainage, based upon the owner's occupancy, substantial completion of the work, or the owner's use of the improvements for the purposes intended.

(4) A time certain for the contractor's release of retainage to a subcontractor, based upon the contractor's receipt of retainage.

(5) Conditions permitting withholding of retention beyond the date of release, including those stated in G.S. 143-134.1(d), and limits on the amount of retainage for a condition permitting withholding.

(6) Interest on wrongfully withheld retainage and conditions for the payment of attorneys' fees for the collection of wrongfully withheld retainage.

(7) Line-item release of retainage, based upon a schedule of values, for specific work that has been completed by the contractor and approved by the owner.

(8) Any other matters relating to the withholding and release of retainage on public construction projects.

SECTION 19.2. The Department shall report the results of its study to the 2004 Regular Session of the 2003 General Assembly upon its convening.

PART XX. WORKFORCE NEEDS STUDY COMMISSION (Lucas of Durham)

SECTION 20.1. There is created the Workforce Needs Study Commission ("Commission"). The Commission shall consist of 15 members appointed as follows:

(1) Five members appointed by the Governor, to include:
   a. One person who is knowledgeable about unemployment insurance laws.
   b. One person who is knowledgeable about State and federal labor laws.
   c. One person who is knowledgeable about State and federal taxes.
   d. One person who represents an organization whose primary purpose is to represent the interests of women.
   e. One person who is knowledgeable about the State's public education system.

(2) Five members appointed by the Speakers of the House of Representatives, to include:
   a. Three members of the House of Representatives.
   b. One person who is a working citizen of low- to moderate-income.
   c. One person from a private business or firm employing 200 or more employees in this State.

(3) Five members appointed by the President Pro Tempore of the Senate, to include:
   a. Three members of the Senate.
   b. One person who represents an organization whose primary purpose is to represent the interests of workers.
   c. One person from a private business or firm employing fewer than 200 employees in this State.

SECTION 20.2. The Commission shall:

(1) Identify a basic needs budget for North Carolina families and determine the income and hourly wage needed to support the basic needs budget.

(2) Determine the extent to which current labor market participation and wages enable individuals and families to earn the income necessary to meet their basic needs.

(3) Determine how many North Carolinians work and earn an adequate basic needs income and study trends in the size, geographic, and demographic profiles of these groups. To the extent possible, county level data should be used to study trends in counties and regions of the State. (H.B. 37 – Adams)

(4) Examine job market factors that contribute to any changes in the composition and numbers of those working but unable to meet their

basic needs including, but not limited to, shifts from manufacturing to service, from full-time to part-time work, from permanent to temporary or other contingent employment, and geographic location of economic development.

(5) Examine the impact on the State's economy, employment and wages of the decreased barriers to free trade among countries that has resulted from NAFTA, GATT and other federal free trade agreements, and examine the impact of mass layoffs and plant closings in rural and urban counties and assess the future of North Carolina industry in the new economy.

(6) Examine the efficacy of current and proposed economic development efforts and evaluate what types of jobs and wages they have brought to the State, explore other options for increasing jobs that pay a wage adequate to meet families' basic needs budget, and identify future industries that may be viable for development in North Carolina.

(7) Explore other public and private initiatives that could increase household income to an amount adequate to support a basic needs income budget.

(8) Evaluate the effectiveness of the public school system to educate students about budgeting and economic literacy skills and about their role as consumers and workers in contemporary society.

(9) Examine the efficacy of a State-earned income tax credit to enable working families to meet the requirements of a basic needs income budget.

(10) Examine the wages, benefits, and protections available to part-time and temporary workers, leased employees, independent contractors, and other contingent workers as compared to regular full-time workers.

(11) Examine the number, household structure, and demographics of workers earning close to the federal minimum wage, the economic effects in North Carolina of the past increases in the federal minimum wage, and economic effects in other states that have implemented minimum wages higher than the federal minimum, including, but not limited to, the impact on public assistance payments, competitiveness of employers, and other employee benefits.

(12) Consider any other matter that the Commission finds relevant to its charge.

SECTION 20.3. The Speakers of the House of Representatives shall appoint a cochair, and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. The Commission may contract for consultant services as provided by G.S. 120-32.02. 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 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 discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1, 138-5, or 138-6, as appropriate. Vacancies shall be filled by the appointing authority.

SECTION 20.4. The Commission shall submit an interim report to the 2004 Regular Session of the 2003 General Assembly that contains its recommendations, legislative proposals, and cost analyses. The Commission shall make a final report to the 2005 Regular Session of the 2005 General Assembly and shall terminate upon the earlier of the filing of its final report or January 15, 2005.

SECTION 20.5. From the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART XXI. STUDY COMMISSION ON PROVIDING AN APPROPRIATE EDUCATION FOR STUDENTS ON LONG-TERM SUSPENSION (H.B. 1135 – Preston, L. Johnson, Parmon, Nesbitt; Womble)

SECTION 21.1. There is created a Study Commission on Providing an Appropriate Education for Students on Long-Term Suspension to study the feasibility and cost of developing a State plan to ensure that students recommended for long-term suspension receive an appropriate education. The Commission shall consist of the following members:

(1) The Chair of the State Board of Education or the Chair's designee.
(2) The Superintendent of Public Instruction or the Superintendent's designee.
(3) The Secretary of Juvenile Justice and Delinquency Prevention or the Secretary's designee.
(4) The Director of the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services or the Director's designee.
(5) Three educators, appointed by the Chair of the State Board of Education, who have experience dealing with students recommended for long-term suspension.
(6) Two members appointed by the President Pro Tempore of the Senate and two members appointed by the Speakers of the House of Representatives.

In the course of its study, the Commission shall consult with representatives of parents, teachers, students, school boards, county commissioners, or other interested parties. The Commission shall consult with the Communities In Schools Program, the North Carolina Child Advocacy Institute, the North Carolina Justice and Community

Development Center, and the Covenant with North Carolina's Children as it undertakes this study.

SECTION 21.2. The Commission shall consider and report on whether and to what extent North Carolina should mandate the following:

(1) Local school administrative units in North Carolina shall provide or cause to be provided an appropriate education for all students recommended for a long-term suspension.

(2) Each student recommended for long-term suspension shall receive a multidisciplinary assessment and evaluation to (i) ascertain his or her educational history, needs, and special learning problems and (ii) assess the risk the child poses to staff and other students. The assessment and evaluation shall include feedback and recommendations from local mental health and juvenile justice professionals.

(3) An individualized education and service plan shall be developed for all students recommended for long-term suspension by a committee that includes education, mental health, and juvenile justice professionals, the child's parent or guardian, and any other person the committee considers appropriate. The chair of the Juvenile Crime Prevention Council or a designee shall serve as chair of this committee.

(4) All efforts shall be made to reduce the risk the child poses to staff and other students and to allow the child to continue his or her education in his or her regular school without disruption. These efforts shall include the provision of related services and interventions from other agencies when considered necessary by the committee.

(5) During the first 10 days of suspension, the local school administrative unit shall place the student recommended for suspension in a diagnostic setting for purposes of ensuring there is no disruption to the student's education and to complete the assessment process.

(6) The local education agency shall contract with private or public agencies if an appropriate education cannot be provided within the school system. Funds appropriated to a local school administrative unit for the education of the child shall be used to pay for the program in which the child is placed.

(7) The child's parent or guardian shall have the right to appeal the recommendation for the long-term suspension or any placement decision made by the local school administrative unit.

(8) No child shall be rejected for education and services by a local school administrative unit unless a district court judge places the child in a juvenile justice program or facility. In that circumstance, the Department of Juvenile Justice and Delinquency Prevention is responsible for providing the child's education.

SECTION 21.3. The Speakers of the House of Representatives shall appoint a cochair, and the President Pro Tempore of the Senate shall appoint a cochair for the

Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 21.4. The Commission shall report to the Joint Legislative Education Oversight Committee by April 15, 2004, on the committee's findings and recommendations, which may include a State plan or elements to be included in a State plan, the feasibility and cost of implementing a State plan beginning with the 2004-2005 school year, and any statutory changes necessary to implement a State plan.

SECTION 21.5. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART XXII. NORTH CAROLINA BUILDING CODE COUNCIL STUDY (Culpepper)

SECTION 22.1. The General Assembly finds that the affordability of housing is an important issue and that the State should endeavor to ensure that State regulation does not unnecessarily increase the cost of housing. To that end, the North Carolina Building Code Council shall study the Residential Building Code to determine which provisions, if any, are unnecessary, outdated, overly stringent, or otherwise unduly increase the cost of housing.

SECTION 22.2. The Building Code Council may submit an interim report to the 2004 Regular Session of the 2003 General Assembly and shall submit a final report of the findings of its study, including any recommendations for statutory changes, to the 2005 General Assembly upon its convening.

PART XXIII. NORTH CAROLINA STUDY COMMISSION ON AGING STUDY

SECTION 23.1. The North Carolina Study Commission on Aging may study the topic listed in this part and report its findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly and shall make a

final report to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 23.2. Emergency generators (H.B. 346 – Moore) – The Commission may study whether nursing homes licensed under Chapter 131E of the General Statutes and adult care homes licensed under Chapter 131D of the General Statutes should be required to provide emergency electrical service for use in the event of failure of the normal electrical service. If it undertakes this study, the Commission shall consider the following:

(1) The extent to which electrical service should be provided, both between and within care settings, including how much generator capacity should be required.

(2) The logistical and monetary factors that are barriers to requiring emergency electrical power and options to address those barriers, including providing a funding mechanism for purchasing generators.

(3) The coordination between facilities and local and State emergency management during power outages.

(4) Sources of funding for any mandate.

SECTION 23.3. Long-term care remediation (S.B. 206 – Swindell, Purcell) – The Commission may study the feasibility of implementing a remediation program for long-term care facilities in this State that is similar to the Collaborative Remediation Project in Michigan.

PART XXIV. JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES STUDIES

SECTION 24.1. The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly and shall make a final report to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 24.2. Integration of care for children with multiple system service needs (H.B. 169 – Insko; S.B. 262 – Foxx, Metcalf, Allran, Dannelly, Lucas, Purcell) – The Committee shall conduct a comprehensive review of the State's system of care for children with multiple system service needs. The purpose of the comprehensive review is to determine the extent to which children who need services from multiple State and local agencies in this system are or are not receiving those services in a timely manner, the effectiveness of the services provided, the potential long-term impact on the children, their families, and State and local resources of not providing all services in a timely and cost-effective manner, and to make detailed recommendations on the system changes necessary to address the problems identified as quickly as possible. Recommendations on system changes shall include programmatic and funding changes, and an analysis and estimate of implementation costs and projected cost-savings to the State in future years. In order to ensure a dedicated focus and appropriate expertise for

the comprehensive review, the Committee shall convene a task force to conduct the review. The task force shall be comprised of the cochairs of the Oversight Committee, the Joint Legislative Education Oversight Committee, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Joint Legislative Health Care Oversight Committee, and other individuals appointed by the cochairs of the Oversight Committee upon recommendation of the other members of the task force.

In conducting its review, the task force shall consider thoroughly all of the following:

(1) State-of-the-art approaches to services to children with multiple system service needs as the basis of reform in North Carolina.

(2) Evidence-based best practices in North Carolina and elsewhere for potential systemwide adoption.

(3) Barriers to access for developing a uniform access process to implement a "no wrong door" policy such that children and families may enter any service access point but will be afforded seamless access to all necessary services.

(4) Initiatives taken or under consideration in other states to ensure a unified approach to system services, including the feasibility of establishing a funding consortium for pooling resources of all involved agencies in order to streamline access to the system by children and involvement in the system by service providers.

(5) Ways to improve the multidisciplinary identification and evaluation of children's multiple service needs and the communication of those needs to all appropriate service providers.

(6) The extent to which children currently in the juvenile justice system have not received adequate and appropriate educational, mental health, or other health services, and the reasons why the children have not been adequately served.

(7) Information from the Department of Public Instruction and other organizations showing the number of children who have been suspended or expelled from public school, the reasons for the suspension or expulsion, the number of these children who have received alternative placements to ensure that they are being adequately and appropriately served by State and local service systems.

(8) Necessary changes to North Carolina service systems involving mental health, developmental disabilities, and substance abuse services, social services, education services, juvenile justice, and other related service systems that will enable these systems to work together to ensure effective and timely access to services for children and their families.

The Oversight Committee, subject to the provisions of G.S. 120-32.02 may hire a consultant to assist the task force in its comprehensive review. The Oversight Committee shall establish interim and final reporting time lines for the consultant's

findings and recommendations, and, subject to the requirements of this section, for meetings and reports of the task force.

SECTION 24.3. Mental health in prisons (H.B. 1085 – Insko) – The Committee may study the incidence of mental illness and substance abuse problems among inmates in the North Carolina prison and juvenile justice systems.

PART XXV. DEPARTMENT OF CULTURAL RESOURCES/COMMISSION OF INDIAN AFFAIRS STUDY (H.B. 747 – Sutton)

SECTION 25.1. The Department of Cultural Resources and the Commission of Indian Affairs of the Department of Administration may jointly study the future of the North Carolina Archaeological Collection, which is currently maintained by the Research Laboratories of Archaeology at the University of North Carolina at Chapel Hill. If the study is undertaken, the Department and the Commission shall consider the steps necessary to ensure the future preservation of the collection and the need to use the collection to its fullest potential as a resource for research, teaching, and other public programs.

SECTION 25.2. If the study is undertaken, the Department of Cultural Resources and the Department of Administration shall report their findings and recommendations to the 2004 Regular Session of the 2003 General Assembly and shall include a specific recommendation on a permanent home for the collection where it can be safely housed and where a permanent facility can be established in which the collection can be exhibited for the benefit of the public.

PART XXVI. JOINT COMMITTEE ON EXECUTIVE BUDGET ACT REVISIONS STUDY (Culpepper, Clodfelter)

SECTION 26.1. The Joint Committee on Executive Budget Act Revisions created in S.L. 2003-284, Sec. 6.12(a), shall consider the issues raised by the provisions contained in House Bill 1218 and Senate Bill 726 and include any recommendations concerning those issues in its report to the General Assembly required under S.L. 2003-284, Sec. 6.12(b).

PART XXVII. SENATE SELECT COMMITTEE ON INSURANCE AND CIVIL JUSTICE REFORM (Basnight)

SECTION 27.1. The Senate Select Committee on Insurance and Civil Justice Reform that was established during the 2003 Session of the General Assembly by the President Pro Tempore of the Senate, pursuant to Rule 31 of the Senate Rules and G.S. 120-19.6, is hereby confirmed.

SECTION 27.2. The present membership of the Select Committee shall continue to serve, subject to the provisions of Section 27.8.

SECTION 27.3. The Select Committee shall continue its study of:

(1) Improvement of patient care issues, including improved peer review system, errors data collection, and efforts to encourage remediation by health care providers;
(2) Medical malpractice insurance reforms including the benefits of experience rating, claims reporting, rate stabilization, prior approval of rates, central reporting of claims, and expense reporting;
(3) Litigation reforms, including itemization of damages, reduction of litigation expenses, appeal bonds, prevention of frivolous litigation, evidentiary issues, collateral source rule, and deferred payment of judgments;
(4) Limits on personal liability, including caps on noneconomic damages, excess liability funds, shared risk pools, no-fault procedure for certain claims and certain medical providers;
(5) Improve incentives to enhance medical provider services in rural areas, including tax credits and other incentives;
(6) Improve medical provider licensure, including strengthening oversight process and governance, and more public disclosure of disciplinary actions;
(7) Other reform issues, including capping attorneys' fees, shortening statutes of limitations, and modifying joint and several liability; and
(8) Any other matters or issues the Committee determines to be relevant.

SECTION 27.4. The Select Committee may report on the results of its study, including any proposed legislation to the members of the Senate, periodically. The Select Committee is specifically authorized to report to the 2004 Regular Session of the 2003 General Assembly and shall issue its final report to the members of the Senate not later than December 31, 2004.

SECTION 27.5. The Select Committee is authorized to meet during sessions of the General Assembly, during recesses, and in the interim periods between sessions, upon the call of its chair.

SECTION 27.6. Members of the Select Committee shall receive per diem, subsistence, and travel allowance at the rate established in G.S. 120-3.1.

SECTION 27.7. The expenses of the Select Committee including per diem, subsistence, travel allowances, and contracts for professional or consultant services shall be paid upon the written approval of the President Pro Tempore of the Senate pursuant to G.S. 120-32.02(c) and G.S. 120-35 from funds available to the Senate for its operations.

SECTION 27.8. The members of the Select Committee serve at the pleasure of the President Pro Tempore of the Senate. The President Pro Tempore may dissolve the Select Committee at any time.

PART XXVIII. JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE STUDY (H.B. 758 – Stiller)

SECTION 28.1. The Joint Legislative Commission on Seafood and Aquaculture may study whether it should be unlawful to take shrimp with trawl nets in certain inland waters. The Commission may report the results of its findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly and shall make a report to the 2005 Regular Session of the 2005 General Assembly upon its convening.

PART XXIX. ADMINISTRATIVE OFFICE OF THE COURTS/DEPARTMENT OF CORRECTION STUDY (H.B. 890 – Eddins, Holliman)

SECTION 29.1. The Administrative Office of the Courts and the Department of Correction shall jointly study the processes for the collection and payment of restitution in this State, and shall determine methods for reducing the number of restitution payments that go unclaimed. The Administrative Office of the Courts and the Department of Correction shall report their findings and recommendations to the 2004 Regular Session of the 2003 General Assembly.

PART XXX. JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE STUDIES

SECTION 30.1. The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly and shall make a final report to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 30.2. Deter juvenile escapes (H.B. 956 – Haire) – The Committee may study the issue of persons who escape from the custody of the Department of Juvenile Justice and Delinquency Prevention (Department) and develop appropriate sanctions for those persons. If it undertakes this study, the Committee shall consult with the Department, the Administrative Office of the Courts, and the North Carolina Sentencing and Policy Advisory Commission to develop a statutory scheme through which both juveniles and persons who are over the age of 16 years shall be punished for escaping from the custody of the Department.

SECTION 30.3. Federal Structured Sentencing System (Culpepper) – The Committee may study the State's current system of structured sentencing and compare that with the federal system of structured sentencing. In its study, the Committee shall consider all of the following:

(1) A comparison of the role and responsibilities of the North Carolina Sentencing and Policy Advisory Commission with regard to structured sentencing with the role and responsibilities of the Commission's federal counterpart.

(2) The effectiveness of both the State and federal systems in adjusting the sentencing grid and the factors considered in the sentencing process so that the sentencing range available to the court is appropriate for the

crime committed and also allows appropriate flexibility for the court to consider the circumstances on a case-by-case standard.

(3) The effect of the structured sentencing system at the State and federal levels on the number of prison beds required and whether regular periodic adjustments of the sentencing structure that take into account both the nature of the crimes most often committed, the effectiveness of the punishments imposed, and the increase or decrease in prison populations provides a more equitable and economic criminal justice system.

(4) Any other issue relevant to this study.

PART XXXI. STUDY COMMISSION ON INDIAN GAMING (Culpepper)

SECTION 31.1. The Study Commission on Indian Gaming in North Carolina is created. The Commission shall consist of voting members as follows:

(1) Four members of the House of Representatives to be appointed by the Speakers of the House of Representatives, with one of the members to be designated as Cochair;

(2) Four members of the Senate to be appointed by the President Pro Tempore of the Senate, with one of the members to be designated as Cochair;

(3) Two members to be appointed by the Governor; and

(4) The Principal Chief, Eastern Band of Cherokee Indians, or designee.

The Commission shall meet upon the call of the Cochairs. A majority of the Commission shall constitute a quorum for the transaction of business.

SECTION 31.2. The Commission shall examine any issues regarding current and future Indian gaming pursuant to the federal Indian Gaming Regulatory Act, including: the statutory framework for the formation, negotiation, and endorsement of Tribal-State compacts; the formation of a permanent Indian Gaming Commission; potential amendments to the current compact; and the entry into future compacts.

SECTION 31.3. The Commission may contract for consultant services as provided by G.S. 120-32.02. 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 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 provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses.

Members of the Commission shall receive per diem, subsistence, and travel allowances as follows:

(1) Commission members who are members of the General Assembly at the rate established in G.S. 120-3.1;
(2) Commission members who are officials or employees of the State or of local government agencies at the rate established in G.S. 138-6; and
(3) All other Commission members at the rate established in G.S. 138-5.

SECTION 31.4. The Commission shall make a report to the 2004 Session of the 2003 General Assembly, which may contain recommendations. The Commission shall terminate upon filing its report.

SECTION 31.5. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART XXXII. DEPARTMENT OF TRANSPORTATION STUDY WITH THE STATE TREASURER (McComas)

SECTION 32.1. The Department of Transportation and Department of State Treasurer shall jointly study and develop a proposal to provide appropriate debt financing to accelerate the construction schedule for the Wilmington Bypass project identified in G.S. 136-180(a). The study shall address financial, legal, and practical issues involved in various financing options including special indebtedness under Article 9 of Chapter 142 of the General Statutes, revenue bonds supported by toll revenues, and other appropriate types of debt.

SECTION 32.2. The two Departments shall jointly report their findings and recommendations, including proposed legislation, by May 1, 2004, to the Speakers of the House of Representatives, the President Pro Tempore of the Senate, the cochairs of the Joint Legislative Transportation Oversight Committee, and the Legislative Library.

PART XXXIII. OFFICE OF STATE BUDGET AND MANAGEMENT STUDY (Sherrill)

SECTION 33.1. The Office of State Budget and Management shall conduct an analysis of the structure and operation of the Department of Public Instruction. The analysis shall identify potential efficiencies and savings in the operation of the Department. The analysis may consider consolidation of functions with other agencies and automation of functions.

SECTION 33.2. The Office of State Budget and Management shall report its findings to the State Board of Education. The Office of State Budget and Management and the State Board of Education shall jointly report to the Joint Legislative Education Oversight Committee by March 15, 2004, on the results of the analysis.

SECTION 33.3. Section 7.13(b) of S.L. 2002-126 is repealed.

PART XXXIV. BLUE RIBBON TASK FORCE ON MEDICAL MALPRACTICE (H.R. 1027 – Carney, Earle, Bordsen, Dickson, Glazier)

SECTION 34.1. There is established the House of Representatives' Blue Ribbon Task Force on Medical Malpractice. The Task Force shall function and have the power of an interim study committee as set forth in G.S. 120-19.6(a1). The Task Force shall conduct a study of medical malpractice and make comprehensive recommendations for fundamental reform. In undertaking its study, the Task Force shall consider the following:

(1) The complex causes of and remedies for medical malpractice.
(2) Rapidly escalating professional liability premiums for health care providers.
(3) The impact of medical malpractice issues on health care accessibility in North Carolina.
(4) Matters related to the adjudication of medical negligence claims in the civil justice system.
(5) Issues related to the quality of medical care.
(6) Other matters related to medical malpractice and its impact on health care access.

SECTION 34.2. The Speakers of the House of Representatives shall appoint 22 members of the House of Representatives to the Blue Ribbon Task Force.

SECTION 34.3. The Blue Ribbon Task Force on Medical Malpractice shall make recommendations to the 2004 Regular Session of the 2003 General Assembly upon its reconvening.

SECTION 34.4. The expenses of the Task Force shall be paid upon the written approval of both Speakers of the House pursuant to G.S. 120-35 from funds available to the House for its operations.

PART XXXV. ECONOMIC DEVELOPMENT BOARD TASK FORCE STUDY (Black, Morgan)

SECTION 35.1.(a) There is established a Small Business Task Force to examine and evaluate the responsiveness of the State to North Carolina small businesses and to make recommendations on small business economic development initiatives. The Task Force shall study the following issues:

(1) Agencies and programs that provide developmental and expansion assistance to new and existing small businesses to determine the effectiveness of existing services and the need for alternative or additional services.
(2) The impact of State tax laws on small business, including recommendations for reform of the tax code to better promote small businesses.
(3) Fiscal and tax policies affecting small businesses in other states.
(4) The need for a centralized agency to provide assistance to small businesses in obtaining any necessary licenses or permits.
(5) The need for a comprehensive communications strategy for small businesses that may include any of the following:

a. Intra-agency and interagency communication and coordination of small business assistance for the increased benefit of North Carolina's small businesses.
b. Needs or provider assistance surveys of North Carolina businesses every two years.
c. Existing websites or the creation of a website that is designed specifically for start-up businesses and small business owners and managers and that includes information on government financial assistance programs, permits, licenses, taxes and tax incentives, and links to sources of local information.
d. The exchange of public information between the Department of Commerce and its partners and allies.

(6) The need for a Small Business Micro-Loan Program targeted at developing, incubating, and expanding small businesses.

(7) Other matters relating to small business concerns.

SECTION 35.1.(b) The Commission shall consist of 15 members appointed as follows: five by the President Pro Tempore of the Senate, five by the Speakers of the House of Representatives, and five by the Governor. The Speakers of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission.

SECTION 35.1.(c) The Small Business Task Force shall make an interim report to the Economic Development Board no later than May 7, 2004, and a final report to the Board no later than January 14, 2005. The report shall include the findings of the Task Force and a summary of any recommendations for changes. The Economic Development Board may make an interim report to the 2004 Regular Session of the 2003 General Assembly and a final report to the 2005 General Assembly."

SECTION 35.2. In its Plan and annual update for 2003 required pursuant to G.S. 143B-434.01, the goals and objections to be provided by the Economic Development Board shall include all of the following:

(1) A specific target number of new jobs to be created in the State. The target number shall be broken down by county and Region and by new and existing businesses.

(2) A specific target rate of unemployment for the State and for each county and Region.

(3) An estimate of the number of jobs that will be lost in the State and each county and Region.

(4) A specific target dollar amount of new capital investment in the State and in each Region.

PART XXXVI. UNC BOARD OF GOVERNORS STUDY FEASIBILITY OF FORGIVENESS OF STUDENT DEBT PROGRAM

SECTION 36.1. The Board of Governors of The University of North Carolina, in conjunction with the North Carolina State Education Assistance Authority,

may study the feasibility of a program that would forgive student indebtedness for teachers who have continuing certification in and are teaching in the disciplines of mathematics, science, or special education. The Board shall report the results of its study to the Joint Legislative Education Oversight Committee by February 15, 2004.

PART XXXVII. STATE BOARD OF EDUCATION STUDY

SECTION 37.1. The State Board of Education and the Joint Legislative Education Oversight Committee shall jointly study issues related to effective recruitment and retention of teachers for the North Carolina public schools.

SECTION 37.2. The Commission shall submit a final report of its findings and recommendations, including any legislative recommendations, to the 2004 Regular Session of the 2003 General Assembly.

PART XXXVIII. LEGISLATIVE STUDY COMMISSION ON FINANCING INFRASTRUCTURE FOR INDUSTRIAL CORRIDORS (McComas, Justice)

SECTION 38.1. Creation. – There is created the Legislative Study Commission on Financing Infrastructure for Industrial Corridors. The purposes of the Commission are to investigate and identify State, federal, and local funding sources for proposed water and sewer infrastructure improvements for the Highway 421 Industrial Corridor in Pender and New Hanover Counties, to foster interlocal cooperation to enhance economic development in the region, and to recommend any legislative changes necessary to enhance available resources for development.

SECTION 38.2. Members. – The Commission shall consist of 12 members as provided in this subsection. The following individuals shall serve ex officio: (i) the chair of the Pender County Board of Commissioners or another member of the board designated by the chair and (ii) the chair of the New Hanover County Board of Commissioners or another member of the board designated by the chair. Five members shall be appointed by the Speaker of the House of Representatives as follows: two members of the House of Representatives, an individual nominated by the Cape Fear Regional Growth Team, an individual from New Hanover County who represents Wilmington Industrial Development, Inc., also known as the Wilmington Committee of 100, and an owner of property abutting the Highway 421 Industrial Corridor in New Hanover County. Five members shall be appointed by the President Pro Tempore of the Senate as follows: two members of the Senate, an individual nominated by the Cape Fear Regional Growth Team, an individual from Pender County who represents Wilmington Industrial Development, Inc., also known as the Wilmington Committee of 100, and an owner of property abutting the Highway 421 Industrial Corridor in Pender County.

SECTION 38.3. Administration. – The Speakers of the House of Representatives shall designate one Representative as cochair, and the President Pro Tempore of the Senate shall designate one Senator as cochair. Any vacancy on the

Commission shall be filled by the appointing authority that made the initial appointment. The Commission shall expire upon delivering its final report.

The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 38.4. Study. – In conducting the study, the Commission shall consider the following:

(1) The feasibility of proposed water and sewer infrastructure improvements for the Highway 421 Industrial Corridor in light of soil quality, existing development, and other relevant factors.

(2) Available funding sources through State programs administered by the Department of Commerce, including eligibility requirements and potential legislation to clarify or adjust these requirements.

(3) Federal funding sources through federal block grants and other sources, including eligibility requirements and their applicability to the proposed infrastructure improvements.

(4) Available funding sources through private individuals or entities.

(5) Options for interlocal agreements to provide regional cooperation in enhancing funding resources for the proposed infrastructure improvements and related projects.

(6) Options for ownership and administration of the infrastructure improvements by Pender County or by an authority.

(7) The measurable economic development benefits to the area from making the proposed water and sewer improvements.

(8) Any other issues the Commission considers relevant.

SECTION 38.5. Report. – The Legislative Study Commission on Financing Infrastructure for Industrial Corridors may make an interim report to the 2003 General Assembly not later than the convening of the 2003 General Assembly, 2004 Regular Session, and shall make its final report to the 2005 General Assembly upon its convening. The Commission shall terminate the earlier of the filing of its report or the convening of the 2005 General Assembly.

SECTION 38.6. Cooperation. – All State departments and agencies and local governments and their subdivisions shall, upon request, furnish the Commission with any information in their possession or available to them.

SECTION 38.7. From the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds to support the expenses of the Commission established by this Part.

PART XXXIX. DEPARTMENT OF CORRECTION STUDY (S.B. 1014 – Berger)

SECTION 39.1. The Department of Correction may study the confinement of inmates who are irreversibly physically incapacitated due to chronic illness or disability. If it undertakes this study, the Department's study shall include, but is not limited to, a review of current policies, a calculation of potential population figures and medical care costs, a determination of possible alternatives to incarceration and accompanying costs, and a consideration of procedures for termination or commutation of sentences.

SECTION 39.2. The Department of Correction shall report its findings and recommendations, including any proposed legislation, no later than the convening of the 2004 Regular Session of the 2003 General Assembly by filing a report with the Offices of the Principal Clerk of the Senate and House of Representatives and the Legislative Library.

PART XXXX. AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION STUDIES

SECTION 40.1. The Agriculture and Forestry Awareness Study Commission may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2004 Regular Session of the 2003 General Assembly and shall submit a final report to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 40.2. Agriculture Commodity Incentives (Albertson) – The Commission may study the possibility of establishing incentive programs to benefit firms purchasing additional large quantities of North Carolina farm commodity products when an overabundance of a specific commodity is designated by the State Department of Agriculture and Consumer Services to be available for sale.

SECTION 40.3. Food Safety and Security (S.B. 834 – Albertson) – The Commission may study ways to protect the State's food supply system and the agricultural industry base.

PART XXXXI. ELECTION LAWS REVISION COMMISSION (Gulley of Durham)

SECTION 41.1. There is created an Election Laws Revision Commission. The Commission shall be composed of 17 members. Twelve members shall be appointed as follows:

(1) The President Pro Tempore of the Senate shall appoint four members, including at least one county board of elections member, with no more than three of the four affiliated with the same political party.

(2) The Speakers of the House of Representatives shall appoint four members, including at least one county elections director, with no more than three of the four affiliated with the same political party.

(3) The Governor shall appoint four members, including at least one county commissioner and at least one minority-party member of the State Board of Elections.

The Chair and the Executive Director of the State Board of Elections shall be ex officio members. The State chairs of the three political parties whose nominees for Governor received the largest number of votes in the most recent general election for Governor shall be ex officio members. All members of the Commission, whether appointed or ex officio, shall be voting members.

SECTION 41.2. The President Pro Tempore of the Senate and the Speakers of the House of Representatives shall each designate a cochair of the Commission from their appointees.

SECTION 41.3. The Election Laws Revision Commission shall study the following:

(1) The election laws, policies, and procedures of the State.

(2) The administration of those laws, policies, and procedures at the State and local levels and the responsibilities of those administrating these laws.

(3) The election laws, policies, and procedures of other states and jurisdictions.

(4) Federal and State case rulings impinging on these laws, policies, and practices.

(5) Public funding of election campaigns, including the advisability and proper design of a system to allow public funds to be used to support the campaigns of candidates for Governor, Lieutenant Governor, other Council of State officers, and the General Assembly who agree to abide by fund-raising and spending limits.

(6) APA exemption for the State Board of Elections.

SECTION 41.4. The Commission shall prepare and recommend to the General Assembly a comprehensive revision of the election laws of North Carolina that will accomplish the following:

(1) Remove inconsistencies, inaccuracies, ambiguities, and outdated provisions in the law.

(2) Incorporate in the law any desirable uncodified procedures, practices, and rulings of a general nature that have been implemented by the State Board of Elections or its Executive Secretary-Director.

(3) Conform the statutory law to State and federal case law and to any requirements of federal statutory law and regulation.

(4) Ensure the efficient and effective administration of elections in this State.

(5) Continue the impartial, professional administration of elections, which the citizens of the State expect and demand.

(6) Recodify the election laws, as necessary, to produce a comprehensive, clearly understandable structure of current North Carolina election law, susceptible to orderly expansion as necessary.

SECTION 41.5. With the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist in the work of the Election Laws Revision Commission and may provide for additional staffing by the State Board of Elections, Office of the Attorney General, and the Institute of Government. With prior approval of the State Board of Elections, the Election Laws Revision Commission may hold its meetings in the offices of the State Board. With the prior approval of the Legislative Services Commission, the Election Laws Revision Commission may hold its meetings in the State Legislative Building or the Legislative Office Building.

SECTION 41.6. The Commission shall submit a final written report of its findings and recommendations on or before the convening of the 2005 Regular Session of the 2005 General Assembly and may submit a report to the 2004 Regular Session of the 2003 General Assembly. All reports shall be filed with the President Pro Tempore of the Senate and the Speakers of the House of Representatives, the Principal Clerks of the Senate and the House of Representatives, and the Legislative Librarian. Upon filing its final report, the Commission shall terminate.

SECTION 41.7. Members of the Commission shall be paid per diem, subsistence, and travel allowances as follows:

(1) Commission members who are also members of the General Assembly, 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 41.8. All State departments and agencies, local boards of elections, and local governments and their subdivisions shall cooperate with the Commission and, upon request, shall furnish to the Commission and its staff any information in their possession or available to them.

SECTION 41.9. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Election Laws Revision Commission.

PART XXXXII. LOCAL GOVERNMENT SELECT COMMITTEE (Stevens, Smith)

SECTION 42.1. There is established the Local Government Select Committee, which shall consist of 12 members appointed as follows:

(1) Three members of the Senate appointed by the President Pro Tempore.

(2) Three members of the Senate appointed by the Minority Leader.
(3) Three members of the House of Representatives appointed by the Democratic Speaker.
(4) Three members of the House of Representatives appointed by the Republican Speaker.

SECTION 42.2. The Committee shall investigate the relationship between the State and its cities and counties to the end of strengthening that relationship and increasing flexibility for cities and counties. To that end, the Committee shall examine and make recommendations on the following points:

(1) Mandates imposed by the State and federal governments upon cities and counties, both funded and unfunded.
(2) The ability of the current structure of cities and counties to meet their responsibilities.
(3) The relationships between counties, between cities, and between cities and counties.
(4) Consolidation of functions between counties, between cities, and between cities and counties to the end of increasing efficiencies.

SECTION 42.3. The President Pro Tempore and Minority Leader of the Senate and the Democratic Speaker and Republican Speaker of the House of Representatives shall designate four cochairs of the Committee from among their respective appointees. The Committee shall meet upon the call of the cochairs. Members of the Committee shall receive per diem, subsistence, and travel allowance in accordance with G.S. 120-3.1. The Committee, while in the discharge of official duties, may exercise all powers provided for under the provisions of G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Committee shall terminate the earlier of the delivery of its final report or December 31, 2004.

SECTION 42.4. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Committee, and the expenses relating to the clerical employees shall be borne by the Committee. Subject to the approval of the Legislative Services Commission, the Committee may meet in the Legislative Building or the Legislative Office Building.

SECTION 42.5. The Committee may meet during a regular or extra session of the General Assembly, subject to approval of the Legislative Services Commission.

SECTION 42.6. The Committee shall submit a report of the results of its study, including any legislative recommendations, to the General Assembly not later than December 31, 2004.

PART XXXXIII. WILMINGTON RACE RIOT COMMISSION FUNDING

SECTION 43.1. Section 17.1.(f) of S.L. 2000-138, as amended by S.L. 2002-180, reads as rewritten:

"Section 17.1.(f) Members of the Commission ~~shall not~~may receive per diem or reimbursement for travel or subsistence. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the per diem of the Commission established by this Part."

PART XXXXIV. PAMLICO TECHNICAL HIGH SCHOOL TASK FORCE STUDY (Gorman)

SECTION 44.1. The State Board of Community Colleges, the State Board of Education, Pamlico Community College, and the Pamlico County Schools may establish a task force to develop a plan to expand students' educational opportunities within the public school system by creating a technical high school. If the task force is established, in developing the plan, the task force shall consider similar programs currently operated in the State, including, but not limited to, the Middle College program in Guilford County and the Technical High School in Union County. The task force shall also take into account the State's high school graduation requirements. If the task force is established, the task force shall report to the Joint Legislative Education Oversight Committee no later than January 30, 2004.

PART XXXXV. HURRICANE EVACUATION STANDARDS STUDY COMMISSION

SECTION 45.1. The Hurricane Evacuation Standards Study Commission is established. The Commission shall consist of six members to be appointed as follows:

(1) Three members of the House of Representatives to be appointed by the Speakers of the House of Representatives.

(2) Three members of the Senate to be appointed by the President Pro Tempore of the Senate.

SECTION 45.2. The Commission shall study the development and establishment of hurricane evacuation standards for the State. The Commission shall consider and recommend to the General Assembly those legislative actions necessary to implement its recommendations.

SECTION 45.3. The following State employees shall attend each meeting of the Commission, and shall provide technical support and expertise to the Commission to develop appropriate State hurricane evacuation standards:

(1) Director, Division of Emergency Management, Department of Crime Control and Public Safety.

(2) Chief of Logistics, Division of Emergency Management, Department of Crime Control and Public Safety.

(3) State Roadway Design Engineer, Department of Transportation.

(4) Assistant State Roadway Design Engineer, Department of Transportation.

(5) Division Engineer, Division 1, Department of Transportation.

(6) Division Engineer, Division 2, Department of Transportation.

(7) Division Engineer, Division 3, Department of Transportation.
(8) Division Traffic Engineer, Division 1, Department of Transportation.
(9) Division Traffic Engineer, Division 2, Department of Transportation.
(10) Division Traffic Engineer, Division, 3, Department of Transportation.

SECTION 45.4. 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 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 members of the Commission, while in the discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1.

SECTION 45.5. The Commission shall report its findings and any recommendations to the Governor and the Joint Legislative Transportation Oversight Committee of the General Assembly by November 1, 2003.

SECTION 45.6. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Hurricane Evacuation Standards Commission.

PART XXXXVI. BILL AND RESOLUTION REFERENCES

SECTION 46.1. The listing of the original bill or resolution in this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

PART XXXXVII. EFFECTIVE DATE AND APPLICABILITY

SECTION 47.1. Except as otherwise specifically provided, this act is effective when it becomes law. If a study is authorized both in this act and in the Current Operations and Capital Improvements Appropriations Act of 2003, the study shall be implemented in accordance with the Current Operations and Capital Improvements Appropriations Act of 2003 as ratified.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 34

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S34-ASC-19 [v.3]

Date _____,2003

Comm. Sub. [YES]
Amends Title [NO]
S34-CSST-66 [v.2]

Representative _____

moves to amend the bill on page 42, line 16, and line 20 by deleting the word "Commission" and substituting the words "Task Force";

and, on page 42, lines 21 through 26, by rewriting those lines to read:

"**SECTION 35.1.(c).** The Small Business Task Force may submit an interim report to the 2004 Regular Session of the 2003 General Assembly and shall submit a final report of the findings of its study, including any recommendations for legislative changes, to the 2005 General Assembly upon its convening.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page 43, line 11

( ) WHICH CHANGES THE TITLE

by deleting the line to read:

"SECTION 37.2. The final report of findings";

and on page 43, line 12, by inserting after "recommendations." the following phrase to read "shall be submitted".

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

DoT

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 34 A BILL TO BE ENTITLED AN ACT TO REESTABLISH THE HIGHWAY TRUST FUND STUDY COMMITTEE.

☐ 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 the HOUSE committee substitute bill ~~(#), ☐~~ which changes the title, unfavorable as to (the 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, unfavorable as to Senate committee substitute bill.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 676

Finance Committee Substitute Adopted 5/13/03
House Committee Substitute Favorable 7/10/03

Short Title: Revise the Banking Laws of North Carolina. (Public)

Sponsors:

Referred to:

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE BANKING LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-1(3a) reads as rewritten:

"(3a) Limited Service Facility. – The term "limited service facility" means ~~an office of a bank~~ a staffed physical location open to the public in this State in which ~~deposits are received, monies are paid, or other duties and functions of a teller are performed. Loan applications shall be taken in a limited service facility but notes may not be executed nor loan proceeds disbursed in a limited service facility.~~ a bank established under the laws of this State or a bank or other depository institution established under the laws of any other state conducts any activity of a "branch" set forth in subdivision (1a) of this section, but which is not considered a branch by virtue of the fact that the bank does not engage in all activities of a branch at the location. A location is a limited service facility of a bank notwithstanding that it is operated by a third party if there exists an agreement between the third party and the bank pursuant to which the third party (i) takes deposits or offers loans as an agent of the bank or in the bank's name; or (ii) is obligated to sell or otherwise transfer to the bank all or a substantial portion of the loan or deposit production of that location."

SECTION 2. G.S. 53-17.2(e) reads as rewritten:

"(e) In the absence of the ~~promulgation~~ adoption of rules under subsection (d), the conditions to be met for approval of the application for conversion should include the following:

(1) Condition. The applicant's general condition must reflect adequate capital, liquidity, reserves, earnings, and asset composition necessary for safe and sound operation of the resulting bank.

(2) Management. The management and the board of directors must be capable of supervising a sound banking operation and overseeing the changes that must be accomplished in the conversion from an association or savings bank to a bank.

(3) Public Convenience. The ~~Commission must determine that the~~ conversion will have a positive impact on the convenience of the public and will not substantially reduce the services available to the public in the market area.

(4) Transition. Within a reasonable time after the effective date of the conversion, the resulting bank must divest itself of all assets and liabilities that do not conform to State banking law or rules. The length of this transition period shall be determined by the Commissioner and shall be specified when the application for conversion is approved.

In evaluating each of these conditions, the ~~Commission~~ Commissioner shall consider a comparison of the relevant financial ratios of the applicant with the average ratios of North Carolina banks of similar asset size. The ~~Commission may~~ Commissioner shall not approve a conversion where the applicant presents an undue supervisory concern or has not been operated in a safe and sound manner."

SECTION 3. G.S. 53-17.2(f) reads as rewritten:

"(f) If the ~~State Banking Commission~~ Commissioner approves the plan of conversion, then the association or savings bank shall submit the plan to the stockholders or members as provided in subsection (g). After approval of the plan of conversion, the Commissioner of Banks shall supervise and monitor the conversion process and shall ensure that the conversion is conducted pursuant to law and the association's or savings bank's approved plan of conversion."

SECTION 4. G.S. 53-48 reads as rewritten:

"**§ 53-48. Limitation of loans.**

(a) The total loans and extensions of credit, both direct and indirect, by a bank to a person, other than a municipal corporation for money borrowed, including in the liabilities of a firm the liabilities of the several members thereof, outstanding at one time and not fully secured, as determined in a manner consistent with subsection (b) of this section, by collateral having a market value at least equal to the amount of the loan or extension of credit shall not exceed the greater of fifteen percent (15%) of the unimpaired capital fund of the ~~bank.~~ bank or the percentage permitted for national banks in this State or by statute or regulation of the Comptroller of the Currency.

(b) The total loans and extensions of credit, both direct and indirect, by a bank to a person outstanding at one time and fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the ~~funds~~ loan or extension of credit outstanding shall not exceed the greater of ten percent (10%) of the unimpaired capital fund of the ~~bank.~~ bank or the percentage permitted for national banks by statute or regulation of the Comptroller of the Currency. This limitation shall be separate from and in addition to the limitation contained in subsection (a) ~~above.~~ of this section.

(c) The discount of bills of exchange drawn in good faith against actual existing values, the discount of solvent trade acceptances or other solvent commercial or business paper actually owned by the person negotiating the same, loans or extensions of credit secured by a segregated deposit account in the lending bank, the purchase of bankers acceptances of the kind described in section 13 of the Federal Reserve Act and issued by other banks, and the purchase of any notes and the making of any loans, secured by not less than a like face amount of bonds of the United States, or an agency of the United States, or other obligations guaranteed by the United States Government, or State of North Carolina or certificates of indebtedness of the United States, or agency thereof, or other obligations guaranteed by the United States Government, shall not be considered as money borrowed within the meaning of this section: Provided, however, that the limitations of this section shall not apply to loans or obligations to the extent that they are secured or covered by guarantees or by commitments or agreements to take over or purchase the same, made by any federal reserve bank or by the United States or any department, board, bureau, commission or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States.

(d) For purposes of this section, the term "person" shall be deemed to include an individual, or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization or any other form of entity not specifically listed herein. Loans or extensions of credit to one person include loans made to other persons when the proceeds of the loans or extensions of credit are to be used for the direct benefit of the first person or the persons are engaged in a common enterprise. The Commissioner of Banks shall monitor the lending activities of banks under this section for undue credit concentrations and inadequate risk diversification which could adversely affect the safety and soundness of such banks."

SECTION 5. G.S. 53-62 reads as rewritten:

"**§ 53-62. Establishment of branches; limited service facilities; and off-premises customer-bank communications terminals.**

(a) The word "capital" as used in this section means capital stock and unimpaired surplus.

(b) ~~A bank doing business under this Chapter may establish branches or limited service facilities within this State after having first obtained the written approval of the Commissioner of Banks, which approval may be given or withheld by the Commissioner of Banks, in his discretion. The Commissioner of Banks, in exercising such discretion, shall take into account, but not by way of limitation, such factors as the financial history and condition of the applicant bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management. Such approval shall not be given until he shall find (i) that the establishment of such branch or limited service facility will meet the needs and promote the convenience of the community to be served by the bank, and (ii) that the probable volume of business and reasonable public demand in such community are sufficient to assure and maintain the solvency of said branch or limited service facility and of the existing bank or banks in said community.~~ A bank, with the prior written approval of the Commissioner of Banks, may:

(1) Establish a branch or limited service facility; or

(2) Convert an existing limited service facility to a branch.

The application for approval to establish or convert a branch or limited service facility shall be in a form prescribed by the Commissioner of Banks and shall be accompanied by the application fee established by the Banking Commission by rule. Approval may be given or withheld by the Commissioner of Banks. In determining whether to give or withhold approval, the Commissioner of Banks shall take into account factors, including the financial history and condition of the applicant bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management. The Commissioner of Banks shall not give approval pursuant to this subsection unless the Commissioner finds that:

(1) The establishment or conversion of the branch or limited service facility will meet the needs and promote the convenience of the community to be served thereby; and

(2) The probable volume of business and reasonable public demand in the community are sufficient to assure and maintain the solvency of the branch office or limited service facility and of the existing depository institutions in the community.

(c) (1) A branch or limited service facility of a bank shall be operated ~~as a branch or office of and under the name of the bank, and~~ under the control and direction of the board of directors and executive officers of the ~~bank.~~ bank and under the name of the bank as set forth in its Certificate of Incorporation filed with the Office of the Secretary of State, except that the Commissioner of Banks may permit the operation of a branch or limited service facility under an assumed name under the conditions and terms imposed by the Commissioner if the Commissioner of Banks finds that the name will not result in confusion among customers of the bank or among the general public. The board of directors of the bank shall elect such officers as may be required to properly conduct the business of any branch or limited service facility.

(2) The Commissioner of Banks shall not authorize the establishment or conversion of a branch or limited service facility until he is satisfied that the applicant bank has sufficient capital to maintain a minimum capital to asset ratio as the Commissioner of Banks, in his discretion, may require. In determining such ratio the Commissioner of Banks shall give due consideration to (i) the amount of capital required to support the bank's projected growth, (ii) the bank's earnings history and projected earnings, (iii) the quality of the bank's assets, (iv) compliance with the fixed asset limitation contained in ~~G.S. 53-43(3),~~ subsection (f) of this section and (v) the business experience and reputation of bank management.

~~(3) The Commissioner of Banks may, on written application by a bank, in his discretion authorize the bank to establish a limited service facility~~

~~after considering the criteria and making the findings required in subsection (b).~~

(d) ~~A limited service facility, upon written request to the Commissioner of Banks, and after meeting the requirements of subsection (c) may convert to a branch. If branch status is granted then the branch shall be subject to all of the conditions and requirements of that type of banking office.~~

Upon 30 days written notice to the Commissioner of Banks, a bank may discontinue any limited service facility ~~operation; provided, however, if a limited service facility has within five years preceding the proposed closing date been a branch of any bank, it shall comply with the requirements of subsection (e) below before closing.~~ operation.

(d1) Subject to such rules and regulations as may be prescribed by the State Banking Commission with regard to their use, maintenance and supervision, any bank may establish off the premises of any principal office, branch or limited service facility a customer-bank communications terminal, point-of-sale terminal, automated teller machine, automated banking facility or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise, to or from a bank or other nonbank terminal; and the establishment and use of such a device or machine shall not be deemed a branch or limited service facility, and the capital requirements and standards for approval of a branch or limited service facility, all as set forth in subsections (b) and (c) of this section, shall not be applicable to the establishment of any such off-premises terminal device or machine.

(e) A bank may, upon resolution by the board of directors, discontinue a branch office subject to the following:

(1) The bank shall notify the Commissioner in writing of its intent to close a branch not later than 90 days prior to the proposed closing date. Such notice shall include a detailed statement of the reasons for the decision to close a branch and statistical or other information in support of such reasons.

(2) The bank shall provide a notice of its intent to close a branch to its customers. Such notice shall be posted in a conspicuous manner on the branch premises for a period of 30 days prior to the proposed closing date, and shall either be included in at least one of any regular account statements mailed to customers of such branch, or in a separate mailing to such customers. The later notice shall be given at least 90 days prior to the proposed closing date.

No branch shall be closed until approved by the Commissioner of Banks, provided, however, the consolidation of two or more branches into a single location in the same vicinity shall not be considered a closure subject to the provisions of this subsection.

(f) Any action taken by the Commissioner of Banks pursuant to this section shall be subject to review by the State Banking Commission which shall have the authority to approve, modify or disapprove any action taken or recommended by the Commissioner of Banks."

SECTION 6. G.S. 53-67 reads as rewritten:

"**§ 53-67. Banks controlled by boards of directors.**

The corporate powers, business, and property of banks doing business under this Chapter shall be exercised, conducted, and controlled by its board of directors, which shall meet at least quarterly. Such board shall consist of not less than five directors, to be chosen by the stockholders, and shall hold office for the term for which they are elected, and until their successors are elected and qualified. The annual meeting of stockholders for the election of directors shall be held at such time as may be designated by the charter or the bylaws of the bank but shall be held not later than ~~the thirtieth day of June in each year.~~ June 30 each year; provided, however, that any bank which has been open for business for fewer than 12 months as of June 30 of the current year shall hold its first annual meeting by not later than June 30 of the following year. In addition to the foregoing powers relating to the fixing of the number and the election of directors, the stockholders of a bank, at any stockholders' meeting, special or annual, may authorize not more than two additional directorships which may be left unfilled and to be filled in the discretion of the directors of the institution during the interval between such stockholders' meetings. Aside from the specific provisions of this section, the number, election, term and classification of the directors of banks doing business under this Chapter shall be governed by the provisions of the North Carolina Business Corporation Act."

SECTION 7. G.S. 53-99(b)(7b) reads as rewritten:

"(7b) Records of applications, ~~examinations~~ examinations, and investigations of ~~registrants~~ applicants, licensees, and exempt persons under the Mortgage Lending Act, Article 19A of this Chapter;".

SECTION 8. G.S. 53-115 reads as rewritten:

"**§ 53-115. State Banking Commission to ~~make rules and regulations.~~ adopt rules.**

(a) The State Banking Commission is hereby authorized, empowered and directed to make all necessary rules ~~and regulations, and to give all necessary instructions with respect to such actions of banking corporations which the Commissioner of Banks may authorize, permit and/or direct and require to be conducted under the provisions of G.S. 53-77, 53-114, 53-115, and 53-116. And it shall be the duty of all such banking corporations and their officers, agents and employees, to comply fully with any and all such rules, regulations and instructions, established and promulgated by the State Banking Commission with respect to such banking corporations under the terms of G.S. 53-77, 53-114, 53-115, and 53-116; and such orders, rules, and regulations shall have the same force and effect as rules, regulations and instructions promulgated under the existing banking laws.~~ with respect to the establishment, operation, conduct, and termination of any and all activities and businesses that are subject to licensing, regulation, supervision, or examination by the Commissioner of Banks under this Chapter.

(b) The rule-making authority conferred on the State Banking Commission by this section shall be in addition to and not in derogation of any specific rule-making authority by any other provision of this Chapter."

SECTION 9. G.S. 53-160 reads as rewritten:

"**§ 53-160. License to do business.**

Before any such bank or trust company is authorized to act in any fiduciary capacity without bond, it must be licensed by the Commissioner of Banks of the State. For such license the ~~licensee~~ licensee, for the purpose of defraying necessary expenses of the Commissioner of Banks and the Commissioner's agents in supervising and examining the licensee, shall pay to the ~~State Banking Commission an annual license fee of two hundred dollars ($200.00), which shall be remitted to the State Treasurer for the use of the Commissioner of Banks in the supervision of banks and trust companies acting in a fiduciary capacity, insofar as it may be necessary, and the surplus, if any, shall remain in the State treasury for the use of the general fund of the State:~~ Commissioner of Banks an annual license fee not to exceed five hundred dollars ($500.00) as required by rule of the State Banking Commission. ~~Provided, however, that a~~ A national bank which has been granted trust powers by the Comptroller of the Currency or his duly authorized agent shall be annually licensed as required in this section and shall be granted a certificate of solvency which will meet the provisions of G.S. 53-162 without examination by the Commissioner of Banks as required in G.S. 53-161."

SECTION 10. G.S. 53-208.12 reads as rewritten:

"**§ 53-208.12. Quarterly reports.**

A licensee shall file for each calendar quarter, no later than 60 days after the quarter has ended, a report which contains the total number of authorized delegates in this State. In addition, a licensee shall promptly provide any additional information regarding any or all of its current and prior authorized delegates requested by the Commissioner."

SECTION 11. G.S. 53-243.02(c) reads as rewritten:

"(c) The license of a loan officer is not effective during any period when that person is not employed by a mortgage broker or mortgage banker licensed under this Article. The license of an exclusive mortgage broker is not effective during any period when that person is not authorized to act as a single licensee or exempt person pursuant to G.S. 53-243.05(c)(1a).

When a loan officer ceases to be employed by a mortgage broker or mortgage banker licensed under this Article, the loan officer and the mortgage broker or mortgage banker licensed under this Article by whom that person is employed shall promptly notify the Commissioner in writing. When the authority of an exclusive mortgage broker to act on behalf of the principal licensee or exempt person identified in G.S. 53-243.05(c)(1a) has been terminated, the exclusive mortgage broker and the licensee or exempt person for whom the exclusive mortgage broker is an agent shall promptly notify the Commissioner in writing. The mortgage broker, mortgage banker, or exempt person's notice shall include a statement of the specific reason or reasons for, as applicable, the termination of the loan officer's employment or exclusive mortgage broker's authority.

A loan officer shall not be employed simultaneously by more than one mortgage broker or mortgage banker licensed under this Article."

SECTION 12. G.S. 53-243.05(a)(6) reads as rewritten:

"(6) The applicant's consent to a federal and State criminal history record check and a set of the applicant's fingerprints in a form acceptable to

the Commissioner. In the case of an applicant that is a corporation, partnership, limited liability company, association, or trust, each individual who has control of the applicant or who is the managing principal or a branch manager shall consent to a federal and State criminal history record check and submit a set of that individual's fingerprints pursuant to this subdivision. Refusal to consent to a criminal history record check ~~may constitute~~ constitutes grounds for the Commissioner to deny licensure to the ~~applicant.~~applicant as well as to any entity (i) by whom or by which the applicant is employed, (ii) over which the applicant has control, or (iii) as to which the applicant is the current or proposed managing principal or a current or proposed branch manager."

SECTION 13. G.S. 53-243.06(b1) reads as rewritten:

"(b1) When required by the Commissioner, ~~the licensee~~ each individual described in G.S. 53-245.05(a)(6) shall furnish to the Commissioner ~~the licensee's~~ his or her consent to a criminal history record check and a set of the ~~licensee's~~ his or her fingerprints in a form acceptable to the Commissioner. Refusal to consent to a criminal history record check may constitute grounds for the Commissioner to deny renewal of ~~licensure to the licensee.~~the license of the person as well as the license of any other person by which he or she is employed, over which he or she has control, or as to which he or she is the current or proposed managing principal or a current or proposed branch manager."

SECTION 14. G.S. 53-243.11 is amended by adding a new subdivision to read:

"(12) To fail to comply with the mortgage loan servicing transfer, escrow account administration, or borrower inquiry response requirements imposed by sections 6 and 10 of the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. § 2605 and § 2609, and regulations adopted thereunder by the Secretary of the Department of Housing and Urban Development."

SECTION 15. G.S. 53-243.12(a)(2) reads as rewritten:

"(2) That any of the following circumstances apply to the applicant, licensee, or any partner, member, manager, officer, director, loan officer, managing ~~broker,~~ principal, or any person occupying a similar status or performing similar functions or any person directly or indirectly controlling the applicant or licensee. The person:

a. Has filed an application for license that, as of its effective date or as of any date after filing, contained any statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact.

b. Has violated or failed to comply with any provision of this Article, rule adopted by the Commissioner, or order of the Commissioner.

c. Has been convicted of any felony, or, within the past 10 years, has been convicted of any misdemeanor involving mortgage lending or any aspect of the mortgage lending business, or any offense involving breach of trust, moral turpitude, or fraudulent or dishonest dealing.

d. Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the mortgage lending business.

e. Is the subject of an order of the Commissioner denying, suspending, or revoking that person's license as a mortgage broker or mortgage banker.

f. Is the subject of an order entered within the past five years by the authority of any state with jurisdiction over that state's mortgage brokerage or mortgage banking industry denying or revoking that person's license as a mortgage broker or mortgage banking industry or denying or revoking that person's license as a mortgage broker or mortgage banker.

g. Does not meet the qualifications or the financial responsibility, character, or general fitness requirements under G.S. 53-243.05 or any bond or capital requirements under this Article.

h. Has been the executive officer or controlling shareholder or owned a controlling interest in any mortgage broker or mortgage banker who has been subject to an order or injunction described in sub-subdivision d., e., or f. of this subdivision.

i. Has failed to pay the proper filing or renewal fee under this Article. However, the Commissioner may enter only a denial order under this sub-subdivision, and the Commissioner shall vacate the order when the deficiency has been corrected."

SECTION 16. G.S. 53-243.12(g) reads as rewritten:

"(g) If the Commissioner has reasonable grounds to believe that a licensee or other person has violated the provisions of this Article or that facts exist that would be the basis for an order against a licensee or other person, the Commissioner may at any time, either personally or by a person duly designated by the Commissioner, investigate or examine the loans and business of the licensee and examine the books, accounts, records, and files of any licensee or other person relating to the complaint or matter under investigation. The Commissioner may require any licensee or other person to submit a consent to a criminal history record check and a set of that person's fingerprints in a form acceptable to the Commissioner in connection with any examination or investigation. Refusal to submit the requested criminal history record check or a set of fingerprints shall be grounds for disciplinary action. The reasonable cost of this investigation or examination shall be charged against the licensee."

SECTION 17. G.S. 53-243.12(k) reads as rewritten:

"(k) If the Commissioner finds that the managing principal, branch manager, or loan officer of a licensee had knowledge of or reasonably should have had knowledge of, or participated in, any activity that results in the entry of an order under this section suspending or withdrawing the license of a licensee, the Commissioner may prohibit the branch manager, managing ~~broker~~ principal, or loan officer from serving as a branch manager, managing ~~broker~~ principal, or loan officer for any period of time the Commissioner deems necessary."

SECTION 18. G.S. 53-243.16 reads as rewritten:

"**§ 53-243.16. Criminal history record checks.**

(a) The Department of Justice may provide a criminal record check to the Commissioner for ~~a~~ any person who has applied for or holds a mortgage banker, mortgage broker, exclusive mortgage broker, or loan officer license through the Commissioner under this Article.

(b) In addition, if a person described in subsection (a) of this section is a corporation, partnership, limited liability company, association, or trust, the Department of Justice may provide a criminal record check to the Commissioner for any person who has control of that person, or who is the managing principal or a branch manager of that person.

(c) The Commissioner shall provide to the Department of Justice, along with the request, the fingerprints of the ~~applicant,~~ person, any additional information required by the Department of Justice, and a form signed by the ~~applicant~~ person consenting to the check of the criminal record and to the use of the fingerprints and other identifying information required by the State or national repositories. The ~~applicant's~~ person's fingerprints shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history check. The Commissioner shall keep all information pursuant to this section privileged, in accordance with applicable State law and federal guidelines, and the information shall be confidential and shall not be a public record under Chapter 132 of the General Statutes.

The Department of Justice may charge a fee for each ~~applicant~~ person for conducting the checks of criminal history records authorized by this section."

SECTION 19. G.S. 53-257(6) reads as rewritten:

"(6) Reverse mortgage loan or loan. – A loan for a definite or indefinite term (i) secured by a first mortgage or first deed of trust on the principal residence of the ~~mortgagor,~~ mortgagor located in North Carolina, (ii) the proceeds of which are disbursed to the mortgagor in one or more lump sums, or in equal or unequal installments, either directly by the lender or the lender's agent, and (iii) that requires no repayment until a future time, upon the earliest occurrence of one or more events specified in the reverse mortgage loan contract."

SECTION 20. G.S. 53-258 reads as rewritten:

"**§ 53-258. Authority and procedures governing reverse mortgage loans.**

(a) ~~No~~ Except as provided in subsection (b1) of this section, no person, firm, or corporation shall engage in the business of making reverse mortgage loans without first being approved as an authorized lender by the ~~Commissioner, unless the lender is the North Carolina Housing Finance Agency, or is a bank, savings institution, or credit union authorized to do business under the laws of this State or authorized to do business under the laws of the United States and chartered to do business in this State.~~Commissioner.

(b) An application for authorization to make reverse mortgage loans shall be in writing to the Commissioner and in the form prescribed by the Commissioner. The application shall contain the name and complete business address or addresses of the applicant. The application shall also include affirmation of financial solvency and all capitalization requirements that are required by the Commissioner. The application shall be accompanied by a nonrefundable fee, payable to the Commissioner, of five hundred dollars ($500.00).

(b1) Each of the following lenders shall be considered authorized to engage in the business of making reverse mortgage loans without being required to apply pursuant to subsection (b) of this section and may represent to the public that it is so authorized:

(1) The North Carolina Housing Finance Agency.

(2) A bank, savings institution, or credit union formed under the laws of this or any other state or of the United States.

(3) A wholly owned subsidiary of an entity described in subdivision (2) of this subsection.

Each lender listed in this subsection may, upon written request to the Commissioner of Banks, obtain written confirmation of its authority to engage in the business of making reverse mortgage loans. In the case of lenders listed in subdivisions (2) and (3) of this subsection, the request shall be accompanied by the fee set forth in subsection (d) of this section.

~~(c) The North Carolina Housing Finance Agency, and any bank, savings institution, or credit union that is not required to obtain authorization to make reverse mortgage loans under subsection (a) of this section, shall, prior to making any reverse mortgage loan, notify the Commissioner of its intent to make reverse mortgage loans. This notification shall be made on a form prescribed by the Commissioner and shall contain all information required by the Commissioner.~~

(d) The Commissioner shall, upon determination that ~~a lender~~ an applicant should be authorized to make reverse mortgage loans, issue notice of this authority to the lender. The authority to issue reverse mortgage loans is valid for the period of time specified by the Commissioner. A lender to whom a notice of authority is issued shall display the notice prominently in any and all offices of the lender that make reverse mortgage loans. Authorizations issued under this section are ~~nontransferable and subject to~~ nontransferable. Except for lenders described in subsection (b1) of this section, each lender to which an authorization is issued shall pay an annual renewal fee of two hundred fifty dollars ($250.00)."

SECTION 21. G.S. 54B-4(b) is amended by adding the following new subdivision to read:

"(32b) "Limited service facility" means a staffed physical location open to the public in this State in which a State association conducts any activity of a "branch office" set forth in subdivision (7) of this subsection, but which is not considered a branch by virtue of the fact that the State association does not engage in all activities of a branch at the location. A location is a limited service facility of a State association notwithstanding that it is operated by a third party if there exists an agreement between the third party and the State association pursuant to which the third party (i) takes deposits or offers loans as an agent of the State association or in the State association's name; or (ii) is obligated to sell or otherwise transfer to the State association all or a substantial portion of the loan or deposit production of that location."

SECTION 22. G.S. 54B-22 reads as rewritten:

"**§ 54B-22. Branch ~~offices.~~ offices and limited service facilities.**

~~(a) Any State association may apply to the Commissioner of Banks for permission to establish a branch office. The application shall be in such form as may be prescribed by the Commissioner of Banks and shall be accompanied by the proper branch application fee. Branch applications shall be approved or denied by the Commissioner of Banks within 120 days of filing.~~

~~(b) The Commissioner of Banks shall approve a branch application when all of the following criteria are met:~~

~~(1) The applicant has gross assets of at least ten million dollars ($10,000,000);~~

~~(2) The applicant has evidenced financial responsibility;~~

~~(3) The applicant has a net worth equal to or exceeding the amount required by the insurer of the applicant's withdrawable accounts;~~

~~(4) The applicant has an acceptable internal control system. Such a system would include certain basic internal control requirements essential to the protection of assets and the promotion of operational efficiency regardless of the size of the applicant. Some of the factors which require extensive internal control requirements such as the use of the controller or internal auditor and more distinctive placement responsibilities include the applicant's size, number of personnel and history of and anticipated plans for expansion.~~

~~(c) Upon receipt of a branch application, the Commissioner of Banks shall examine or cause to be examined all the relevant facts connected with the establishment of the proposed branch office. If it appears to the satisfaction of the Commissioner of Banks that the applicant has complied with all the requirements set forth in this section and the regulations for the establishment of a branch office and that the association is otherwise lawfully entitled to establish such branch office, then the administrator shall approve the branch application.~~

~~(d) Not more than 10 days following the filing of the branch application with the Commissioner of Banks, the applicant shall cause a notice to be published in a~~

~~newspaper of general circulation in the area to be served by the proposed branch office. Such notice shall contain:~~

~~(1) A statement that the branch application has been filed with the Commissioner of Banks;~~

~~(2) The proposed address of the branch office, including city or town and street; and~~

~~(3) A statement that any interested or affected party may file a written statement with the Commissioner of Banks, within 30 days of the date of the publication of the notice, protesting the establishment of the proposed branch office and requesting a hearing before the Commissioner of Banks on the application.~~

~~(e) Any interested or affected party may file a written statement with the Commissioner of Banks within 30 days of the date of initial publication of the branch application notice, protesting the establishment of the proposed branch office and requesting a hearing before the Commissioner of Banks on the application. If a hearing is held on the branch application, the Commissioner of Banks shall only receive information and hear testimony from the applicant and from any interested or affected party which is relevant to the branch application and the operation of the proposed branch office. The Commissioner of Banks shall issue his final decision on the branch application within 30 days following the hearing. Such final decision shall be in accordance with the applicable provisions of Chapter 150B of the General Statutes.~~

~~(f) If a hearing is not held on the branch application, the Commissioner of Banks shall issue his final decision within 120 days of the filing of the application. Such final decision shall be in accordance with the applicable provisions of Chapter 150B of the General Statutes.~~

~~(g) to (i) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1238, s. 3.~~

~~(j) Any party to a branch application may appeal the final decision of the to the Commission at any time after final decision, but not later than 30 days after a written copy of the final decision is served upon the party and his attorney of record by personal service or by certified mail. Failure to file such appeal within the time stated shall operate as a waiver of the right of such party to review by the Commission and by a court of competent jurisdiction in accordance with Chapter 150B of the General Statutes, relating to judicial review.~~

(a) A State association, with the prior written approval of the Commissioner of Banks, may:

(1) Establish a branch office or limited service facility; or

(2) Convert an existing limited service facility to a branch office.

The application for approval to establish or convert a branch office or limited service facility shall be in a form prescribed by the Commissioner of Banks and shall be accompanied by the application fee established by the Banking Commission by rule. Approval may be given or withheld by the Commissioner of Banks. In determining whether to give or withhold approval, the Commissioner of Banks shall take into account factors including the financial history and condition of the applicant

association, the adequacy of its capital structure, its future earnings prospects, and the general character of its management.

The Commissioner of Banks shall not give approval pursuant to this subsection unless the Commissioner finds that:

(1) The establishment or conversion of the branch office or limited service facility will meet the needs and promote the convenience of the community to be served thereby; and

(2) The probable volume of business and reasonable public demand in the community are sufficient to assure and maintain the solvency of the branch office or limited service facility and of the existing depository instructions in the community.

(b) A branch or limited service facility of a State association shall be operated under the control and direction of the board of directors and executive officers of the State association and under the name of the State association as set forth in its Certificate of Incorporation filed with the Office of the Secretary of State, except that the Commissioner of Banks may permit the operation of a branch office or limited service facility under an assumed name under the conditions and terms imposed by the Commissioner if the Commissioner finds that the name will not result in confusion among customers of the State association or among the general public. The board of directors of the State association shall elect officers required to conduct the business of any branch or limited service facility.

The Commissioner of Banks shall not authorize the establishment or conversion of a branch office or limited service facility until the Commissioner is satisfied that the applicant State association has sufficient capital to maintain a minimum capital to asset ratio as the Commissioner of Banks may require. In determining the ratio, the Commissioner of Banks shall give due consideration to (i) the amount of capital required to support the association's projected growth, (ii) the association's earnings history and projected earnings, (iii) the quality of the association's assets, (iv) the amount of capital then invested by the State association in fixed assets, and (v) the business experience and reputation of the management.

(c) Subject to rules adopted by the State Banking Commission with regard to its use, maintenance, and supervision, any State association may establish off the premises of any principal office, branch office, or limited service facility a customer-bank communications terminal, point-of-sale terminal, automated teller machine, automated banking facility, or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise, to or from an association or other terminal. The establishment and use of the device or machine shall not be deemed a branch or limited service facility, and the net worth requirements and standards for approval of a branch, all as set forth in this section, shall not be applicable to the establishment of any off-premises terminal device or machine."

SECTION 23. G.S. 54C-4(18) reads as rewritten:

"(18) ~~Loan production office. An office of a savings bank other than the principal or branch offices whose activities are limited to the generation of loans.~~

Limited service facility. – A staffed physical location open to the public in this State in which a State savings bank conducts any activity of a "branch office" set forth in subdivision (5) of this subsection, but which is not considered a branch by virtue of the fact that the State savings bank does not engage in all activities of a branch at the location. A location is a limited service facility of a State savings bank notwithstanding that it is operated by a third party if there exists an agreement between the third party and the State savings bank pursuant to which the third party (i) takes deposits or offers loans as an agent of the State savings bank or in the State savings bank's name; or (ii) is obligated to sell or otherwise transfer to the State savings bank all or a substantial portion of the loan or deposit production of that location."

SECTION 24. G.S. 54C-23 reads as rewritten:

"**§ 54C-23. Branch ~~offices.~~offices and limited service facilities.**

~~(a) A State savings bank may apply to the Commissioner of Banks for permission to establish a branch office. The application shall be in the form prescribed by the Commissioner of Banks and shall be accompanied by the proper branch application fee. The Commissioner of Banks shall approve or deny branch applications within 120 days of filing.~~

~~(b) The Commissioner of Banks shall approve a branch application when all of the following criteria are met:~~

~~(1) The applicant has gross assets of at least ten million dollars ($10,000,000).~~

~~(2) The applicant has evidenced financial responsibility.~~

~~(3) The applicant has a net worth equal to or exceeding the amount required by the insurer of deposit accounts.~~

~~(4) The applicant has an acceptable internal control system that includes certain basic internal control requirements essential to the protection of assets and the promotion of operational efficiency regardless of the size of the applicant.~~

~~(c) Upon receipt of a branch application, the Commissioner of Banks shall examine or cause to be examined all the relevant facts connected with the establishment of the proposed branch office. If it appears to the satisfaction of the Commissioner of Banks that the applicant has complied with all the requirements set forth in this section and the regulations for the establishment of a branch office and that the savings bank is otherwise lawfully entitled to establish the branch office, then the Commissioner of Banks shall approve the branch application.~~

~~(d) Not more than 10 days following the filing of the branch application with the Commissioner of Banks, the applicant shall cause a notice to be published in a newspaper of general circulation in the area to be served by the proposed branch office. The notice shall contain:~~

~~(1) A statement that the branch application has been filed with the Commissioner of Banks;~~

~~(2) The proposed address of the branch office, including city or town and street; and~~

~~(3) A statement that any interested or affected party may file a written statement with the Commissioner of Banks, within 30 days of the date of the publication of the notice, protesting the establishment of the proposed branch office and requesting a hearing before the Commissioner of Banks on the application.~~

~~(e) Any interested or affected party may file a written statement with the Commissioner of Banks within 30 days of the date of initial publication of the branch application notice, protesting the establishment of the proposed branch office and requesting a hearing before the Commissioner of Banks on the application. If a hearing is held on the branch application, the Commissioner of Banks shall receive information and hear testimony only from the applicant and from any interested or affected party that is relevant to the branch application and the operation of the proposed branch office. The Commissioner of Banks shall issue the final decision on the branch application within 30 days following the hearing. The final decision shall be in accordance with Chapter 150B of the General Statutes.~~

~~(f) If a hearing is not held on the branch application, the Commissioner of Banks shall issue the final decision within 120 days of the filing of the application. The final decision shall be in accordance with Chapter 150B of the General Statutes.~~

~~(g) A party to a branch application may appeal the final decision of the Commissioner of Banks to the Commission at any time after the final decision, but not later than 30 days after a written copy of the final decision is served upon the party and the party's attorney of record by personal service or by certified mail. Failure to file an appeal within the time stated shall operate as a waiver of the right of the party to review by the Commission and by a court of competent jurisdiction in accordance with Chapter 150B of the General Statutes, relating to judicial review.~~

(a) A State savings bank, with the prior written approval of the Commissioner of Banks, may:

(1) Establish a branch office or limited service facility; or

(2) Convert an existing limited service facility to a branch office.

The application for approval to establish or convert a branch office or limited service facility shall be in a form prescribed by the Commissioner of Banks and shall be accompanied by the application fee established by the Banking Commission by rule. Approval may be given or withheld by the Commissioner of Banks. In determining whether to give or withhold approval, the Commissioner of Banks shall take into account factors including the financial history and condition of the applicant State savings bank, the adequacy of its capital structure, its future earnings prospects, and the general character of its management.

The Commissioner of Banks shall not give approval pursuant to this subsection unless the Commissioner finds that:

(1) The establishment or conversion of the branch office or limited service facility will meet the needs and promote the convenience of the community to be served thereby; and

(2) The probable volume of business and reasonable public demand in the community are sufficient to assure and maintain the solvency of the branch office or limited service facility and of the existing depository instructions in the community.

(b) A branch or limited service facility of a State savings bank shall be operated under the control and direction of the board of directors and executive officers of the State savings bank and under the name of the State savings bank as set forth in its Certificate of Incorporation filed with the Office of the Secretary of State, except that the Commissioner of Banks may permit the operation of a branch office or limited service facility under an assumed name under the conditions and terms imposed by the Commissioner if the Commissioner finds that the name will not result in confusion among customers of the State savings bank or among the general public. The board of directors of the State savings bank shall elect officers required to conduct the business of any branch or limited service facility.

The Commissioner of Banks shall not authorize the establishment or conversion of a branch office or limited service facility until the Commissioner is satisfied that the applicant State savings bank has sufficient capital to maintain a minimum capital to asset ratio as the Commissioner of Banks may require. In determining the ratio, the Commissioner of Banks shall give due consideration to (i) the amount of capital required to support the State savings bank's projected growth, (ii) the State savings bank's earnings history and projected earnings, (iii) the quality of the savings bank's assets, (iv) the amount of capital then invested by the State association in fixed assets, and (v) the business experience and reputation of the management.

(c) Subject to rules adopted by the State Banking Commission with regard to its use, maintenance, and supervision, any State savings bank may establish off the premises of any principal office, branch office, or limited service facility a customer-bank communications terminal, point-of-sale terminal, automated teller machine, automated banking facility, or other direct or remote information-processing device or machine, whether manned or unmanned, through or by means of which information relating to any financial service or transaction rendered to the public is stored and transmitted, instantaneously or otherwise, to or from a savings bank or other terminal. The establishment and use of the device or machine shall not be deemed a branch or limited service facility, and the net worth requirements and standards for approval of a branch, all as set forth in this section, shall not be applicable to the establishment of any off-premises terminal device or machine."

SECTION 25. G.S. 54C-27 is repealed.

SECTION 26. The Legislative Research Commission shall undertake a comprehensive study of those laws, including Chapters 53, 54B, 54C, and 24 of the General Statutes, which affect the establishment and operation of banks in North Carolina and shall make recommendations to the 2003 General Assembly, prior to the convening of the 2004 Regular Session as to which laws (i) are obsolete, unnecessary,

or duplicative, (ii) are unnecessarily inconsistent in the treatment of banks, savings and loan associations, and savings banks, and (iii) unnecessarily restrict, impede, or prohibit activities of banks, savings and loan associations, and savings banks or the ability of the Commissioner of Banks to regulate banks and savings institutions in an effective, efficient, and equitable manner.

In preparing its recommendations, the Commission shall actively solicit and consider information received from representatives of banks, savings and loan associations, savings banks, the State Banking Commission, the Commissioner of Banks and the Commissioner's staff, other interested parties, and the general public.

SECTION 27. Sections 26 and 27 of this act are effective when it becomes law. The remainder of this act becomes effective October 1, 2003, and applies to acts occurring and transactions or agreements entered into on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 676

AMENDMENT NO. #1
(to be filled in by
Principal Clerk)

S676-ALA-32 [v.1]

Date 7-19 ,2003

Comm. Sub. [YES]
Amends Title [YES]
Third Edition

Representative Luebke

moves to amend the bill on page 1, line 2, by rewriting the line to read:
"AN ACT TO AMEND THE BANKING LAWS OF NORTH CAROLINA, AND TO EXEMPT CERTAIN FREE DISTRIBUTION PUBLICATIONS FROM THE SALES TAX.";

and on page 18, by adding a new section between lines 9 and 10 to read:

"**SECTION 26.1.** G.S. 105-164.13 is amended by adding a new subdivision to read:

'(39) Sales of paper, ink, and other tangible personal property to commercial printers and commercial publishers for use as ingredients or component parts of free distribution periodicals and sales by printers of free distribution periodicals to the publishers of these periodicals. As used in this subdivision, the term "free distribution periodical" means a publication that is published on a periodic basis monthly or more frequently, is provided without charge to the recipient, and is distributed in any manner other than by mail.'";

and on page 18, line 11, by adding the following sentence after the period:
"Section 26.1 becomes effective July 1, 2004, and applies to sales made on or after that date."

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 676

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S676-ALA-32 [v.1]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 676

AMENDMENT NO. #2
(to be filled in by Principal Clerk)

S676-ARC-53 [v.4]

Date 7-19 ,2003

Comm. Sub. [YES]
Amends Title [YES]
Third Edition

Representative Brubaker

moves to amend the bill on page 1, line 2, by inserting before the period the following:
"AND TO CONFORM THE LAWS RELATED TO PERMISSIBLE INTEREST RATES FOR HOME LOANS SECURED BY FIRST MORTGAGES.";

and on page 18, by adding the following between lines 9 and 10:

"**SECTION 26.5.** G.S. 24-1.1A(a) reads as rewritten:

'(a) Notwithstanding any other provision of this Chapter, but subject to the provisions of G.S. 24-1.1E, parties to a home loan may contract in writing as follows:

(1) Where the principal amount is ten thousand dollars ($10,000) or more the parties may contract for the payment of interest as agreed upon by the ~~parties;~~parties.

(2) Where the principal amount is less than ten thousand dollars ($10,000) the parties may contract for the payment of interest as agreed upon by the parties, if the lender is ~~either~~ one of the following:

~~(i)~~a. ~~approved~~ Approved as a mortgagee by the Secretary of Housing and Urban Development, the Federal Housing Administration, the Department of Veterans Affairs, a national mortgage association or any federal ~~agency; or~~agency.

~~(ii)~~b. ~~a~~ A local or foreign bank, savings and loan association or service corporation wholly owned by one or more savings and loan associations and permitted by law to make home loans, credit union or insurance ~~company; or~~company.

~~(iii)~~c. ~~a~~ A State or federal ~~agency;~~agency.

d. A mortgage banker who is a licensee or an exempt person as those terms are defined in G.S. 53-243.01.

(3) Where the principal amount is less than ten thousand dollars ($10,000) and the lender is not a lender described in the preceding subdivision (2) the parties may contract for the payment of interest not in excess of sixteen percent (16%) per annum.

~~(4) Notwithstanding any other provision of law, where the lender is an affiliate operating in the same office or subsidiary operating in the same office of a licensee under the North Carolina Consumer Finance Act, the lender may charge interest to be computed only on the following basis: monthly on the outstanding principal balance at a rate not to exceed the rate provided in this subdivision.~~

~~On the fifteenth day of each month, the Commissioner of Banks shall announce and publish the maximum rate of interest permitted by this subdivision. Such rate shall be the latest published noncompetitive rate for U.S. Treasury bills with a six month maturity as of the fifteenth day of the month plus six percent (6%), rounded upward or downward, as the case may be, to the nearest one half of one percent (1/2 of 1%) or fifteen percent (15%), whichever is greater. If there is no nearest one half of one percent (1/2 of 1%), the Commissioner shall round downward to the lower one half of one percent (1/2 of 1%). The rate so announced shall be the maximum rate permitted for the term of loans made under this section during the following calendar month when the parties to such loans have agreed that the rate of interest to be charged by the lender and paid by the borrower shall not vary or be adjusted during the term of the loan. The parties to a loan made under this section may agree to a rate of interest which shall vary or be adjusted during the term of the loan in which case the maximum rate of interest permitted on such loans during a month during the term of the loan shall be the rate announced by the Commissioner in the preceding calendar month.~~

~~An affiliate operating in the same office or subsidiary operating in the same office of a licensee under the North Carolina Consumer Finance Act may not make a home loan for a term in excess of six (6) months which provides for a balloon payment. For purposes of this~~

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 676

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S676-ARC-53 [v.4]

~~subdivision, a balloon payment means any scheduled payment that is more than twice as large as the average of earlier scheduled payments. This subsection does not apply to equity lines of credit as defined in G.S. 45-81.~~'

SECTION 26.6. G.S. 24-1.1A(c2) is repealed.

SECTION 26.7. G.S. 24-1.4 is repealed.";

And on page 18, line 11, by adding the following sentence after the period:

"Sections 26.5, 26.6, and 26.7 become effective August 1, 2003, and apply to loans entered into on or after that date.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Dot

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ HOUSE Committee Substitute for
S.B. 676 A BILL TO BE ENTITLED AN ACT TO AMEND THE BANKING LAWS OF NORTH CAROLINA.

☒ With a favorable report, as amended.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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, unfavorable as to Senate committee substitute bill.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 75

Finance Committee Substitute Adopted 6/12/03

Short Title: Life Sciences Revenue Bond Authority. (Public)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 159D of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Life Sciences Revenue Bond Authority.

"**§ 159D-65. Legislative findings.**

The General Assembly finds the following:

(1) The life sciences, including biology, zoology, agronomy, biochemistry, genetics, and molecular biology, have developed and are continuing to develop new commercially viable products designed to diagnose and treat diseases, produce therapeutic proteins and industrial enzymes, synthesize nutritional supplements and specialty chemicals in microorganisms, plants, and animals, and accomplish other beneficial purposes.

(2) The commercialization of life science products has provided, and will continue to provide, significant economic benefits for the citizens of North Carolina through increased business development and employment.

(3) North Carolina has a strong life sciences infrastructure in place, fostered over many years by the General Assembly, public and private universities, the North Carolina Biotechnology Center, life sciences companies and investors, and various State, regional, and local economic development initiatives.

(4) Nationally and within North Carolina, the life sciences industry has an immediate need for additional manufacturing capacity for the extraction, separation, purification, and packaging of products at various stages of the development, testing, and commercialization

process, and the demand for this manufacturing capacity is likely to increase significantly in the next three to five years.

(5) Employment opportunities created by life sciences manufacturing facilities are ideally suited for rural and urban regions of North Carolina currently undergoing significant economic challenges, and ancillary employment opportunities in construction, logistical support, transportation, raw material supply, and other fields will be enhanced through the construction and operation of life sciences manufacturing facilities in the State.

(6) A Life Sciences Revenue Bond Authority to help finance bioprocessing development facilities and bioprocessing manufacturing facilities addresses a critical need for companies that are formulating products, conducting field and clinical trials, and engaging in the production of new products.

(7) It is in the interest of the people of North Carolina that the State take steps to encourage the development of these facilities in the State and that the State seek to achieve a position of national leadership and innovation in the field of bioprocess manufacturing by facilitating the construction of economically sound and sustainable facilities in the State.

"**§ 159D-66. Definitions.**

The following definitions apply in this Article:

(1) Authority. – The Life Sciences Revenue Bond Authority.

(2) Board. – The Board of Directors of the Authority.

"**§ 159D-67. Creation and purposes of Life Sciences Revenue Bond Authority.**

(a) Creation. – The Life Sciences Revenue Bond Authority is created within the Department of State Treasurer for organizational and budgetary purposes only. The Authority shall be governed by a Board of Directors. The Board of Directors is authorized to administer the Authority independently in accordance with the requirements of this Article.

(b) Purposes. – The Authority has the following purposes:

(1) To examine alternatives for enhancing North Carolina's construction financing infrastructure for life sciences manufacturing facilities by credit enhancement vehicles such as revenue bonds.

(2) To establish proposed guidelines for the deployment, oversight, promotion, monitoring, and management of these credit enhancement vehicles.

(3) To identify prospective life sciences enterprises that might benefit from the establishment of credit enhancement vehicles.

(4) To advise and make recommendations to the General Assembly regarding further legislation to achieve the goals of the Authority.

(5) To serve as the central life sciences revenue bond policy planning body in the State through collaboration and coordination with State, regional, local agencies, The University of North Carolina System, the

North Carolina Biotechnology Center, the State Treasurer, and private entities in order to develop and foster a life sciences credit enhancement infrastructure for the benefit of the citizens of North Carolina.

"**§ 159D-68. Board of Directors.**

(a) Members. – The Board of Directors consists of seven voting members, as follows:

(1) Two members appointed by the Governor.

(2) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(3) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(4) The State Treasurer of North Carolina or the Treasurer's designee.

(b) Terms. – The initial terms of office begin on the date of appointment and expire on June 30, 2005. Board members appointed for subsequent terms shall serve terms of three years. Board members may serve up to two full consecutive three-year terms. All members of the Board shall remain in office until their successors are appointed and qualify.

(c) Vacancies. – A vacancy in an appointment made by the Governor shall be filled by the Governor for the remainder of the term. A vacancy in an appointment made by the General Assembly shall be filled in accordance with G.S. 120-122 for the remainder of the term. A person appointed to fill a vacancy must qualify in the same manner as a person appointed for a full term.

(d) Chair. – The members of the Board shall elect a Chair from among their members. The Chair shall serve in that position at the pleasure of the Board.

"**§ 159D-69. Powers and duties of Authority.**

(a) Powers. – The Authority has all of the powers necessary or convenient to carry out this Article, including the following powers:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties.

(2) To adopt and modify an official seal.

(3) To maintain an office at any place within the State as it may determine.

(4) To apply for, accept, and utilize grants, contributions, and appropriations in order to carry out its duties as provided in this Article.

(5) To employ, contract with, direct, and supervise all personnel and consultants and to enter into other contracts as necessary to accomplish the purposes of this Article, within the resources available to the Authority for that purpose.

(6) To review and recommend changes in laws, rules, programs, and policies of the State and its agencies and subdivisions to further the enhancement of the life sciences construction financing infrastructure within the State.

(b) Duties. – The Authority has the following duties:

(1) To establish an organizational structure and operational procedures to administer the Authority's programs.

(2) To examine various alternatives for encouraging the expansion of North Carolina's life sciences manufacturing industry by the use of credit enhancement vehicles such as revenue bonds and otherwise.

(3) To establish proposed guidelines for the deployment, oversight, promotion, monitoring, and management of these credit enhancement vehicles.

(4) To collaborate and coordinate with State, regional, and local agencies, The University of North Carolina System, the North Carolina Biotechnology Center, the State Treasurer, and private entities in order to develop and foster a life sciences credit enhancement infrastructure for the benefit of the citizens of North Carolina.

(5) To develop the detailed procedures that could be employed to identify and qualify applicants for credit enhancement programs, including procedures to evaluate the scientific, business, and financial qualifications of these applicants.

(6) To receive and process test or pro forma applications from potential applicants for credit enhancement programs to demonstrate the need for the programs and to assess and collect fees from the potential applicants to cover the costs of processing and reviewing the applications."

SECTION 2. The Life Sciences Revenue Bond Authority created in this act shall provide a written report to the General Assembly by March 31, 2004, setting forth its findings regarding the steps required to encourage and foster the expansion of the North Carolina life sciences manufacturing industry, including proposed legislation if considered appropriate by the Authority.

SECTION 3. Nothing in this act requires the General Assembly to appropriate funds to implement it.

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 75

AMENDMENT NO. #2
(to be filled in by
Principal Clerk)

S75-AST-30 [v.6]

Date 7-19 ,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative CULPEPPER

moves to amend the bill on page 1, line 2, by rewriting the line to read:
"AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY; TO ALLOCATE FEDERAL FUNDS UNDER THE FOOD STAMP PROGRAM; TO AUTHORIZE A TRANSFER OF APPROPRIATED FUNDS TO THE WESTERN NORTH CAROLINA DEVELOPMENT ASSOCIATION, INC.; TO AUTHORIZE A TRANSFER TO THE VICTIMS COMPENSATION FUND; TO AUTHORIZE THE DEPARTMENT OF REVENUE TO USE SPECIFIC REVENUE TO SUPPORT INFORMATION TECHNOLOGY COSTS; TO APPROPRIATE FUNDS TO THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS FOR PLANNING CERTAIN FACILITIES; TO AUTHORIZE FAYETTEVILLE STATE UNIVERSITY TO RETAIN PROCEEDS FROM THE SALE OF THE CHANCELLOR'S RESIDENCE; TO ESTABLISH A MOTORCYCLE UNIT IN MECKLENBURG COUNTY; AND TO DECLARE THE GENERAL ASSEMBLY'S SUPPORT FOR BIOTECHNOLOGY.";

and on page 1, line 4, by deleting the phrase "**SECTION 1.**" and substituting the phrase "**SECTION 1.(a)**";

and on page 4, line 28, by deleting the phrase "**SECTION 2.**" and substituting the phrase "**SECTION 1.(b)**";

and on page 4, line 33, by deleting the phrase "**SECTION 3.**" and substituting the phrase "**SECTION 1.(c)**";

and on page 4, line 35, by rewriting that line to read:

"**SECTION 2.** S.L. 2003-284 is amended by adding a new section following Section 10.58 to read:

'**ALLOCATION OF FEDERAL FUNDS UNDER FOOD STAMP PROGRAM**

SECTION 10.59. The Department of Health and Human Services shall allocate federal funds received by the Department in the 2003-2004 fiscal year from the United States Department of Agriculture as enhanced funds under the Federal Food Stamp Program as follows:

(1) $3,000,000 shall be used to draw down federal matching funds and the sum of these funds shall be allocated for NC FAST; and

(2) $7,000,000 to county governments. The amount allocated to each county shall be based on the county's share of payments made by the county for administration of the Federal Food Stamp Program.'

SECTION 3. S.L. 2003-284 is amended by adding a new section following Section 12.11 to read:

'**WESTERN NORTH CAROLINA DEVELOPMENT ASSOCIATION, INC.**

SECTION 12.11A. Of the funds appropriated in this act to the Rural Economic Development Center, the sum of seventy-five thousand dollars ($75,000) for the fiscal year 2003-2004 shall be transferred to Western North Carolina Development Association, Inc. no later than July 31, 2003.'

SECTION 4. S.L. 2003-284 is amended by adding a new section following Section 16.22 to read:

'**TRANSFER PRISON ENTERPRISES FUNDS TO VICTIMS COMPENSATION FUND**

SECTION 16.23. The Department of Correction shall transfer four hundred thousand dollars ($400,000) from Budget Code 74500, Fund Code 7100, (Prison Enterprises) to the Victims Compensation Fund in the Victims Compensation Program in the Department of Crime Control and Public Safety for the 2003-2004 fiscal year.'

SECTION 5.(a) Section 23.1 of S.L. 2003-284 is repealed.

SECTION 5.(b) Section 22.6 of S.L. 2002-126 reads as rewritten:

SECTION 22.6.(a) The Department of Revenue may draw up to ~~seven million eight hundred forty thousand five hundred thirteen dollars ($7,840,513)~~three million dollars ($3,000,000) through June 30, ~~2004,~~ 2005, from the collection assistance fee account created in G.S. 105-243.1 in order to pay for the costs of establishing and

equipping a central taxpayer telecommunications service center for collections and assistance and for the costs associated with aligning local field offices with the new center. The Department of Revenue shall use the funds drawn during the 2004-2005 fiscal year to support information technology costs.

~~**SECTION 22.6.(b)** The Secretary of Revenue shall consult with the Joint Legislative Commission on Governmental Operations on a detailed plan with proposed costs before any funds may be expended for these purposes. This plan must be presented by October 31, 2002.~~

SECTION 22.6.(c) Beginning January 1, 2003, and ending on the second quarter following completion of the projects described in subsection (a) of this section, the Department of Revenue must report quarterly to the Joint Legislative Commission on Governmental Operations on the use of the funds and the progress of establishing the new center.

SECTION 22.6.(d) There is appropriated from the collection assistance fee account created in G.S. 105-243.1 to the Department of Revenue the sum of one million six hundred twenty-two thousand eight hundred ninety-six dollars ($1,622,896) for the 2003-2004 fiscal year and the sum of two million one hundred fifty-four thousand five hundred ninety-three dollars ($2,154,593) for the 2004-2005 fiscal year to pay for the costs of establishing and equipping a central taxpayer telecommunications service center for collections and assistance and for the costs associated with aligning local field offices with the new center.'

SECTION 6. There is appropriated from the General Fund to the Board of Governors of The University of North Carolina for the 2003-2004 fiscal year the sum of four million dollars ($4,000,000) to be allocated as follows and to be used to finance the planning phase of each of the following facilities:

(1) $500,000 shall be allocated to the University of North Carolina at Charlotte for a bioinformatics building. The facility shall be used to support training, education, and research in information technology applied to biotechnology.

(2) $500,000 shall be allocated to East Carolina University for a North Carolina Cardiovascular Diseases Institute. The purpose of the Institute is to provide space to house research efforts in the area of

prevention and treatment of arterial diseases, including coronary artery diseases and stroke.

(3) $500,000 shall be allocated to Western Carolina University for a facility for the new college of education and allied professions. The purpose of the new college of education and allied professions is to expand teacher training programs, promote career growth and achievement among practicing teachers, and assist local education units with teacher retention efforts.

(4) $2,500,000 shall be allocated to the University of North Carolina at Chapel Hill for a new cancer facility. The new cancer facility will replace the existing UNC clinical cancer center.

SECTION 7. Notwithstanding any other provision of law, Fayetteville State University may retain the proceeds from the sale of the existing chancellor's residence. Fayetteville State University may use the proceeds from the sale of the existing chancellor's residence, and any other nonappropriated funds available, to construct a new chancellor's residence. Proceeds from the sale not used for that purpose shall revert.

SECTION 8. Notwithstanding any other provision of law, the Department of Crime Control and Public Safety, State Highway Patrol Division shall establish a motorcycle unit in Mecklenburg County to serve the Western part of the State. The Department shall use existing personnel to establish and operate the unit.

SECTION 9.(a) The General Assembly makes the following findings:

(1) Biopharmaceutical manufacturing is an important and rapidly expanding sector in our economy.

(2) There is currently a shortage of biopharmaceutical manufacturing facilities and advances in this industry will likely lead to a rapid increase in the number and size of these facilities over the next five years.

(3) North Carolina already has a strong presence in the biopharmaceutical manufacturing industry and has the possibility of creating 40,000 to 50,000 new jobs in this industry over the next ten years by attracting and retaining new and expanding facilities.

(4) Biopharmaceutical manufacturing jobs are highly desirable because of the high salaries associated with these jobs.

(5) The establishment of a comprehensive biopharmaceutical manufacturing training facility would greatly assist the State in attracting and retaining new and expanding biopharmaceutical manufacturing facilities.

SECTION 9.(b) The General Assembly encourages the Golden L.E.A.F. (Long-term Economic Advancement Foundation), Inc., to promote the biopharmaceutical industry by investing in the following:

(1) Establishment of a comprehensive biopharmaceutical manufacturing training facility that includes a statewide training center and education facility at a university;

(2) A graduate-level bioprocessing research institute at a university; and

(3) Resource and training facilities at six regional community colleges, one in each of the remaining regional economic development areas.

SECTION 9.(c) In the process of design, construction, or renovation of buildings, utilities, and other property developments associated with the projects described in Section 8.(b) of this act, the responsible entity is not subject to G.S. 143-341(3) and G.S. 143-135.1, but shall:

(1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.

(2) Develop procedures to perform the duties of the Department of Administration and the Director of the Office of State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).

(3) Develop procedures and reasonable limitations governing the use of open-end design agreements, subject to G.S. 143-64.34 and the approval of the State Building Commission.

SECTION 9.(d) Notwithstanding any other law, the responsible entity may use the design-build method of contracting without having to formally bid a project described in Section 8.(b) of this act, provided the entity in charge complies with G.S. 143-128.2.

SECTION 10. Sections 2, 3, 4, and 5 of this act become effective July 1, 2003, unless otherwise provided in those sections. The remainder of this act is effective when it becomes law.".

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 75

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S75-AST-30 [v.6]

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Williams

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

S. B. No. 575

COMMITTEE SUBSTITUTE _____

DATE 7/19/03

Amendment No. #2
(to be filled in by Principal Clerk)

(Rep.) Sen.) Luebke

amendment 575-AST-30 [v.6]

moves to amend ~~the bill~~ on page 4, line 15

( ) WHICH CHANGES THE TITLE

by inserting after the word "construct" the following:

"or acquire";

and on page 5, lines 16 and 28, by deleting the ~~phrase~~ phrase "8.(b)" on both lines and substituting the phrase "9.(b)".

And on page 4, line 33, by deleting "act" and substituting "section".

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

withdrawn

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 75

AMENDMENT NO. 3
(to be filled in by Principal Clerk)

S75-ARA-3 [v.2]

Date 7-19 ,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Representative Howard

moves to amend the bill, as amended by amendment #1,

by amending the title to delete "AUTHORITY;" and to substitute "AUTHORITY; TO APPROPRIATE FUNDS FOR THE MARTIN LUTHER KING RESOURCE CENTER AND FOR THE MARTIN LUTHER KING PARK IN FAYETTEVILLE;"; and

by inserting a new section to read:

"**SECTION 1.5.** S.L. 2003-284 is amended by adding the following section to read:

`**SECTION 6.24** Of the funds appropriated in Section 2.2(a) of this act, the sum of:

(1) Five hundred thousand dollars ($500,000) for the 2003-2004 fiscal year shall be allocated to the North Carolina Martin Luther King Resource Center, Inc., a nonprofit corporation, for operating expenses, provided these funds are matched on the basis of one dollar ($1.00) of non-State funds for every two dollars ($2.00) of State funds; and

(2) Five hundred thousand dollars ($500,000) for the 2003-2004 fiscal year shall be allocated to The Martin Luther King Committee in Fayetteville, N.C., a nonprofit corporation, for development of the Martin Luther King Park.'"; and

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 75

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S75-ARA-3 [v.2]

by rewriting the first sentence in Section 10 of the amended bill to read:
"Sections 1.5, 2, 3, 4, 5 of this act become effective July 1, 2003, unless otherwise provided in those sections.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Rules — 7/17/03 — 8:00 AM

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Beau Mills	NCEA
Jim FAIN	DOC
Mark Fleming	University System
Tom Clayton	Kilpatrick Stockton
Gene Upchurch	Progress Energy
Evelyn Hawthorne	EHOR
Rob Lamme	DHHS
Paula A. Wolf	Covenant W/NC's Children
Patsi Jones	APOENC/ACLU
Roz Sawicki	NC ACLU
[illegible]	[illegible]
Bob Wilson	NC Academy of Trial Lawyers
Martha Glass	NC DAIDS
J. Jerry Wilson	Education - Red Oak - KCRA
Henry Jones	Attorney Raleigh
BRUCE THOMPSON	PARKER FOR ANDRE'S REELECTION
Gloria Harrod	EGHS
Ken Penny	Lee-Anne Cox
Kim Green	NC ACT
Angie Hall	Marion Taylor
Leslie Bevacqua	NCCBI
Brenda Branch	Governor's Office
Mike Carpenter	NCHSA
W.H. POTTER, JR	NCDS & NCPTA
DEAN SMITH	UNC
PAUL STOCK	NC Bankers
Deacy Little	NC Dept of Correction

VISITOR REGISTRATION SHEET

Rules — 7/19/03 — 8:00 pm

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
CASANDRA SKINNER	CCPS
Courtney Bowden	DOI
Sharon Hiam	NCSPA
G. Cantwell	Wilmington Star-News
Erica Peterson	NC Agribusiness Council
Eddie Caldwell	Hale + Caldwell PA
[illegible]	SBE
[illegible]	NCFB
Mark Jagger	Rally Strategies
Art Britt	NCDOL
Andy Romanet	NCLM
Susan Forward	NCDOT
Kevin Howell	Governor Office
Roger Parrott	B + I
[illegible] Cowan	BPMI
Lu Ann Lee	CTA, NCPA
DON HUTSARA	DOC
[illegible]	AOC

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 20, 2003
12:45 A.M.

AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

COMMITTEE SUBSTITUTE FOR SENATE BILL 75 – AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY

COMMITTEE SUBSTITUTE FOR SENATE BILL 63 – AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND TO MAKE CHANGES TO THE ADVISORY COMMISSION ON MILITARY AFFAIRS

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

July 20, 2003

The Committee on Rules, Calendar and Operations of the House met on July 20, 2003 at 12:45 a.m. in Room 421 of the Legislative Office Building. All members were present except Representatives Miller and Miner.

The following bills were considered:

COMMITTEE SUBSTITUTE FOR SENATE BILL 75 – AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY. The chairman announced that without objection the amendments before the committee at the last meeting were withdrawn, and a new amendment changing the title to AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY; TO ALLOCATE FEDERAL FUNDS UNDER THE FOOD STAMP PROGRAM; TO AUTHORIZE A TRANSFER OF APPROPRIATED FUNDS TO THE WESTERN NORTH CAROLINA DEVELOPMENT ASSOCIATION, INC.; TO AUTHORIZE A TRANSFER TO THE VICTIMS COMPENSATION FUND; TO AUTHORIZE THE DEPARTMENT OF REVENUE TO USE SPECIFIC REVENUE TO SUPPORT INFORMATION TECHNOLOGY COSTS; TO APPROPRIATE FUNDS TO THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS FOR PLANNING CERTAIN FACILITIES; TO AUTHORIZE FAYETTEVILLE STATE UNIVERSITY TO RETAIN PROCEEDS FROM THE SALE OF THE CHANCELLOR'S RESIDENCE; TO ESTABLISH A MOTORCYCLE UNIT IN MECKLENBURG COUNTY; AND TO DECLARE THE GENERAL ASSEMBLY'S SUPPORT FOR BIOTECHNOLOGY was offered. Representative Hackney moved for its adoption, and the motion passed. The chairman stated that the amendment in no way violates the bill; it only adds to it. Erica Churchill, staff attorney, was recognized. Included in her explanation of the amendment, she stated that page 1 contains technical corrections and does not change the contents of the bill. The chairman announced that the Speakers of the House only wanted this amendment and nothing else, so he would not recognize any further amendments. Representative Hackney moved that the bill be given a favorable report, as amended. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 63 – AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND TO MAKE CHANGES TO THE ADVISORY COMMISSION ON MILITARY AFFAIRS. A proposed House committee substitute changing the title to AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TO MAKE CHANGES TO THE ADVISORY COMMISSION ON MILITARY AFFAIRS was offered, and Representative Hackney moved for its adoption. Without objection, the chairman so ordered. The chairman

explained the proposed House committee substitute. Representative Hackney sent forward an amendment. He explained the amendment and moved for its adoption. The motion passed. Representative Hackney sent forth a perfecting amendment changing the title and moved for its adoption. The motion passed. Representative Owens sent forth an amendment and moved for its adoption. The motion passed. Representative Hackney moved that the amendments be incorporated into a House committee substitute, that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion passed.

The meeting adjourned at 1:05 a.m.

Bill Culpepper

Representative Bill Culpepper
Chairman

Dorothy C. Crocker

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S 2

SENATE BILL 75
Finance Committee Substitute Adopted 6/12/03

Short Title: Life Sciences Revenue Bond Authority. (Public)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 159D of the General Statutes is amended by adding a new Article to read:

"Article 3.

"Life Sciences Revenue Bond Authority.

"**§ 159D-65. Legislative findings.**

The General Assembly finds the following:

(1) The life sciences, including biology, zoology, agronomy, biochemistry, genetics, and molecular biology, have developed and are continuing to develop new commercially viable products designed to diagnose and treat diseases, produce therapeutic proteins and industrial enzymes, synthesize nutritional supplements and specialty chemicals in microorganisms, plants, and animals, and accomplish other beneficial purposes.

(2) The commercialization of life science products has provided, and will continue to provide, significant economic benefits for the citizens of North Carolina through increased business development and employment.

(3) North Carolina has a strong life sciences infrastructure in place, fostered over many years by the General Assembly, public and private universities, the North Carolina Biotechnology Center, life sciences companies and investors, and various State, regional, and local economic development initiatives.

(4) Nationally and within North Carolina, the life sciences industry has an immediate need for additional manufacturing capacity for the extraction, separation, purification, and packaging of products at various stages of the development, testing, and commercialization

process, and the demand for this manufacturing capacity is likely to increase significantly in the next three to five years.

(5) Employment opportunities created by life sciences manufacturing facilities are ideally suited for rural and urban regions of North Carolina currently undergoing significant economic challenges, and ancillary employment opportunities in construction, logistical support, transportation, raw material supply, and other fields will be enhanced through the construction and operation of life sciences manufacturing facilities in the State.

(6) A Life Sciences Revenue Bond Authority to help finance bioprocessing development facilities and bioprocessing manufacturing facilities addresses a critical need for companies that are formulating products, conducting field and clinical trials, and engaging in the production of new products.

(7) It is in the interest of the people of North Carolina that the State take steps to encourage the development of these facilities in the State and that the State seek to achieve a position of national leadership and innovation in the field of bioprocess manufacturing by facilitating the construction of economically sound and sustainable facilities in the State.

"**§ 159D-66. Definitions.**

The following definitions apply in this Article:

(1) Authority. – The Life Sciences Revenue Bond Authority.

(2) Board. – The Board of Directors of the Authority.

"**§ 159D-67. Creation and purposes of Life Sciences Revenue Bond Authority.**

(a) Creation. – The Life Sciences Revenue Bond Authority is created within the Department of State Treasurer for organizational and budgetary purposes only. The Authority shall be governed by a Board of Directors. The Board of Directors is authorized to administer the Authority independently in accordance with the requirements of this Article.

(b) Purposes. – The Authority has the following purposes:

(1) To examine alternatives for enhancing North Carolina's construction financing infrastructure for life sciences manufacturing facilities by credit enhancement vehicles such as revenue bonds.

(2) To establish proposed guidelines for the deployment, oversight, promotion, monitoring, and management of these credit enhancement vehicles.

(3) To identify prospective life sciences enterprises that might benefit from the establishment of credit enhancement vehicles.

(4) To advise and make recommendations to the General Assembly regarding further legislation to achieve the goals of the Authority.

(5) To serve as the central life sciences revenue bond policy planning body in the State through collaboration and coordination with State, regional, local agencies, The University of North Carolina System, the

North Carolina Biotechnology Center, the State Treasurer, and private entities in order to develop and foster a life sciences credit enhancement infrastructure for the benefit of the citizens of North Carolina.

"**§ 159D-68. Board of Directors.**

(a) Members. – The Board of Directors consists of seven voting members, as follows:

(1) Two members appointed by the Governor.

(2) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121.

(3) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121.

(4) The State Treasurer of North Carolina or the Treasurer's designee.

(b) Terms. – The initial terms of office begin on the date of appointment and expire on June 30, 2005. Board members appointed for subsequent terms shall serve terms of three years. Board members may serve up to two full consecutive three-year terms. All members of the Board shall remain in office until their successors are appointed and qualify.

(c) Vacancies. – A vacancy in an appointment made by the Governor shall be filled by the Governor for the remainder of the term. A vacancy in an appointment made by the General Assembly shall be filled in accordance with G.S. 120-122 for the remainder of the term. A person appointed to fill a vacancy must qualify in the same manner as a person appointed for a full term.

(d) Chair. – The members of the Board shall elect a Chair from among their members. The Chair shall serve in that position at the pleasure of the Board.

"**§ 159D-69. Powers and duties of Authority.**

(a) Powers. – The Authority has all of the powers necessary or convenient to carry out this Article, including the following powers:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties.

(2) To adopt and modify an official seal.

(3) To maintain an office at any place within the State as it may determine.

(4) To apply for, accept, and utilize grants, contributions, and appropriations in order to carry out its duties as provided in this Article.

(5) To employ, contract with, direct, and supervise all personnel and consultants and to enter into other contracts as necessary to accomplish the purposes of this Article, within the resources available to the Authority for that purpose.

(6) To review and recommend changes in laws, rules, programs, and policies of the State and its agencies and subdivisions to further the enhancement of the life sciences construction financing infrastructure within the State.

(b) Duties. – The Authority has the following duties:

(1) To establish an organizational structure and operational procedures to administer the Authority's programs.

(2) To examine various alternatives for encouraging the expansion of North Carolina's life sciences manufacturing industry by the use of credit enhancement vehicles such as revenue bonds and otherwise.

(3) To establish proposed guidelines for the deployment, oversight, promotion, monitoring, and management of these credit enhancement vehicles.

(4) To collaborate and coordinate with State, regional, and local agencies, The University of North Carolina System, the North Carolina Biotechnology Center, the State Treasurer, and private entities in order to develop and foster a life sciences credit enhancement infrastructure for the benefit of the citizens of North Carolina.

(5) To develop the detailed procedures that could be employed to identify and qualify applicants for credit enhancement programs, including procedures to evaluate the scientific, business, and financial qualifications of these applicants.

(6) To receive and process test or pro forma applications from potential applicants for credit enhancement programs to demonstrate the need for the programs and to assess and collect fees from the potential applicants to cover the costs of processing and reviewing the applications."

SECTION 2. The Life Sciences Revenue Bond Authority created in this act shall provide a written report to the General Assembly by March 31, 2004, setting forth its findings regarding the steps required to encourage and foster the expansion of the North Carolina life sciences manufacturing industry, including proposed legislation if considered appropriate by the Authority.

SECTION 3. Nothing in this act requires the General Assembly to appropriate funds to implement it.

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

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 75

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S75-AST-33 [v.3]

Date _____,2003

Comm. Sub. [NO]
Amends Title [YES]
Second Edition

Representative Culpepper

moves to amend the bill on page 1, line 2, by rewriting the line to read:
"AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY; TO ALLOCATE FEDERAL FUNDS UNDER THE FOOD STAMP PROGRAM; TO AUTHORIZE A TRANSFER OF APPROPRIATED FUNDS TO THE WESTERN NORTH CAROLINA DEVELOPMENT ASSOCIATION, INC.; TO AUTHORIZE A TRANSFER TO THE VICTIMS COMPENSATION FUND; TO AUTHORIZE THE DEPARTMENT OF REVENUE TO USE SPECIFIC REVENUE TO SUPPORT INFORMATION TECHNOLOGY COSTS; TO APPROPRIATE FUNDS TO THE UNIVERSITY OF NORTH CAROLINA BOARD OF GOVERNORS FOR PLANNING CERTAIN FACILITIES; TO AUTHORIZE FAYETTEVILLE STATE UNIVERSITY TO RETAIN PROCEEDS FROM THE SALE OF THE CHANCELLOR'S RESIDENCE; TO ESTABLISH A MOTORCYCLE UNIT IN MECKLENBURG COUNTY; AND TO DECLARE THE GENERAL ASSEMBLY'S SUPPORT FOR BIOTECHNOLOGY.";

and on page 1, line 4, by deleting the phrase "**SECTION 1.**" and substituting the phrase "**SECTION 1.(a)**";

and on page 4, line 28, by deleting the phrase "**SECTION 2.**" and substituting the phrase "**SECTION 1.(b)**";

and on page 4, line 33, by deleting the phrase "**SECTION 3.**" and substituting the phrase "**SECTION 1.(c)**";

and on page 4, line 33 by deleting the phrase "act" and substituting the phrase "section";

and on page 4, line 35, by rewriting that line to read:

"**SECTION 2.** S.L. 2003-284 is amended by adding a new section following Section 10.58 to read:

'**ALLOCATION OF FEDERAL FUNDS UNDER FOOD STAMP PROGRAM**

SECTION 10.59. The Department of Health and Human Services shall allocate federal funds received by the Department in the 2003-2004 fiscal year from the United States Department of Agriculture as enhanced funds under the Federal Food Stamp Program as follows:

(1) $3,000,000 shall be used to draw down federal matching funds and the sum of these funds shall be allocated for NC FAST; and

(2) $7,000,000 to county governments. The amount allocated to each county shall be based on the county's share of payments made by the county for administration of the Federal Food Stamp Program.'

SECTION 3. S.L. 2003-284 is amended by adding a new section following Section 12.11 to read:

'**WESTERN NORTH CAROLINA DEVELOPMENT ASSOCIATION, INC.**

SECTION 12.11A. Of the funds appropriated in this act to the Rural Economic Development Center, the sum of seventy-five thousand dollars ($75,000) for the fiscal year 2003-2004 shall be transferred to Western North Carolina Development Association, Inc. no later than July 31, 2003.'

SECTION 4. S.L. 2003-284 is amended by adding a new section following Section 16.22 to read:

'**TRANSFER PRISON ENTERPRISES FUNDS TO VICTIMS COMPENSATION FUND**

SECTION 16.23. The Department of Correction shall transfer four hundred thousand dollars ($400,000) from funds available to the Victims Compensation Fund in the Victims Compensation Program in the Department of Crime Control and Public Safety for the 2003-2004 fiscal year.'

SECTION 5.(a) Section 23.1 of S.L. 2003-284 is repealed.

SECTION 5.(b) Section 22.6 of S.L. 2002-126 reads as rewritten:

SECTION 22.6.(a) The Department of Revenue may draw up to ~~seven million eight hundred forty thousand five hundred thirteen dollars ($7,840,513)~~three million

dollars ($3,000,000) through June 30, ~~2004,~~ 2005, from the collection assistance fee account created in G.S. 105-243.1 in order to pay for the costs of establishing and equipping a central taxpayer telecommunications service center for collections and assistance and for the costs associated with aligning local field offices with the new center. The Department of Revenue shall use the funds drawn during the 2004-2005 fiscal year to support information technology costs.

~~**SECTION 22.6.(b)** The Secretary of Revenue shall consult with the Joint Legislative Commission on Governmental Operations on a detailed plan with proposed costs before any funds may be expended for these purposes. This plan must be presented by October 31, 2002.~~

SECTION 22.6.(c) Beginning January 1, 2003, and ending on the second quarter following completion of the projects described in subsection (a) of this section, the Department of Revenue must report quarterly to the Joint Legislative Commission on Governmental Operations on the use of the funds and the progress of establishing the new center.

SECTION 22.6.(d) There is appropriated from the collection assistance fee account created in G.S. 105-243.1 to the Department of Revenue the sum of one million six hundred twenty-two thousand eight hundred ninety-six dollars ($1,622,896) for the 2003-2004 fiscal year and the sum of two million one hundred fifty-four thousand five hundred ninety-three dollars ($2,154,593) for the 2004-2005 fiscal year to pay for the costs of establishing and equipping a central taxpayer telecommunications service center for collections and assistance and for the costs associated with aligning local field offices with the new center.'

SECTION 6. There is appropriated from the General Fund to the Board of Governors of The University of North Carolina for the 2003-2004 fiscal year the sum of four million five hundred thousand dollars ($4,500,000) to be allocated as follows and to be used to finance the planning phase of each of the following facilities:

(1) $500,000 shall be allocated to the University of North Carolina at Charlotte for a bioinformatics building. The facility shall be used to support training, education, and research in information technology applied to biotechnology.

(2) $500,000 shall be allocated to East Carolina University for a North Carolina Cardiovascular Diseases Institute. The purpose of the

Institute is to provide space to house research efforts in the area of prevention and treatment of arterial diseases, including coronary artery diseases and stroke.

(3) $500,000 shall be allocated to Western Carolina University for a facility for the new college of education and allied professions. The purpose of the new college of education and allied professions is to expand teacher training programs, promote career growth and achievement among practicing teachers, and assist local education units with teacher retention efforts.

(4) $500,000 shall be allocated to the University of North Carolina at Asheville for a Student Convocation and Conference Center with space dedicated for arts, health, and economic development programs.

(5) $2,500,000 shall be allocated to the University of North Carolina at Chapel Hill for a new cancer facility. The new cancer facility will replace the existing UNC clinical cancer center.

SECTION 7. Notwithstanding any other provision of law, Fayetteville State University may retain the proceeds from the sale of the existing chancellor's residence. Fayetteville State University may use the proceeds from the sale of the existing chancellor's residence, and any other nonappropriated funds available, to construct or acquire a new chancellor's residence. Proceeds from the sale not used for that purpose shall revert.

SECTION 8. Notwithstanding any other provision of law, the Department of Crime Control and Public Safety, State Highway Patrol Division shall establish a motorcycle unit in Mecklenburg County to serve the Western part of the State. The Department shall use existing personnel to establish and operate the unit.

SECTION 9.(a) The General Assembly makes the following findings:

(1) Biopharmaceutical manufacturing is an important and rapidly expanding sector in our economy.

(2) There is currently a shortage of biopharmaceutical manufacturing facilities and advances in this industry will likely lead to a rapid increase in the number and size of these facilities over the next five years.

(3) North Carolina already has a strong presence in the biopharmaceutical manufacturing industry and has the possibility of creating 40,000 to 50,000 new jobs in this industry over the next ten years by attracting and retaining new and expanding facilities.

(4) Biopharmaceutical manufacturing jobs are highly desirable because of the high salaries associated with these jobs.

(5) The establishment of a comprehensive biopharmaceutical manufacturing training facility would greatly assist the State in attracting and retaining new and expanding biopharmaceutical manufacturing facilities.

SECTION 9.(b) The General Assembly encourages the Golden L.E.A.F. (Long-term Economic Advancement Foundation), Inc., to promote the biopharmaceutical industry by investing in the following:

(1) Establishment of a comprehensive biopharmaceutical manufacturing training facility that includes a statewide training center and education facility at North Carolina State University;

(2) A graduate-level bioprocessing research institute at North Carolina Central University; and

(3) Resource and training facilities at six regional community colleges, one in each of the remaining regional economic development areas.

SECTION 9.(c) In the process of design, construction, or renovation of buildings, utilities, and other property developments associated with the projects described in subsection (b) of this section, the responsible entity is not subject to G.S. 143-341(3) and G.S. 143-135.1, but shall:

(1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.

(2) Develop procedures to perform the duties of the Department of Administration and the Director of the Office of State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).

(3) Develop procedures and reasonable limitations governing the use of open-end design agreements, subject to G.S. 143-64.34 and the approval of the State Building Commission.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 75

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S75-AST-33 [v.3]

SECTION 9.(d) Notwithstanding any other law, the responsible entity may use the design-build method of contracting without having to formally bid a project described in subsection (b) of this section, provided the entity in charge complies with G.S. 143-128.2.

SECTION 10. Sections 2, 3, 4, and 5 of this act become effective July 1, 2003, unless otherwise provided in those sections. The remainder of this act is effective when it becomes law.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Dot

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **RULES, CALENDAR AND OPERATIONS OF THE HOUSE.**

☒ Committee Substitute for

S.B. 75 A BILL TO BE ENTITLED AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY.

☒ With a favorable report, as amended.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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, unfavorable as to Senate committee substitute bill.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 63

Rules and Operations of the Senate Committee Substitute Adopted 7/19/03
Third Edition Engrossed 7/19/03

Short Title: Pro Tem Appointments Bill. (Public)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND TO MAKE CHANGES TO THE ADVISORY COMMISSION ON MILITARY AFFAIRS.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President Pro Tempore of the Senate; and

Whereas, the President Pro Tempore of the Senate has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. PRESIDENT PRO TEMPORE'S RECOMMENDATIONS.

SECTION 1.1. Ken Morehead of Durham County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2006.

SECTION 1.2. Ralph Brown of Iredell County is appointed to the Alarm Systems Licensing Board for a term expiring on June 30, 2006.

SECTION 1.3. Henry Faircloth of Sampson County is appointed to the North Carolina Appraisal Board for a term expiring on June 30, 2006.

SECTION 1.4. Florence Moses of Wake County and Rick Proctor of Guilford County are appointed to the North Carolina Board of Athletic Trainer Examiners for terms expiring on June 30, 2006.

SECTION 1.5. Lloyd Meekins of Robeson County is appointed to the North Carolina Auctioneers Commission for a term expiring on June 30, 2005.

SECTION 1.6. Art Keeney of Hyde County is appointed to the North Carolina State Banking Commission for a term expiring on June 30, 2007.

SECTION 1.7. Ernie Bowden of Dare County and Frances Walker of Currituck County are appointed to the North Carolina Bridge Authority for a term expiring on June 30, 2007.

SECTION 1.8. Allen Lassiter of Perquimans County and Willy E. Stewart of Wake County are appointed to the State Building Commission for terms expiring on June 30, 2006.

SECTION 1.9. The Honorable Wendell Murphy of Duplin County and Frank Daniels III of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2007.

SECTION 1.10. Margaret Ann Biddle of Wake County, Beth A. Rector of Columbus County, Linda Grissom of Durham County, and Ann Mercer of Henderson County are appointed to the Child Care Commission for terms expiring on June 30, 2005.

SECTION 1.11. Lisa Privette of Harnett County and James Kennedy of Forsyth County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on June 30, 2007.

SECTION 1.12. Joyce Cutler of Beaufort County is appointed to the Crime Victims Compensation Commission for a term expiring on June 30, 2006.

SECTION 1.13.(a) Bonnie Boyette of Nash County and Robert Lewis of Wake County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2005.

SECTION 1.13.(b) Wade Anders of Cumberland County and Terry Waterfield of Pasquotank County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2006.

SECTION 1.14. The Honorable J. B. Evans of Columbus County and Martin Chriscoe of Wake County are appointed to the Criminal Justice Information Network Governing Board for terms expiring on June 30, 2007.

SECTION 1.15. Julienne Stewart of Wake County is appointed to the North Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2006.

SECTION 1.16. R. Mitchell Tyler of Columbus County is appointed to the Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June 30, 2006.

SECTION 1.17. Effective September 1, 2003, Lynn Bryant of Dare County, Senator Ellie Kinnaird of Orange County, Barbara Arnold of Wayne County, Deborah Weisman of Orange County, Jan Capps of Durham County, Sharon Hunt of Robeson County, Dina Foster of Cleveland County, and Sgt. John Guard of Pitt County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2006.

SECTION 1.18. Effective September 1, 2003, Margaret Wingate of Mecklenburg County is appointed to the North Carolina Board of Electrolysis Examiners for a term expiring on August 31, 2006.

SECTION 1.19. Dr. Stephen Landau of Johnston County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on June 30, 2007.

SECTION 1.20. Thomas Jenkins of Macon County, John R. Gessaman of Nash County, and Freddie Harrell of Cleveland County are appointed to the Environmental Management Commission for terms expiring on June 30, 2005.

SECTION 1.21. Effective October 1, 2003, Reverend David Franzen of Durham County is appointed to the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors for a term expiring on September 30, 2007.

SECTION 1.22. William Winn of Gates County is appointed to the State Fire and Rescue Commission for a term expiring on June 30, 2004, to fill the unexpired term of Hiram Brinson.

SECTION 1.23. Durwood Stephenson of Johnston County, The Honorable Clark Jenkins of Edgecombe County, and The Honorable Tony Moore of Pitt County are appointed to the Board of Directors of the North Carolina Global TransPark Authority for terms expiring on June 30, 2007.

SECTION 1.24. Emily Moore of Lenoir County, Bobby Bollinger of Mecklenburg County, Anthony Mulvihill of Durham County, JoAnne Jeffries of Durham County, Dianne Wright of Wilson County, Thomasine Kennedy of Duplin County, and Linda Guzman of Orange County are appointed to the Governor's Advocacy Council for Persons with Disabilities for terms expiring on June 30, 2005.

SECTION 1.25. Kathryn Ahlport of Guilford County, Jesse Basnight of Orange County, Marian Duncan of Columbus County, Ida Friday of Orange County, Joan Tuttle of Buncombe County, Senator Jim Forrester of Gaston County, Senator Eric Reeves of Wake County, and Senator Bill Purcell of Scotland County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms expiring upon the submission of the Task Force's final report.

SECTION 1.26. Roger R. Pierce of Jackson County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring on June 30, 2007.

SECTION 1.27. Patricia Garrett of Mecklenburg County and Sam Ewell of Wake County are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30, 2005.

SECTION 1.28. Effective September 1, 2003, Joey Carpenter of Gaston County, Jeanne Tedrow of Wake County, Jeffrey Null of Cumberland County, Ed Moran of Craven County, and The Honorable Gerald Holleman of Wake County are appointed to the North Carolina Housing Partnership for terms expiring on August 31, 2006.

SECTION 1.29. Paul Brooks of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2005.

SECTION 1.30. Janet Smith of Forsyth County and Rufus Edmisten of Wake County are appointed to the Information Resource Management Commission for terms expiring on June 30, 2007.

SECTION 1.31.(a) Effective January 1, 2003, Kathleen Beetham of Wake County is appointed to the North Carolina Interpreter and Transliterator Licensing Board for a term expiring December 31, 2005.

SECTION 1.31.(b) Effective January 1, 2003, James Sewell of Wake County and Lorene Roberson of Edgecombe County are appointed to the North

Carolina Interpreter and Transliterator Licensing Board for terms expiring on December 31, 2006.

SECTION 1.32. Wayne Seville of Guilford County and Vilma Morris of Durham County are appointed to the North Carolina Board of Massage and Bodywork Therapy for terms expiring on June 30, 2006.

SECTION 1.33. Bernard Sullivan of Gaston County, Jerney Minshew of Wilson County, and Laurie Coker of Forsyth County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2005.

SECTION 1.34. Cissie Wellons of Johnston County and Patricia Jackson of Nash County are appointed to the Board of Trustees of the North Carolina Museum of Art for terms expiring on June 30, 2005.

SECTION 1.35. George Richards of Wake County is appointed to the Natural Heritage Trust Fund Board of Trustees for a term expiring on June 30, 2009.

SECTION 1.36. Ben Berry of Pasquotank County, Ernie Bowden of Dare County, Ray Hollowell of Dare County, Elsie Pugh of Camden County, The Honorable Robert Spivey of Bertie County, and The Honorable Gene Rogers of Martin County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2005.

SECTION 1.36A. Martha Ann Harrell of Cumberland County is appointed to the Board of Nursing for a term expiring on December 31, 2007.

SECTION 1.37. Marti Davies of Buncombe County, Donna Whitley of Pitt County, and Jennifer Robinson Chapel of Mecklenburg County are appointed to the North Carolina Center for Nursing Board of Directors for terms expiring on June 30, 2006.

SECTION 1.38. Wanda Boyette of Sampson County, Virginia Adams of New Hanover County, and Kathy Weeks of Harnett County are appointed to the North Carolina Nursing Scholars Commission for terms expiring on June 30, 2007.

SECTION 1.39.(a) Edwin Holbrook of Cleveland County and Cynthia Tart of Brunswick County are appointed to the North Carolina Parks and Recreation Authority for terms expiring on June 30, 2005.

SECTION 1.39.(b) Harriet Farrior of Duplin County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2006.

SECTION 1.40. Anne Coan of Wake County, Michael Haire of Perquimans County, Doug Howey of Wake County, Thomas Mehder of Mecklenburg County, and Bill Witherspoon of Wake County are appointed to the North Carolina Petroleum Underground Storage Tank Funds Council for terms expiring on June 30, 2005.

SECTION 1.41.(a) David Royster of Cleveland County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2004.

SECTION 1.41.(b) Jeff Turner of Duplin County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2005.

SECTION 1.42. Cecilie Lewis of Wake County is appointed to the North Carolina Principal Fellows Commission for a term expiring on June 30, 2006.

SECTION 1.43. Berkley Blanks of Guilford County, Albert Austin of Dare County, Richard Allen of Anson County, and Keith Shannon of Mecklenburg County are appointed to the Private Protective Services Board for terms expiring on June 30, 2006.

SECTION 1.44. Terry Wheeler of Dare County is appointed to the Property Tax Commission for a term expiring on June 30, 2007.

SECTION 1.45. Richard Burton of Durham County is appointed to the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan for a term expiring on June 30, 2005.

SECTION 1.46. David Walker of Robeson County is appointed to the Public Officers and Employees Liability Insurance Commission for a term expiring on June 30, 2007.

SECTION 1.47. Beverly McCracken of Guilford County is appointed to the Board of Trustees of the University of North Carolina Center for Public Television for a term expiring on June 30, 2005.

SECTION 1.48. Thomas Morrow of Wake County and Anthony Copeland of Wake County are appointed to the Board of Public Telecommunications Commissioners for terms expiring on June 30, 2005.

SECTION 1.49. Michael Weisel of Wake County and Robert Bleeker of Cumberland County are appointed to the North Carolina Railroad Board of Directors for terms expiring on June 30, 2007.

SECTION 1.50. Marsha Jordan of Lincoln County is appointed to the North Carolina Real Estate Commission for a term expiring on June 30, 2006.

SECTION 1.51. Bill Kealy of Dare County, The Honorable Bobby Owens of Dare County, Arvilla Bowser of Dare County, Todd Clissold of Dare County, Joann Williams of Dare County, and Ann Eubanks of Orange County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2005.

SECTION 1.52. David Ray Twiddy of Pasquotank County, Jim Funderburk of Gaston County, Robert Saunders of Wake County, Thomas Hilliard of Wake County, and Jeffery Gray of Wake County are appointed to the Rules Review Commission for terms expiring on June 30, 2005.

SECTION 1.53. David Smith of Durham County is appointed to the North Carolina School of Science and Mathematics Board of Trustees for a term expiring on June 30, 2007.

SECTION 1.54. Kirk Preiss of Wake County is appointed to the North Carolina Board of Science and Technology for a term expiring on June 30, 2005.

SECTION 1.55. Russell Stetson of Dare County is appointed to the North Carolina Seafood Industrial Park Authority for a term expiring on June 30, 2005.

SECTION 1.56. Michael Robertson of Lee County is appointed to the North Carolina Sheriffs' Education and Training Standards Commission for a term expiring on June 30, 2005.

SECTION 1.57. Edward Hearn of Wake County is appointed to the North Carolina Board for the Licensing of Soil Scientists for a term expiring on June 30, 2006.

SECTION 1.58. J. C. Batchelor of Bladen County and Dr. Delilah Blanks of Bladen County are appointed to the Southeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2007.

SECTION 1.59. William Tesh of Guilford County and Howard Nifong of Mecklenburg County are appointed to the Structural Pest Control Committee for terms expiring on June 30, 2007.

SECTION 1.60. Sarah Reynolds of Durham County and Helen Pridgen of Guilford County are appointed to the North Carolina Teacher Academy Board of Trustees for terms expiring on June 30, 2007.

SECTION 1.61. Joseph Jenkins of Cumberland County and Glenn Marek of Orange County are appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for terms expiring on June 30, 2005.

SECTION 1.62. John Cilley of Catawba County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2005.

SECTION 1.63.(a) Franz Holscher of Gaston County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2004.

SECTION 1.63.(b) Colleen Lanier of Forsyth County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2007.

SECTION 1.64. Mike Hammer of Pitt County is appointed to the North Carolina State Board of Therapeutic Recreation Certification for a term expiring on June 30, 2007.

SECTION 1.65. Wilson Martin of Iredell County, Edwin Register of Duplin County, and Connie Pixley of Alamance County are appointed to the Well Contractors Certification Commission for terms expiring on June 30, 2005.

SECTION 1.65A. J. W. Davis of Henderson County, D. Samuel Neill of Henderson County, The Honorable Tommy Jenkins of Macon County, David Henson of Macon County, Ken Hankinson of Rutherford County, William Forsyth of Cherokee County, and Wanda Profitt of Yancey County are appointed to the Western North Carolina Regional Economic Development Commission for terms expiring on June 30, 2007.

SECTION 1.66. John Pechmann of Cumberland County, Charles Tolley of Madison County, Eugene Price of Wayne County, and Richard Hull of Pasquotank County are appointed to the North Carolina Wildlife Resources Commission for terms expiring on April 23, 2005.

SECTION 1.67. Neal Allen of Randolph County, Chief Robert Cherry of Edgecombe County, Belinda Gurkins of Pitt County, Leigh Horner of Orange County, and William Tant of Nash County are appointed to the Wireless 911 Board for terms expiring on June 30, 2007.

PART II. STATUTORY CHANGES.

SECTION 2.(a) G.S. 127A-2 reads as rewritten:

"**§ 127C-2. Membership.**

(a) The North Carolina Advisory Commission on Military Affairs shall consist of 21 voting ~~members, who shall serve on the Executive Committee,~~ members and ~~nine~~ 12 nonvoting, ex officio members who shall serve by reason of their positions.

(b) The ~~Executive Committee~~ voting members shall be appointed as follows:

(1) Three members appointed by the Speaker of the House of Representatives, one of whom shall be a member of a recognized veterans' organization.

(2) Three members appointed by the President Pro Tempore of the Senate, one of whom shall be a member of a recognized veterans' organization.

(3) Fifteen members appointed by the Governor, consisting of:

a. Three representatives from the ~~Jacksonville community.~~Onslow County area.

b. Three representatives from the ~~Havelock community.~~Craven County area.

c. Three representatives from the ~~Goldsboro community.~~Wayne County area.

d. Three representatives from the ~~Fayetteville community.~~Cumberland County area.

e. Three public members from ~~across the State.~~the regions of North Carolina that are not included in sub-subdivisions a. through d. of this subdivision.

(c) The following members shall serve ex officio:

(1) Secretary of Crime Control and Public Safety, or a designee.

(2) Secretary of Commerce, or a designee.

(3) Commanding General 18th Airborne Corps, Fort Bragg.

(4) Commanding General Marine Corps Base, Camp Lejeune.

(5) Commanding General Marine Corps Air Station, Cherry Point.

(6) Commander 4th FW, Seymour Johnson Air Force Base.

(7) Commander 43rd Airlift Wing, Pope Air Force Base.

(8) Commander of the U.S. Coast Guard Support Center, Elizabeth City.

(9) Adjutant General of the North Carolina National Guard.

(10) Lieutenant Governor.

(11) Secretary of Environment and Natural Resources, or a designee.

(12) Secretary of Transportation, or designee.

(13) Commander of Military Ocean Terminal Sunny Point."

(d) The Governor shall designate ~~one member of the Executive Committee appointed pursuant to subsection (b) of this section to serve as chair.~~ a chair or cochairs from among the members appointed pursuant to subsection (b) of this section. The chair or cochairs may select persons from among the members appointed pursuant to subsection (b) of this section to serve as an Executive Committee. The Executive Committee shall elect four persons from ~~amongst~~ among its membership to serve as vice-chairs.

(e) The terms of the voting members of the ~~Executive Committee voting members~~ Commission shall be as follows:

(1) The members initially appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall serve terms ending on December 31, 2003.
(2) Seven of the members appointed by the Governor shall serve initial terms ending on December 31, 2002.
(3) Eight of the members appointed by the Governor shall serve initial terms ending on December 31, 2003.

Thereafter, all members shall serve two-year terms."

SECTION 2.(b) G.S. 127C-3 reads as rewritten:

"**§ 127C-3. Military Advisor.**

The ~~Military Advisor within the Office of the Governor shall serve as the administrative head of the Commission and~~ Governor shall designate a military advisor to the Commission who shall be responsible for the operations and normal business activities of the Commission, with oversight by the Executive Committee."

PART III. EFFECTIVE DATE.

SECTION 3.1. The headings to the parts and sections of this act are a convenience to the reader and are for reference only.

SECTION 3.2. Unless otherwise provided for in this act, appointments are for terms to begin July 1, 2003.

SECTION 3.3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 63

Rules and Operations of the Senate Committee Substitute Adopted 7/19/03
Third Edition Engrossed 7/19/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S63-PCS55209-LG-27

Short Title: Pro Tem & Speaker Appointments Bill. (Public)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TO MAKE CHANGES TO THE ADVISORY COMMISSION ON MILITARY AFFAIRS.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives; and

Whereas, the President Pro Tempore of the Senate and the Speaker of the House of Representatives have made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. PRESIDENT PRO TEMPORE'S RECOMMENDATIONS.

SECTION 1.1. Ken Morehead of Durham County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2006.

SECTION 1.2. Ralph Brown of Iredell County is appointed to the Alarm Systems Licensing Board for a term expiring on June 30, 2006.

SECTION 1.3. Henry Faircloth of Sampson County is appointed to the North Carolina Appraisal Board for a term expiring on June 30, 2006.

SECTION 1.4. Florence Moses of Wake County and Rick Proctor of Guilford County are appointed to the North Carolina Board of Athletic Trainer Examiners for terms expiring on June 30, 2006.

SECTION 1.5. Lloyd Meekins of Robeson County is appointed to the North Carolina Auctioneers Commission for a term expiring on June 30, 2005.

SECTION 1.6. Art Keeney of Hyde County is appointed to the North Carolina State Banking Commission for a term expiring on June 30, 2007.

SECTION 1.7. Ernie Bowden of Dare County and Frances Walker of Currituck County are appointed to the North Carolina Bridge Authority for a term expiring on June 30, 2007.

SECTION 1.8. Allen Lassiter of Perquimans County and Willy E. Stewart of Wake County are appointed to the State Building Commission for terms expiring on June 30, 2006.

SECTION 1.9. The Honorable Wendell Murphy of Duplin County and Frank Daniels III of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2007.

SECTION 1.10. Margaret Ann Biddle of Wake County, Beth A. Rector of Columbus County, Linda Grissom of Durham County, and Ann Mercer of Henderson County are appointed to the Child Care Commission for terms expiring on June 30, 2005.

SECTION 1.11. Lisa Privette of Harnett County and James Kennedy of Forsyth County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on June 30, 2007.

SECTION 1.12. Joyce Cutler of Beaufort County is appointed to the Crime Victims Compensation Commission for a term expiring on June 30, 2006.

SECTION 1.13.(a) Bonnie Boyette of Nash County and Robert Lewis of Wake County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2005.

SECTION 1.13.(b) Wade Anders of Cumberland County and Terry Waterfield of Pasquotank County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2006.

SECTION 1.14. The Honorable J. B. Evans of Columbus County and Martin Chriscoe of Wake County are appointed to the Criminal Justice Information Network Governing Board for terms expiring on June 30, 2007.

SECTION 1.15. Julienne Stewart of Wake County is appointed to the North Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2006.

SECTION 1.16. R. Mitchell Tyler of Columbus County is appointed to the Disciplinary Hearing Commission of the North Carolina State Bar for a term expiring on June 30, 2006.

SECTION 1.17. Effective September 1, 2003, Lynn Bryant of Dare County, Senator Ellie Kinnaird of Orange County, Barbara Arnold of Wayne County, Deborah Weisman of Orange County, Jan Capps of Durham County, Sharon Hunt of Robeson County, Dina Foster of Cleveland County, and Sgt. John Guard of Pitt County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2006.

SECTION 1.18. Effective September 1, 2003, Margaret Wingate of Mecklenburg County is appointed to the North Carolina Board of Electrolysis Examiners for a term expiring on August 31, 2006.

SECTION 1.19. Dr. Stephen Landau of Johnston County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on June 30, 2007.

SECTION 1.20. Thomas Jenkins of Macon County, John R. Gessaman of Nash County, and Freddie Harrell of Cleveland County are appointed to the Environmental Management Commission for terms expiring on June 30, 2005.

SECTION 1.21. Effective October 1, 2003, Reverend David Franzen of Durham County is appointed to the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors for a term expiring on September 30, 2007.

SECTION 1.22. William Winn of Gates County is appointed to the State Fire and Rescue Commission for a term expiring on June 30, 2004, to fill the unexpired term of Hiram Brinson.

SECTION 1.23. Durwood Stephenson of Johnston County, The Honorable Clark Jenkins of Edgecombe County, and The Honorable Tony Moore of Pitt County are appointed to the Board of Directors of the North Carolina Global TransPark Authority for terms expiring on June 30, 2007.

SECTION 1.24. Emily Moore of Lenoir County, Bobby Bollinger of Mecklenburg County, Anthony Mulvihill of Durham County, JoAnne Jeffries of Durham County, Dianne Wright of Wilson County, Thomasine Kennedy of Duplin County, and Linda Guzman of Orange County are appointed to the Governor's Advocacy Council for Persons with Disabilities for terms expiring on June 30, 2005.

SECTION 1.25. Kathryn Ahlport of Guilford County, Jesse Basnight of Orange County, Marian Duncan of Columbus County, Ida Friday of Orange County, Joan Tuttle of Buncombe County, Senator Jim Forrester of Gaston County, Senator Eric Reeves of Wake County, and Senator Bill Purcell of Scotland County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms expiring upon the submission of the Task Force's final report.

SECTION 1.26. Roger R. Pierce of Jackson County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring on June 30, 2007.

SECTION 1.27. Patricia Garrett of Mecklenburg County and Sam Ewell of Wake County are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30, 2005.

SECTION 1.28. Effective September 1, 2003, Joey Carpenter of Gaston County, Jeanne Tedrow of Wake County, Jeffrey Null of Cumberland County, Ed Moran of Craven County, and The Honorable Gerald Holleman of Wake County are appointed to the North Carolina Housing Partnership for terms expiring on August 31, 2006.

SECTION 1.29. Paul Brooks of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2005.

SECTION 1.30. Janet Smith of Forsyth County and Rufus Edmisten of Wake County are appointed to the Information Resource Management Commission for terms expiring on June 30, 2007.

SECTION 1.31.(a) Effective January 1, 2003, Kathleen Beetham of Wake County is appointed to the North Carolina Interpreter and Transliterator Licensing Board for a term expiring December 31, 2005.

SECTION 1.31.(b) Effective January 1, 2003, James Sewell of Wake County and Lorene Roberson of Edgecombe County are appointed to the North Carolina Interpreter and Transliterator Licensing Board for terms expiring on December 31, 2006.

SECTION 1.32. Wayne Seville of Guilford County and Vilma Morris of Durham County are appointed to the North Carolina Board of Massage and Bodywork Therapy for terms expiring on June 30, 2006.

SECTION 1.33. Bernard Sullivan of Gaston County, Jerney Minshew of Wilson County, and Laurie Coker of Forsyth County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2005.

SECTION 1.34. Cissie Wellons of Johnston County and Patricia Jackson of Nash County are appointed to the Board of Trustees of the North Carolina Museum of Art for terms expiring on June 30, 2005.

SECTION 1.35. George Richards of Wake County is appointed to the Natural Heritage Trust Fund Board of Trustees for a term expiring on June 30, 2009.

SECTION 1.36. Ben Berry of Pasquotank County, Ernie Bowden of Dare County, Ray Hollowell of Dare County, Elsie Pugh of Camden County, The Honorable Robert Spivey of Bertie County, and The Honorable Gene Rogers of Martin County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2005.

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SECTION 1.37. Marti Davies of Buncombe County, Donna Whitley of Pitt County, and Jennifer Robinson Chapel of Mecklenburg County are appointed to the North Carolina Center for Nursing Board of Directors for terms expiring on June 30, 2006.

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SECTION 1.39.(b) Harriet Farrior of Duplin County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2006.

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SECTION 1.49. Michael Weisel of Wake County and Robert Bleeker of Cumberland County are appointed to the North Carolina Railroad Board of Directors for terms expiring on June 30, 2007.

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SECTION 1.57. Edward Hearn of Wake County is appointed to the North Carolina Board for the Licensing of Soil Scientists for a term expiring on June 30, 2006.

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SECTION 1.64. Mike Hammer of Pitt County is appointed to the North Carolina State Board of Therapeutic Recreation Certification for a term expiring on June 30, 2007.

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SECTION 1.65A. J. W. Davis of Henderson County, D. Samuel Neill of Henderson County, The Honorable Tommy Jenkins of Macon County, David Henson of Macon County, Ken Hankinson of Rutherford County, William Forsyth of Cherokee County, and Wanda Profitt of Yancey County are appointed to the Western North Carolina Regional Economic Development Commission for terms expiring on June 30, 2007.

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SECTION 1.67. Neal Allen of Randolph County, Chief Robert Cherry of Edgecombe County, Belinda Gurkins of Pitt County, Leigh Horner of Orange County, and William Tant of Nash County are appointed to the Wireless 911 Board for terms expiring on June 30, 2007.

PART II. SPEAKER'S RECOMMENDATIONS.

SECTION 2.1. Bonnie Shwery of Wake County and Sissy Majebe of Buncombe County are appointed to the Acupuncture Licensing Board for terms expiring on June 30, 2006.

SECTION 2.2. Alfred Worley, Jr. of Columbus County, David Hall of Rowan County, and Stan Crowe of Martin County are appointed to the North Carolina Agricultural Finance Authority for terms expiring on June 30, 2004.

SECTION 2.3. Harrison Tulloss of Wake County and Guy Phillips of Jackson County are appointed to the Alarm Systems Licensing Board for terms expiring on June 30, 2006.

SECTION 2.4. Kevin Allran of Mecklenburg County and Dr. John Mangum of Lee County are appointed to the North Carolina Board of Athletic Trainer Examiners for terms expiring on June 30, 2005.

SECTION 2.5. James Stovall of Person County is appointed to the North Carolina State Banking Commission for a term expiring on June 30, 2007.

SECTION 2.6. Effective January 1, 2003, Dr. Galen Grayson of Mecklenburg County and Al Mandell of Mecklenburg County are appointed to the North Carolina State Boxing Commission for terms expiring on December 31, 2005.

SECTION 2.7. Jimmie Dixon, Jr. of Pasquotank County is appointed to the North Carolina Bridge Authority for a term expiring on June 30, 2007.

SECTION 2.8. John Kirkland of Craven County is appointed to the State Building Commission for a term expiring on June 30, 2006.

SECTION 2.9.(a) Ray Rouse of Wayne County and Bob Seligson of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2005.

SECTION 2.9.(b) Don Beason of Wake County and Michael Weeks of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2007.

SECTION 2.10.(a) Lynn Agee of Moore County is appointed to the Child Care Commission for a term to expire on June 30, 2004, to fill the unexpired term of Kevin Price.

SECTION 2.10.(b) Dawn Wallace of Moore County and Mary Roberts of Orange County are appointed to the Child Care Commission for terms expiring on June 30, 2005.

SECTION 2.11. Dr. Dennis Hall of Cabarrus County is appointed to the State Board of Chiropractic Examiners for a term expiring on June 30, 2005.

SECTION 2.12. Hiram Williams of Pender County and Mark Hicks of Granville County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on June 30, 2007.

SECTION 2.13. Debbie Chaffin of Davie County is appointed to the North Carolina Board of Cosmetic Art Examiners for a term expiring on June 30, 2006.

SECTION 2.14. Margaret Eichelberger of Wayne County is appointed to the Crime Victims Compensation Commission for a term expiring on June 30, 2007.

SECTION 2.15. Billy Anderson of Wilkes County, Gary Mason of Randolph County, Vernon Bryant of Halifax County, and Kevin Wallace of Wake

County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2006.

SECTION 2.16. Miriam Peterson of Wake County is appointed to the North Carolina Board of Dietetics/Nutrition for a term expiring on June 30, 2006.

SECTION 2.17. Betty Ann Knudsen of Wake County and Victor Parks of Randolph County are appointed to the Disciplinary Hearing Commission of the North Carolina State Bar for terms expiring on June 30, 2006.

SECTION 2.18. Effective October 1, 2003, the Honorable John Robert Lewis of Buncombe County is appointed to the Dispute Resolution Commission for a term expiring on September 30, 2007.

SECTION 2.19.(a) Floyce Harward of Cabarrus County is appointed to the Domestic Violence Commission for a term expiring on August 31, 2004, to fill the unexpired term of Joan Zimmerman.

SECTION 2.19.(b) Effective September 1, 2003, the Honorable Michael Sabiston of Randolph County, Michael Turner of Forsyth County, and Persida Ramos of Johnston County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2005.

SECTION 2.20. The Honorable Donald A. Bonner of Robeson County is appointed to the Education Commission of the States for a term expiring on June 30, 2005.

SECTION 2.21.(a) Effective January 1, 2004, if House Bill 1194, 2003 Regular Session, becomes law, Norman Bradley Phillips of Wake County is appointed to the e-NC Authority for a term expiring on December 31, 2004.

SECTION 2.21.(b) Effective January 1, 2004, if House Bill 1194, 2003 Regular Session, becomes law, Bolling Gray McNeill, Jr. of Columbus County and Joseph Hurdt of Cleveland County are appointed to the e-NC Authority for terms expiring on December 31, 2007.

SECTION 2.22. The Honorable Anne Barnes of Orange County and Craig Frazier of Randolph County are appointed to the Environmental Management Commission for terms expiring on June 30, 2005.

SECTION 2.23. Dr. James Israel of Forsyth is appointed to the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors for a term expiring on June 30, 2007.

SECTION 2.24. Gordon Vermillion of Lenoir County and Barbara Kornegay of Wayne County are appointed to the Board of Directors of the North Carolina Global TransPark Authority for terms expiring on June 30, 2007.

SECTION 2.25. Jeffrey Cooper of Martin County, Wil Neumann of Gaston County, the Honorable Theresa Esposito of Forsyth County, Laura Thompson-Quinn of Wake County, Breon Allen of Montgomery County, Janet Sellars of Wake County, and Richard Greb of Wake County are appointed to the Governor's Advocacy Council for Persons with Disabilities for terms expiring on June 30, 2007.

SECTION 2.26. Trecolia Bussey of Wake County is appointed to The Justus-Warren Heart Disease and Stroke Prevention Task Force for a term expiring upon the submission of the Task Force's final report.

SECTION 2.27. William Schultz of Wake County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring on June 30, 2007.

SECTION 2.28. Jim Tarlton of Catawba County, Mark McGoldrick of Mecklenburg County, William Fitzgerald III of Scotland County, and J.W. "Bill" Oglesby of Buncombe County are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30, 2005.

SECTION 2.29. Lillie Brown-Doggett of Guilford County, Constance Stancil of Durham County, Ned Fowler, Jr. of Watauga County, Brian Coyle of Wake County, and Scott Dedman of Buncombe County are appointed to the North Carolina Housing Partnership for terms expiring on June 30, 2006.

SECTION 2.30. Ray Littleturtle of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2005.

SECTION 2.31. Dr. John McCann of Durham County is appointed to the Information Resource Management Commission for a term expiring on June 30, 2007.

SECTION 2.32. Effective January 1, 2003, Debbie Batts of Wilson County, Tzena Keyes of Buncombe County, and Suzanne Williams of Wake County are appointed to the North Carolina Interpreter and Transliterator Licensing Board for terms expiring December 31, 2005.

SECTION 2.33. If Senate Bill 75, 2003 Regular Session, becomes law, Dwayne Long of Wake County and Carolyn L. Smith of Wake County are appointed to the Life Sciences Revenue Bond Authority for terms expiring on June 30, 2005.

SECTION 2.34. Daniel Chandler of Wake County and Clark Crowther of Mecklenburg County are appointed to the North Carolina Manufactured Housing Board for terms expiring on June 30, 2006.

SECTION 2.35. Daisy Millett of Yadkin County and Rosemary Hill of Wake County are appointed to the North Carolina Board of Massage and Bodywork Therapy for terms expiring on June 30, 2006.

SECTION 2.36. Dr. Marvin Swartz of Durham County, Ann Forbes of Wake County and Ellen Holliman of Davidson County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2005.

SECTION 2.37. Effective January 1, 2003, George Parrott of Carteret County is appointed to the North Carolina Board of Mortuary Science for a term expiring on December 31, 2006.

SECTION 2.38. Wellborn Alexander of Watauga County and Allen Fine of Orange County are appointed to the Board of Trustees of the North Carolina Museum of Art for terms expiring on June 30, 2005.

SECTION 2.39. John Schrote of Dare County, Joe Landino of Tyrell County, and William Askew of Northampton County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2005.

SECTION 2.67. James Treadaway, Jr. of Catawba County is appointed to the Board of Trustees of the University of North Carolina Center for Public Television for a term expiring on June 30, 2005.

SECTION 2.68. Annette Myers of Granville County and Carol Rahea of Union County are appointed to the Watershed Protection Advisory Council for terms expiring on June 30, 2005.

SECTION 2.69. Allen Hughes of Avery County and Glenn Endreson of Dare County are appointed to the Well Contractors Certification Commission for terms expiring on June 30, 2006.

SECTION 2.70. Van Phillips of Mitchell County, Nancy Thompson of Buncombe County, Eugene Ellison of Buncombe County, and Mark Vannoy of Ashe County are appointed to the Western North Carolina Regional Economic Development Commission for terms expiring on June 30, 2007.

SECTION 2.71. John T. Coley IV of Wake County, Michael Mosley of Nash County, James Cogdell of Stanly County, and Charles Bennett of Mecklenburg County are appointed to the North Carolina Wildlife Resources Commission for terms expiring on June 30, 2005.

PART III. STATUTORY CHANGES.

SECTION 3.(a) G.S. 127A-2 reads as rewritten:

"**§ 127C-2. Membership.**

(a) The North Carolina Advisory Commission on Military Affairs shall consist of 21 voting ~~members, who shall serve on the Executive Committee,~~ members and ~~nine~~ 13 nonvoting, ex officio members who shall serve by reason of their positions.

(b) The ~~Executive Committee~~ voting members shall be appointed as follows:

(1) Three members appointed by the Speaker of the House of Representatives, one of whom shall be a member of a recognized veterans' organization.

(2) Three members appointed by the President Pro Tempore of the Senate, one of whom shall be a member of a recognized veterans' organization.

(3) Fifteen members appointed by the Governor, consisting of:

a. Three representatives from the ~~Jacksonville community.~~Onslow County area.

b. Three representatives from the ~~Havelock community.~~Craven County area.

c. Three representatives from the ~~Goldsboro community.~~Wayne County area.

d. Three representatives from the ~~Fayetteville community.~~Cumberland County area.

e. Three public members from ~~across the State.~~the regions of North Carolina that are not included in sub-subdivisions a. through d. of this subdivision.

(c) The following members shall serve ex officio:

(1) Secretary of Crime Control and Public Safety, or a designee.

(2) Secretary of Commerce, or a designee.
(3) Commanding General 18th Airborne Corps, Fort Bragg.
(4) Commanding General Marine Corps Base, Camp Lejeune.
(5) Commanding General Marine Corps Air Station, Cherry Point.
(6) Commander 4th FW, Seymour Johnson Air Force Base.
(7) Commander 43rd Airlift Wing, Pope Air Force Base.
(8) Commander of the U.S. Coast Guard Support Center, Elizabeth City.
(9) Adjutant General of the North Carolina National Guard.
(10) Lieutenant Governor.
(11) Secretary of Environment and Natural Resources, or a designee.
(12) Secretary of Transportation, or designee.
(13) Commander of Military Ocean Terminal Sunny Point.

(d) The Governor shall designate ~~one member of the Executive Committee appointed pursuant to subsection (b) of this section to serve as chair.~~ a chair or cochairs from among the members appointed pursuant to subsection (b) of this section. The chair or cochairs may select persons from among the members appointed pursuant to subsection (b) of this section to serve as an Executive Committee. The Executive Committee shall elect four persons from ~~amongst~~ among its membership to serve as vice-chairs.

(e) The terms of the voting members of the ~~Executive Committee voting members~~ Commission shall be as follows:

(1) The members initially appointed by the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall serve terms ending on December 31, 2003.
(2) Seven of the members appointed by the Governor shall serve initial terms ending on December 31, 2002.
(3) Eight of the members appointed by the Governor shall serve initial terms ending on December 31, 2003.

Thereafter, all members shall serve two-year terms."

SECTION 3.(b) G.S. 127C-3 reads as rewritten:

"**§ 127C-3. Military Advisor.**

The ~~Military Advisor within the Office of the Governor shall serve as the administrative head of the Commission and~~ Governor shall designate a military advisor to the Commission who shall be responsible for the operations and normal business activities of the Commission, with oversight by the Executive Committee."

PART IV. EFFECTIVE DATE.

SECTION 4.1. The headings to the parts and sections of this act are a convenience to the reader and are for reference only.

SECTION 4.2. Unless otherwise provided for in this act, appointments are for terms to begin July 1, 2003.

SECTION 4.3. This act is effective when it becomes law.

Adopted

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS55209-LG-27

H. B. No. _____ DATE _____

S. B. No. 63 Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page 12, line 19-44

( ) WHICH CHANGES THE TITLE

by deleting those lines;

and on page 13, lines 1-35

by deleting those lines;

and by renumbering the remaining Part and sections accordingly.

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 20 Jul 03

S. B. No. 63 Amendment No. 2

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.)
) Hackney
Sen.)

Amendment 1, by adding the following:

moves to amend the ~~bill on page~~ _____, _____, line _____

( ) WHICH CHANGES THE TITLE

by _____

by deleting the words in the title:
"AND TO MAKE CHANGES TO THE ADVISORY COMMISSION ON MILITARY AFFAIRS"

and to amend the

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

S. B. No. 63

COMMITTEE SUBSTITUTE _____

DATE 7/20/03

Amendment No. 3

(to be filled in by Principal Clerk)

Rep.) Owen

)

Sen.)

Amendment #1 moves to amend the bill on page 9, line 39

( ) WHICH CHANGES THE TITLE

by deleting the word "Dare"

and substituting "Currituck".

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 63 A BILL TO BE ENTITLED AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND TO MAKE CHANGES TO THE ADVISORY COMMISSION ON MILITARY AFFAIRS.

☐ 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 the committee substitute bill (~~#_____~~), ☒ which changes the title, unfavorable as to ~~(the 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, unfavorable as to Senate committee substitute bill.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

12:30 AM

RULES — 8-20-03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Beau Mills	NCAN
PRESTON HOWARD	NCIC
Mark Fiorentino	University Systems
DON H. BAUM	DOC
Jim Fairy	DOC
Jane Upchurch	Progress Energy
K.W. Kaylor	Kaylor Law Firm
Kim T.	NC ACDSS
Gladys Knight	The Pips
Cher	
Gloria Steinem	Ms. Magazine
Suzanne Clifton	NCCCS
BRUCE THOMPSON	PARKER POE ADAMS & BERNSTEIN
Brian Harrison	LRC
Walter Bacon	Capitol Group
Scott Laggis	
Austin Bunch	ECU
Jim	NCRA
Allen Taylor	GA
Henry Harwood	EG I & S
Rev. MARK GREECH	CAL
John Rust	NCFR
G. PERTON MAYNARD	NCAFP
T. B. KEE	NCMS
MISTY	SMITH ANDERSON ET AL.
Christie Barbee	CAPA
Gary Harris	NCPMA

VISITOR REGISTRATION SHEET

12:30 AM

Rules — 8-20-03

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Cruella DeVille	Dalmation Dr.
GEORGE BUSH	President US
K. Johnson	CAMC
Rick Zechini	NC Assoc of Realtors
Roger Bone	
Kevin Fahey	
Dick Carlton	Carlton & Alexander
→ Jimmy Hoffa	Teamsters
Paul Woolwine	Fmr. Observer
Tim McMain	NCHBA
God	
Martha Stewart	#46035 Prison #
PDP	NCHB
Art Pope	UCDC

2004

MEMBERSHIP OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

Representative Bill Culpepper, Chairman
Representative Joe Hackney, Vice Chairman
Representative Harold J. Brubaker
Representative Walter Church
Representative James W. Crawford
Representative Michael Gorman
Representative Dewey Hill
Representative Julia C. Howard
Representative Carolyn K. Justus
Representative Stephen LaRoque
Representative Paul Luebke
Representative Daniel F. McComas
Representative Paul Miller
Representative David Miner
Representative Bill Owens
Representative Mitchell S. Setzer
Representative Wilma M. Sherrill
Representative Douglas Yongue

Ex officio members:

Representative Pete Cunningham
Representative Rick Eddins

ATTENDANCE

PUBLIC HEARING

HOUSE COMMITTEE ON RULES, CALENDAR AND OPERATIONS

OF THE HOUSE

2003-2004

NAMES / DATES	5-12-04	5-26-04	6-15-04	6-16-04	7-12-04	7-16-04	7-17-04	7-17-04	7-18-04	7-18-04						
Rep. Culpepper, Chairman	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓						
Rep. Joe Hackney, Vice Chairman	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓						
Rep. Harold J. Brubaker	✓	✓	✓		✓	✓	✓		✓	✓						
Rep. Walter Church	✓	✓	✓	✓	✓	✓	✓	✓		✓						
Rep. James W. Crawford	✓			✓	✓	✓	✓	✓		✓						
Rep. Michael Gorman	✓	✓	✓	✓	✓	✓	✓	✓								
Rep. Dewey L. Hill	✓	✓		✓												
Rep. Julia C. Howard		✓	✓	✓			✓	✓	✓	✓						
Rep. Carolyn K. Justus		✓		✓	✓	✓	✓	✓	✓	✓						
Rep. Stephen LaRoque		✓	✓	✓	✓											
Rep. Paul Luebke	✓	✓	✓	✓		✓	✓	✓	✓							
Rep. Daniel F. McComas		✓	✓			✓	✓	✓		✓						
Rep. Paul Miller		✓		✓			✓	✓	✓							
Rep. David Miner		✓		✓												
Rep. Bill Owens	✓		✓	✓	✓	✓		✓	✓	✓						
Rep. Mitchell S. Setzer	✓		✓	✓	✓			✓	✓	✓						
Rep. Wilma M. Sherrill		✓	✓	✓	✓			✓	✓	✓						
Rep. Douglas Yongue		✓	✓	✓	✓		✓	✓	✓							
Ex officio members:																
Rep. Pete Cunningham																
Rep. Rick Eddins																

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
MAY 12, 2004
10:10 A. M..
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

SENATE JOINT RESOLUTION 1032-A JOINT RESOLUTION HONORING THE MEMORY OF MAGGIE SETZER PYLANT FOR WHOM THE TOWN OF MAGGIE VALLEY IS NAMED UPON THE TOWN'S CENTENNIAL OBSERVANCE

COMMITTEE SUBSTITUTE FOR SENATE BILL 623-AN ACT PROVIDING FOR THE EVALUATION OF THE STATE'S INFORMATION TECHNOLOGY SECURITY POLICY AND STANDARDS

HOUSE RESOLUTION 1419-A RESOLUTION HONORING L. T. "BECK" COX, THE FIRST PRESIDENT OF RANDOLPH TELEPHONE MEMBERSHIP CORPORATION, ON THE FIFTIETH ANNIVERSARY OF RANDOLPH TELEPHONE MEMBERSHIP CORPORATION

HOUSE BILL 1411-AN ACT TO DESIGNATE AS TEMPORARY UNVEGETATED BEACH AREAS CERTAIN OCEANFRONT AREAS ON HATTERAS ISLAND WHERE THE VEGETATION LINE WAS DESTROYED BY HURRICANE ISABEL AND THE REMNANTS OF THE VEGETATION LINE WERE BURIED BY THE CONSTRUCTION OF AN EMERGENCY BERM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION

SENATE BILL 1042-AN ACT TO ALLOW A SUPERIOR COURT JUDGE OR A DISTRICT COURT JUDGE TO PERFORM MARRIAGE CEREMONIES

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

May 12, 2004

The Committee on Rules, Calendar and Operations of the House met on May 12, 2004 at 10:10 a.m. in Room 421 of the Legislative Office Building. The following members were present: Representatives Culpepper, Chairman; Hackney, Vice Chairman; Brubaker, Church, Crawford, Gorman, Hill, Luebke, Owens and Setzer.

The following bills were considered:

SENATE JOINT RESOLUTION 1032– A JOINT RESOLUTION HONORING THE MEMORY OF MAGGIE SETZER PYLANT FOR WHOM THE TOWN OF MAGGIE VALLEY IS NAMED UPON THE TOWN'S CENTENNIAL OBSERVANCE. Representative Haire was recognized to speak on the resolution Representative Crawford moved that the resolution be given a favorable report, and the motion carried.

COMMITTEE SUBSTITUTE FOR SENATE BILL 623 – AN ACT PROVIDING FOR THE EVALUATION OF THE STATE'S INFORMATION TECHNOLOGY SECURITY POLICY AND STANDARDS. A proposed House committee substitute changing the title to AN ACT TO PROVIDE FOR A SPECIAL DEADLINE FOR EXEMPT ADULT HOUSING FACILITIES LOCATED IN A DOWNTOWN AREA AND BEING RELOCATED DUE TO A MAJOR ECONOMIC DEVELOPMENT PROJECT was offered, and Representative Brubaker moved for its adoption. Without objection, the chairman so ordered. Senator Reeves, sponsor, was recognized to explain the committee substitute. Representative Brubaker moved that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion carried.

HOUSE RESOLUTION 1419 – A RESOLUTION HONORING L.T. "BECK" COX, THE FIRST PRESIDENT OF RANDOLPH TELEPHONE MEMBERSHIP CORPORATION, ON THE FIFTIETH ANNIVERSARY OF RANDOLPH TELEPHONE MEMBERSHIP CORPORATION. A proposed committee substitute was offered and Representative Brubaker moved for its adoption. Without objection, the chairman so ordered. Representative Brubaker was recognized to speak the resolution. He then moved that the proposed committee substitute be adopted and that the original resolution not be adopted. The motion carried.

The chairman asked Representative Hackney to preside in order for him to explain **HOUSE BILL 1411** – AN ACT TO DESIGNATE AS TEMPORARY UNVEGETATED BEACH AREAS CERTAIN OCEANFRONT AREAS ON HATTERAS ISLAND WHERE THE VEGETATION LINE WAS DESTROYED BY HURRICANE ISABEL AND THE REMNANTS OF THE VEGETATION LINE WERE BURIED BY THE CONSTRUCTION OF AN EMERGENCY BERM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

Representative Culpepper was recognized to explain the bill. He sent forth an amendment and moved for its adoption. George Givens, staff attorney, was recognized to explain the amendment. Representative Culpepper moved for adoption of the amendment, which motion carried. Robin Smith from the Department of Environment and Natural Resources stated that the Department supports the bill. Representative Culpepper made a motion that the amendment be incorporated into a committee substitute and that the committee substitute be given a favorable report, unfavorable to the original bill. The motion passed.

SENATE BILL 1042 – AN ACT TO ALLOW A SUPERIOR COURT JUDGE OR A DISTRICT COURT JUDGE TO PERFORM MARRIAGE CEREMONIES. A proposed House committee substitute changing the title to AN ACT TO ALLOW A SUPERIOR COURT JUDGE OR A DISTRICT COURT JUDGE TO PERFORM MARRIAGE CEREMONIES was offered, and Representative Owens moved for its adoption. Without objection, the chairman so ordered. Representative Owens made a motion that the proposed House committee substitute be given a favorable report, unfavorable to the original Senate bill. The motion passed.

The meeting adjourned at 10:35 a.m.

Representative Bill Culpepper, Chairman

Dorothy C. Crocker, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE JOINT RESOLUTION 1032*

Sponsors: Senator Queen.

Referred to: Rules Suspended; Passed 2nd and 3rd; Sent to House.

May 10, 2004

A JOINT RESOLUTION HONORING THE MEMORY OF MAGGIE SETZER PYLANT FOR WHOM THE TOWN OF MAGGIE VALLEY IS NAMED UPON THE TOWN'S CENTENNIAL OBSERVANCE.

Whereas, the area now known as Maggie Valley was originally settled by Scots-Irish, English, Welsh, and German pioneers; and

Whereas, prior to 1904, local resident John Sidney Setzer traveled regularly to the nearby community of Crabtree to collect mail for the residents of the area; and

Whereas, Mr. Setzer wrote the United States Postal Service asking permission for a corner of his parlor to be designated as the valley's post office; and

Whereas, at the time the community did not have an officially designated name; and

Whereas, Mr. Setzer submitted the names of his three daughters Cora, Maggie, and Mettie for consideration; and

Whereas, on May 10, 1904, the United States Postal Service, through its Postmaster General Frank Hickock, officially awarded a post office to the area to be known as "Maggie"; and

Whereas, on May 10, 2004, the citizens of Maggie Valley will take part in a ceremony near the location of the original Maggie Post Office commencing the Town's centennial celebration; Now, therefore,

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

SECTION 1. The General Assembly of North Carolina honors the memory of Maggie Setzer Pylant and encourages the people of this State to participate in activities commemorating the centennial observance of the Town of Maggie Valley.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the Mayor of Maggie Valley.

SECTION 3. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.J.R. 1032 A JOINT RESOLUTION HONORING THE MEMORY OF MAGGIE SETZER PYLANT FOR WHOM THE TOWN OF MAGGIE VALLEY IS NAMED UPON THE TOWN'S CENTENNIAL OBSERVANCE.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 623

State Government, Local Government, and Veterans' Affairs Committee
Substitute Adopted 4/24/03

Short Title: IT Gap Analysis/"Hack Attack". (Public)

Sponsors:

Referred to:

April 1, 2003

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR THE EVALUATION OF THE STATE'S INFORMATION TECHNOLOGY SECURITY POLICY AND STANDARDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-33.82 is amended by adding a new subsection to read:

"(e1) The State Chief Information Officer shall assess the ability of each agency to comply with the current security enterprise-wide set of standards established pursuant to this section. The assessment shall include, at a minimum, the rate of compliance with the standards in each agency and an assessment of each agency's security organization, network security architecture, and current expenditures for information technology security. The assessment shall also estimate the cost to implement the security measures needed for agencies to fully comply with the standards. Each agency subject to the standards shall submit information required by the State Chief Information Officer for purposes of this assessment. Not later than May 4, 2004, the Information Resources Management Commission and the State Chief Information Officer shall submit a public report that summarizes the status of the assessment, including the available estimates of additional funding needed to bring agencies into compliance, to the Joint Legislative Commission on Governmental Operations, and shall provide updated assessment information by January 15 of each subsequent year."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 623

State Government, Local Government, and Veterans' Affairs Committee
Substitute Adopted 4/24/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S623-PCS65387-LB-97

Short Title: Downtown Adult Residential Facility. (Public)

Sponsors:

Referred to:

April 1, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR A SPECIAL DEADLINE FOR EXEMPT ADULT HOUSING FACILITIES LOCATED IN A DOWNTOWN AREA AND BEING RELOCATED DUE TO A MAJOR ECONOMIC DEVELOPMENT PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds that economic development of downtown areas of major urban centers may require displacement of existing facilities that have been under time constraints for compliance with statutory deadlines.

SECTION 2. As used in this act, a "specially impacted adult care home" is a building that has received an exemption under Section 11.9(a) of S.L. 2000-67 and is:

(1) Ten stories or more in height;

(2) Located within the boundaries of a municipal service district created under Article 23 of Chapter 160A of the General Statutes;

(3) Located within 100 yards of a mixed-use building of more than 10 stories that is being opened for occupancy after the date of enactment of this act; and

(4) Located within 100 yards of an office building that is more than 20 stories in height,

and where some of the occupants of the building are to be relocated to a facility in the same county but not on the campus of any college.

SECTION 3.(a) In applying to a "specially impacted adult care home", Section 11.69(b2) of S.L. 1997-443, as enacted by Section 3 of S.L. 2001-234, "June 1, 2004" shall be read as "June 1, 2005", and "December 1, 2004" shall be read as "December 1, 2005".

SECTION 3.(b) One facility where some of the occupants of the building are relocated under Section 2 of this act shall continue to have the same status under Section 11.9(a) of S.L. 2000-67 as the facility from where the occupants were relocated.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 623 A BILL TO BE ENTITLED AN ACT PROVIDING FOR THE EVALUATION OF THE STATE'S INFORMATION TECHNOLOGY SECURITY POLICY AND STANDARDS.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE RESOLUTION 1419

Sponsors: Representative Brubaker.

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

May 11, 2004

A HOUSE RESOLUTION HONORING L.T. "BECK" COX, THE FIRST PRESIDENT OF RANDOLPH TELEPHONE MEMBERSHIP CORPORATION, ON THE FIFTIETH ANNIVERSARY OF RANDOLPH TELEPHONE MEMBERSHIP CORPORATION.

Be it resolved by the House of Representatives:

Whereas, Randolph Telephone Membership Corporation was founded on May 13, 1954, by residents of rural areas of Randolph, Chatham, and Moore Counties; and

Whereas, L.T. "Beck" Cox was elected the first President of Randolph Telephone Membership Corporation; and

Whereas, Randolph Telephone Membership Corporation was organized as a member-owned cooperative to promote reliable local telecommunications service in rural areas of central North Carolina; and

Whereas, Randolph Telephone Membership Corporation began operations in 1957 with 97 telephones in Farmer, North Carolina, extending service the next year to High Falls and Bennett, and today has over 10,000 access lines in seven exchanges, encompassing a large geographical area in central North Carolina, including: Badin Lake, Bennett, Coleridge, Farmer, High Falls, Jackson Creek, and Pisgah; and

Whereas, since its formation, Randolph Telephone Membership Corporation has supported advanced telephone services in high-cost rural areas of central North Carolina that may otherwise have gone unserved; and

Whereas, Randolph Telephone Membership Corporation has been a leader in introducing broadband service to its membership, ensuring that there is no "digital divide" in the rural areas it serves; and

Whereas, Randolph Telephone Membership Corporation is an active participant in improving the lives of its members through economic development and educational initiatives in the seven counties where it provides services; and

Whereas, Randolph Telephone Membership Corporation plays an important role in providing the technology infrastructure to support economic development in rural central North Carolina; and

Whereas, Randolph Telephone Membership Corporation's directors, managers, and staff have consistently remained involved in local community affairs and charitable causes, improving the rural communities they serve; and

Whereas, it is only fitting that Randolph Telephone Membership Corporation be commended for its 50 years of continuous service to the rural communities of central North Carolina; Now, therefore,

Be it resolved by the House of Representatives:

SECTION 1. The House of Representatives honors the life and memory of L.T. "Beck" Cox and expresses appreciation for the contributions he made to Randolph Telephone Membership Corporation.

SECTION 2. The House of Representatives recognizes the historical accomplishments of Randolph Telephone Membership Corporation and congratulates the cooperative on 50 years of dedicated commitment to serve the telecommunications needs of the rural communities of central North Carolina, encouraging economic development, education, and worthwhile charitable causes. The House of Representatives further wishes to thank the directors, managers, and staff who have contributed to the growth and development of this distinguished telephone cooperative and extended the legacy to L.T. "Beck" Cox.

SECTION 3. The Principal Clerk shall transmit a certified copy of this resolution to the President of Randolph Telephone Membership Corporation.

SECTION 4. This resolution is effective upon adoption.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE RESOLUTION 1419
PROPOSED COMMITTEE SUBSTITUTE H1419-PCS30484-LG-32

Sponsors:

Referred to:

May 11, 2004

A HOUSE RESOLUTION HONORING L.T. "BECK" COX, THE FIRST PRESIDENT OF RANDOLPH TELEPHONE MEMBERSHIP CORPORATION, ON THE FIFTIETH ANNIVERSARY OF RANDOLPH TELEPHONE MEMBERSHIP CORPORATION.

Whereas, Randolph Telephone Membership Corporation was founded on May 13, 1954, by residents of rural areas of Randolph, Chatham, and Moore Counties; and

Whereas, L.T. "Beck" Cox was elected the first President of Randolph Telephone Membership Corporation; and

Whereas, Randolph Telephone Membership Corporation was organized as a member-owned cooperative to promote reliable local telecommunications service in rural areas of central North Carolina; and

Whereas, Randolph Telephone Membership Corporation began operations in 1957 with 97 telephones in Farmer, North Carolina, extending service the next year to High Falls and Bennett, and today has over 10,000 access lines in seven exchanges, encompassing a large geographical area in central North Carolina, including: Badin Lake, Bennett, Coleridge, Farmer, High Falls, Jackson Creek, and Pisgah; and

Whereas, since its formation, Randolph Telephone Membership Corporation has supported advanced telephone services in high-cost rural areas of central North Carolina that may otherwise have gone unserved; and

Whereas, Randolph Telephone Membership Corporation has been a leader in introducing broadband service to its membership, ensuring that there is no "digital divide" in the rural areas it serves; and

Whereas, Randolph Telephone Membership Corporation is an active participant in improving the lives of its members through economic development and educational initiatives in the seven counties where it provides services; and

Whereas, Randolph Telephone Membership Corporation plays an important role in providing the technology infrastructure to support economic development in rural central North Carolina; and

Whereas, Randolph Telephone Membership Corporation's directors, managers, and staff have consistently remained involved in local community affairs and charitable causes, improving the rural communities they serve; and

Whereas, it is only fitting that Randolph Telephone Membership Corporation be commended for its 50 years of continuous service to the rural communities of central North Carolina; Now, therefore,

Be it resolved by the House of Representatives:

SECTION 1. The House of Representatives honors the life and memory of L.T. "Beck" Cox and expresses appreciation for the contributions he made to Randolph Telephone Membership Corporation.

SECTION 2. The House of Representatives recognizes the historical accomplishments of Randolph Telephone Membership Corporation and congratulates the cooperative on 50 years of dedicated commitment to serve the telecommunications needs of the rural communities of central North Carolina, encouraging economic development, education, and worthwhile charitable causes. The House of Representatives further wishes to thank the directors, managers, and staff who have contributed to the growth and development of this distinguished telephone cooperative and extended the legacy of L.T. "Beck" Cox.

SECTION 3. The Principal Clerk shall transmit a certified copy of this resolution to the President of Randolph Telephone Membership Corporation.

SECTION 4. This resolution is effective upon adoption.

Dot's Copies For Office

file

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **Rules, Calendar and Operations of the House**.

☐ Committee Substitute for

H.R. 1419 A HOUSE RESOLUTION HONORING L.T. "BECK" COX, THE FIRST PRESIDENT OF RANDOLPH TELEPHONE MEMBERSHIP CORPORATION, ON THE FIFTIETH ANNIVERSARY OF RANDOLPH TELEPHONE MEMBERSHIP CORPORATION.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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 the committee substitute be adopted, the original HR be adopted. (HOUSE RESOLUTION ONLY) not be adopted.

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1411

Short Title:	Hatteras Village/Temp. Unvegetated Beach Area.	(Public)
Sponsors:	Representative Culpepper.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 11, 2004

A BILL TO BE ENTITLED

AN ACT TO DESIGNATE AS TEMPORARY UNVEGETATED BEACH AREAS CERTAIN OCEANFRONT AREAS ON HATTERAS ISLAND WHERE THE VEGETATION LINE WAS DESTROYED BY HURRICANE ISABEL AND THE REMNANTS OF THE VEGETATION LINE WERE BURIED BY THE CONSTRUCTION OF AN EMERGENCY BERM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. For purposes of implementing Article 7 of Chapter 113A of the General Statutes and rules adopted pursuant to that Article and notwithstanding any provision of that Article or those rules to the contrary, there are hereby designated as temporary unvegetated beach areas those oceanfront areas on Hatteras Island west of the new inlet breach in Dare County in which the vegetation line as shown on North Carolina Department of Transportation aerial photographs dated 2 June 2003, was destroyed as a result of Hurricane Isabel on 18 September 2003, and the remnants of which were subsequently buried by the construction of an emergency berm. This designation shall continue until stable, natural vegetation is reestablished or until the area is permanently designated as an unvegetated beach area pursuant to 15A NCAC 07H .0304(4)(a).

SECTION 2. This act is effective when it becomes law and expires when a permanent rule that makes the designation set out in Section 1 of this act becomes effective.

PLEASE PRESS HARD - 5 COPIES

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. D

H. B. No. 1411 DATE 12 May 2004

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

(Rep.) Culpepper
~~(Sen.)~~

moves to amend the bill on page 1, lines 13 and 14

( ) WHICH CHANGES THE TITLE

by deleting "North" at the end of line 13 and all of line 14 and substituting:

"Dare County orthophotographs dated 4 February through 10 February 2002, with"

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

DOT's

Need copy of Com Sub

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1411 A BILL TO BE ENTITLED AN ACT TO DESIGNATE AS TEMPORARY UNVEGETATED BEACH AREAS CERTAIN OCEANFRONT AREAS ON HATTERAS ISLAND WHERE THE VEGETATION LINE WAS DESTROYED BY HURRICANE ISABEL AND THE REMNANTS OF THE VEGETATION LINE WERE BURIED BY THE CONSTRUCTION OF AN EMERGENCY BERM, 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 the committee substitute bill ~~(#), ☐ which changes the title,~~ unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 1042*

Short Title:	Marriage by Superior/District Court Judge.	(Public)
Sponsors:	Senator Rand.	
Referred to:	Rules Suspended; Passed 2nd and 3rd; Sent to House.	

May 10, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW A SUPERIOR COURT JUDGE OR A DISTRICT COURT JUDGE TO PERFORM MARRIAGE CEREMONIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 51-1 reads as rewritten:

"**§ 51-1. Requisites of marriage; solemnization.**

A valid and sufficient marriage is created by the consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, either:

(1) a. In the presence of an ordained minister of any religious denomination, a minister authorized by a church, a superior court judge of this State, a district court judge of this State, or a magistrate; and

b. With the consequent declaration by the ~~minister~~ minister, superior court judge, district court judge, or magistrate that the persons are husband and wife; or

(2) In accordance with any mode of solemnization recognized by any religious denomination, or federally or State recognized Indian Nation or Tribe.

Marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

SECTION 2. This act is effective when it becomes law and expires on June 6, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1042*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1042-CSRW-74 [v.1]

5/12/2004 8:15:55 AM

Short Title: Marriage by Superior Court Judge. (Public)

Sponsors:

Referred to:

May 10, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW A SUPERIOR COURT JUDGE TO PERFORM MARRIAGE CEREMONIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 51-1 reads as rewritten:

"**§ 51-1. Requisites of marriage; solemnization.**

A valid and sufficient marriage is created by the consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, either:

(1) a. In the presence of an ordained minister of any religious denomination, a minister authorized by a church, a superior court judge of this State, or a magistrate; and

b. With the consequent declaration by the ~~minister~~ minister, superior court judge, or magistrate that the persons are husband and wife; or

(2) In accordance with any mode of solemnization recognized by any religious denomination, or federally or State recognized Indian Nation or Tribe.

Marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

SECTION 2. This act is effective when it becomes law and expires on May 16, 2004.

Pat's

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.B. 1042 A BILL TO BE ENTITLED AN ACT TO ALLOW A SUPERIOR COURT JUDGE OR A DISTRICT COURT JUDGE TO PERFORM MARRIAGE CEREMONIES.

☐ 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 the House committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1042*
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1042-PCS85285-RW-74

Short Title: Marriage by Superior Court Judge. (Public)

Sponsors:

Referred to:

May 10, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW A SUPERIOR COURT JUDGE TO PERFORM MARRIAGE CEREMONIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 51-1 reads as rewritten:

"**§ 51-1. Requisites of marriage; solemnization.**

A valid and sufficient marriage is created by the consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, either:

(1) a. In the presence of an ordained minister of any religious denomination, a minister authorized by a church, a superior court judge of this State, or a magistrate; and

b. With the consequent declaration by the ~~minister~~ minister, superior court judge, or magistrate that the persons are husband and wife; or

(2) In accordance with any mode of solemnization recognized by any religious denomination, or federally or State recognized Indian Nation or Tribe.

Marriages solemnized before March 9, 1909, by ministers of the gospel licensed, but not ordained, are validated from their consummation."

SECTION 2. This act is effective when it becomes law and expires on May 16, 2004.

VISITOR REGISTRATION SHEET

RULES, CALENDAR AND OPERATIONS OF THE HOUSE May 12, 2004

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
BRUCE THOMPSON	PARKER POE
John McHugh	GovOffice
Michael Houser	NCAE
R. ROGERS	DENR
Pricey Harrison	CRC
BRIAN LEWIS	Planned Parenthood Health Sys, Inc.
Adam Prideaux	NCASA

VISITOR REGISTRATION SHEET

RULES, CALENDAR AND OPERATIONS OF THE HOUSE May 12, 2004

Name of Committee **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Wilms	NCHBA
Sparkey	Duke Energy
Jan Upchurch	DHHS/DFS
Mark Beason	Capitol Group
Tim Minton	NC Home Builders
Kathy Hawkins	Progress Energy
Jan Upchurch	Progress Energy
Paul Pulley	Pulley, Watson K&L
Beason	Capitol Group
MARK Bo	
Stacy Flannery	NCHCFA
Cogswell, Jack	Parker Poe

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
MAY 26, 2004
4:15 P.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

COMMITTEE SUBSTITUTE FOR HOUSE BILL 354-AN ACT TO AMEND THE STATE DISABILITY INCOME PLAN

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1303-AN ACT TO EXEMPT ATHLETIC CONTESTS SPONSORED BY INCOME TAX EXEMPT PERSONS FROM THE AMUSEMENTS PRIVILEGE TAX

HOUSE JOINT RESOLUTION 1435-A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES WESLEY "WILLIE" YORK, PROMINENT CIVIC LEADER, VISIONARY BUILDER, AND ENTREPRENEUR

HOUSE RESOLUTION 1683-A HOUSE RESOLUTION PAYING TRIBUTE TO THE VETERANS OF WORLD WAR II AND HONORING THE MEMORY OF THOSE WHO LOST THEIR LIVES IN SERVICE TO OUR COUNTRY

HOUSE BILL 1640-AN ACT TO AUTHORIZE THE DARE COUNTY BOARD OF EDUCATION TO CONSTRUCT AND PROVIDE AFFORDABLE RENTAL HOUSING FOR THE TEACHERS AND OTHER LOCAL GOVERNMENTAL EMPLOYEES

ADJOURNMENT

MINUTES
Committee on Rules, Calendar and Operations of the House
May 26, 2004
Room 421 Legislative Office Building

The Committee on Rules, Calendar and Operations of the House met on Wednesday, May 26, 2004 in Room 421 in the Legislative Office Building. Representative Culpepper, Committee Chair, called the meeting to order at 4:15 p.m. The following members were present: Representative Joe Hackney, vice chairman; and Representatives Brubaker, Church, Gorman, Hill, Howard, Justus, LaRoque, Luebke, McComas, Miller, Miner, Sherrill and Yongue.

The Chair recognized the Pages serving the committee:Elizabeth Edwards from Rowan County, Ashley Brooks from Halifax County, Dave Craven from Randolph County, Courtney Hughes from Avery County and Lee Perry from Wake County. Dusty Rhodes and Earl Tharrington of the Sgt. At Arms staff were recognized.

CS for House Bill 354, AN ACT TO AMEND THE STATE DISABILITY INCOME PLAN, was the first agenda item for consideration. Stanley Moore, Fiscal Research Staff, was recognized for an explanation of the bill. Representative Insko, bill sponsor, recommends that the House do not concur. Representative Brubaker moved to recommend that the House do not concur and conferees be appointed. Motion carried.

CS for House Bill 1303, AN ACT TO EXEMPT ATHLETIC CONTESTS SPONSORED BY INCOME TAX EXEMPT PERSON FROM THE AMUSEMENTS PRIVILEGE TAX was before the committee. Representative Hill made a motion to recommend that the House do not concur and conferees be appointed. Motion carried.

House Joint Resolution 1435, A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES WESLEY "WILLIE" YORK, PROMINENT CIVIC LEADER, VISIONARY BUILDER, AND ENTREPRENEUR, was before the committee for consideration. Representative Ross, bill sponsor, was recognized to explain the resolution. Representative Miner moved for its adoption. The HJR was given a favorable report.

House Resolution 1683, A HOUSE RESOLUTION PAYING TRIBUTE TO THE VETERANS OF WORLD WAR II AND HONORING THE MEMORY OF THOSE WHO LOST THEIR LIVES IN SERVICE TO OUR COUNTRY was before the committee. Representative Barnhart, bill sponsor, explained the resolution. Representative Gorman moved that the resolution be adopted. Motion carried.

House Bill 1640, A ACT TO AUTHORIZE THE DARE COUNTY BOARD OF EDUCATION TO CONSTRUCT AND PROVIDE AFFORDABLE RENTAL HOUSING FOR THE TEACHERS AND OTHER LOCAL GOVERNMENTAL EMPLOYEES was the next bill before the committee. Chairman Culpepper asked that

Representative Gorman take the chair for Representative Culpepper, bill sponsor, to handle the bill. A committee substitute for HB 1640 was offered and Representative LaRoque moved that it be adopted for committee discussion. Representative Brubaker moved to give a favorable report to the committee substitute and an unfavorable report to the original bill. Motion carried.

The meeting adjourned at 4:30 p.m.

Respectfully submitted,

Representative Bill Culpepper

Anne M. Cole

Anne Cole, Acting Committee Assistant

Attachments:
Committee Meeting Notice
Visitor Registration Sheet
Copy of HB 354, HB 1303, HJR 1435, HR 1683 & HB 1640
Copy of Committee Substitute for HB 1640
Committee Reports

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Senate Committee Substitute for
H.B. 354 A BILL TO BE ENTITLED AN ACT TO AMEND THE STATE DISABILITY INCOME PLAN.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 3

HOUSE BILL 354

Committee Substitute Favorable 4/7/03

Senate Health & Human Resources Committee Substitute Adopted 7/20/03

Short Title: Amend Disability Laws. (Public)

Sponsors:

Referred to:

March 6, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATE DISABILITY INCOME PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. Section 30.20.(k) of S.L. 2003-284 is repealed.

SECTION 2. G.S. 135-106(a), as rewritten by Section 30.20.(l) of S.L. 2003-284, reads as rewritten:

"(a) Upon the application of a beneficiary or participant or of his legal representative or any person deemed by the Board of Trustees to represent the participant or beneficiary, any beneficiary or participant who has had five or more years of membership service may receive long-term disability benefits from the Plan upon approval by the Board of Trustees, commencing on the first day succeeding the conclusion of the short-term disability period provided for in G.S. 135-105, provided the beneficiary or participant makes application for such benefit within 180 days after the short-term disability period ceases, after salary continuation payments cease, or after monthly payments for Workers' Compensation cease, whichever is later; Provided, that the beneficiary or participant withdraws from active service by terminating employment as a teacher or State employee; Provided, that the Medical Board shall certify that such beneficiary or participant is unable to perform any occupation ~~for which the beneficiary or participant is reasonably qualified for by~~ or employment commensurate to the beneficiary's or participant's education, training or experience, which is available in the same commuting area for State employees or within the same local school administrative unit for school personnel, without an adverse impact on the beneficiary's or participant's career status, and in which the beneficiary or participant can be expected to earn not less than sixty-five percent (65%) of that beneficiary's or participant's predisability earnings, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent; Provided further that the Medical Board shall not certify any beneficiary or participant as disabled who is in receipt of any payments on account of the same

incapacity which existed when the beneficiary first established membership in the Retirement System. The Board of Trustees may extend this 180-day filing requirement upon receipt of clear and convincing evidence that application was delayed through no fault of the disabled beneficiary or participant and was delayed due to the employers' miscalculation of the end of the 180-day filing period. However, in no instance shall the filing period be extended beyond an additional 180 days.

The Board of Trustees may require each beneficiary who becomes eligible to receive a long-term disability benefit to have an annual medical review or examination for the first five years and thereafter once every three years after the commencement of benefits under this section. However, the Board of Trustees may require more frequent examinations and upon the advice of the Medical Board shall determine which cases require such examination. Should any beneficiary refuse to submit to any examination required by this subsection or by the Medical Board, his long-term disability benefit shall be suspended until he submits to an examination, and should his refusal last for one year, his benefit may be terminated by the Board of Trustees. If the Medical Board finds that a beneficiary is no longer unable to perform any occupation for which the beneficiary or participant is reasonably qualified for by training or experience, the Department of State Treasurer and the Board of Trustees may terminate the beneficiary's long-term disability benefits effective on the last day of the month in which the Medical Board certifies that the beneficiary is no longer disabled.

As to the requirement of five years of membership service, any participant or beneficiary who does not have five years of membership service within the 96 calendar months prior to conclusion of the short-term disability period or cessation of salary continuation payments, whichever is later, shall not be eligible for long-term disability benefits.

Notwithstanding the requirement that the incapacity was incurred at the time of active employment, any participant who becomes disabled while on an employer approved leave of absence and who is eligible for and in receipt of temporary total benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, will be eligible for all benefits provided under this Article."

SECTION 3. Section 1 of this act becomes effective July 1, 2003. Section 2 of this act becomes effective July 1, 2004, and applies only to persons who are not vested in the disability plan in question on July 1, 2004. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 2

HOUSE BILL 1303

Committee Substitute Favorable 6/23/03

Short Title: Nonprofits Exempt From Admissions Tax. (Public)

Sponsors:

Referred to:

May 15, 2003

A BILL TO BE ENTITLED

AN ACT TO EXEMPT ATHLETIC CONTESTS SPONSORED BY INCOME TAX EXEMPT PERSONS FROM THE AMUSEMENTS PRIVILEGE TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-40 is amended by adding a new subdivision to read:

"(6a) A youth athletic contest with an admissions price that does not exceed five dollars ($5.00) sponsored by a person exempt from income tax under Article 4 of this Chapter. For the purpose of this subdivision, a youth athletic contest means a contest in which each participating athlete is less than 19 years of age."

SECTION 2. This act becomes effective July 1, 2003.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1303

AMENDMENT NO. 1
(to be filled in by Principal Clerk)

H1303-ARB-54 [v.1]

Date 7-18 ,2003

Comm. Sub. [YES]
Amends Title [NO]
Second Edition

Senator Hoyle

moves to amend the bill on page 1, line 11, by deleting "July 1, 2003." and substituting "October 1, 2003.".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

Comm. Amend. 1
Adopted and Engrossed
Pursuant to Rule 45.1
JUL 18 2003

ADOPTED

CHANGES TITLE

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1303

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

H1303-ALC-47 [v.3]

Date 7-19 ,2003

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

ADOPTED

Senator Hoyle

moves to amend the bill on page 1, lines 2 – 3,
by rewriting the lines to read:
"AN ACT TO REDUCE PRIVILEGE AND EXCISE TAXES.";

and on page 1, line 11, as amended by amendment #1,
by rewriting the line to read:

"**SECTION 2.(a)** G.S. 105-113.21, as amended by S.L. 2003-284, reads as rewritten:

'**§ 105-113.21. ~~Refund.~~Discount; refund.**

(a) Discount. – A distributor who files a timely report under G.S. 105-113.18 and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond.

(b) Refund. – A distributor in possession of packages of stale or otherwise unsalable cigarettes upon which the tax has been paid may return the cigarettes to the manufacturer and apply to the Secretary for refund of the tax. The application shall be in the form prescribed by the Secretary and shall be accompanied by an affidavit from the manufacturer stating the number of cigarettes returned to the manufacturer by the applicant. The Secretary shall refund the tax ~~paid~~ paid, less the discount allowed, on the unsalable cigarettes.'

SECTION 2.(b) G.S. 105-113.35(c), as amended by S.L. 2003-284, reads as rewritten:

'(c) Secondary Liability. – A retail dealer who acquires non-tax-paid tobacco products subject to the tax imposed by this section from a wholesale dealer is liable for any tax due on the tobacco products. A retail dealer who is liable for tax under this

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1303

AMENDMENT NO. 2
(to be filled in by Principal Clerk)

H1303-ALC-47 [v.3]

subsection may not deduct a discount from the amount of tax due when reporting the tax.'

SECTION 2.(c) Part 3 of Article 2A of Chapter 105 of the General Statutes is amended by adding a new section to read:

'**§ 105-113.39. Discount.**

A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part, who files a timely report under G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers losses due to damage to tobacco products, expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond.'

SECTION 2.(d) This section is effective for reporting periods beginning on or after August 1, 2003.

SECTION 3.(a) Part 5 of Article 2C of Chapter 105 of the General Statutes is amended by adding a new section to read:

'**§ 105-113.85. Discount.**

Each wholesaler or importer who files a timely return and sends a timely payment may deduct from the amount payable a discount of two percent (2%). This discount covers losses due to spoilage and breakage, expenses incurred in preparing the records and reports required by this Article, and the expense of furnishing a bond.'

SECTION 3.(b) This section is effective for reporting periods beginning on or after August 1, 2003.

SECTION 4. Section 1 of this act becomes effective October 1, 2003."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED

ADOPTED V 43-0 FAILED _____ TABLED _____

J. Pruitt 7-19-03

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
H.B. 1303 A BILL TO BE ENTITLED AN ACT TO EXEMPT ATHLETIC CONTESTS SPONSORED BY INCOME TAX EXEMPT PERSONS FROM THE AMUSEMENTS PRIVILEGE TAX.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE JOINT RESOLUTION 1435

Sponsors:	Representatives Ross; B. Allen, Capps, Carney, Dickson, Eddins, Ellis, Miner, Munford, Parmon, Stam, and Weiss.
Referred to:	Rules, Calendar, and Operations of the House.

May 13, 2004

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES. WESLEY "WILLIE" YORK, PROMINENT CIVIC LEADER, VISIONARY BUILDER, AND ENTREPRENEUR.

Whereas, James Wesley "Willie" York was born on September 11, 1912, in Raleigh, North Carolina, to Charles Vance York and Mabel Anderson York; and

Whereas, Willie York was educated in the Raleigh public schools; and in 1923 at age 11 commenced under his father's tutelage a building and business career that lasted for the next 80 years; and graduated from the North Carolina State College of Agriculture and Engineering (now North Carolina State University) in 1933 with a B.S. degree in Construction Engineering; and

Whereas, Willie York served his country during the Great Depression as an engineer for the Bureau of Public Roads and as a purchasing agent for the Civilian Conservation Corps in the Great Smoky Mountains; and

Whereas, Willie York served his country during World War II as a builder at Cherry Point Marine Base, Camp Lejeune, and Morehead City, North Carolina; and

Whereas, Willie York was a visionary builder of communities that transformed his native city with such projects as the revolutionary 1949 Cameron Village, York Industrial Park, 1955 Farmer's Market, Velvet Cloak Inn, and Mission Valley Inn and Shopping Center; and

Whereas, Willie York served the city's schoolchildren as a member of the Raleigh School Board from 1957 until 1963 and opened educational opportunities to all of the city's children with his deciding vote to integrate Murphey School in 1960; and

Whereas, Willie York served the citizens of North Carolina as Chair of the North Carolina Board of Conservation and Development from 1965 until 1969 and inaugurated the State's first system of Welcome Centers for the traveling public; and

Whereas, Willie York was instrumental in securing State support and funding for the development and construction of the James B. Hunt Horse Complex that serves North Carolina's expanding equine industry; and

Whereas, Willie York served as Chair of the Raleigh-Durham Airport Authority and in that capacity played a significant role in completing the construction of a major runway and terminal building in 1984; and

Whereas, Willie York was a lifelong devoted supporter of North Carolina State University and was awarded the Watauga Medal in 1990, and contributed the York Auditorium at the McSwain Education Center at the university's J.C. Raulston Arboretum, and was instrumental in establishing the 600-acre Yates Mill County Historic Park in a partnership with the university and Wake County; and

Whereas, Willie York's devotion to improving the lives of others earned him the respect and admiration of all who knew and worked with him; and

Whereas, Willie York's influence in his community and his keen problem-solving ability made him a favorite among politicians and civic leaders, who often sought his advice and counsel; and

Whereas, Willie York was a devoted son of his native city of Raleigh and took every opportunity to share his knowledge of and enthusiasm for local history; and

Whereas, Willie York died on March 2, 2004; Now, therefore,

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

SECTION 1. The General Assembly honors the memory of James Wesley "Willie" York and expresses the appreciation of this State for his life, accomplishments, and service.

SECTION 2. The General Assembly extends its deepest sympathy to the family of James Wesley "Willie" York for the loss of their beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of James Wesley "Willie" York.

SECTION 4. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 1435 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JAMES WESLEY "WILLIE" YORK, PROMINENT CIVIC LEADER, VISIONARY BUILDER, AND ENTREPRENEUR.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

FILED
1683 MAY 25 03
HOUSE PRINCIPAL CLERK

H D

HOUSE RESOLUTION DRHR10300-LG-253A (5/19)

Sponsors: Representative Barnhart.

Referred to:

A HOUSE RESOLUTION PAYING TRIBUTE TO THE VETERANS OF WORLD WAR II AND HONORING THE MEMORY OF THOSE WHO LOST THEIR LIVES IN SERVICE TO OUR COUNTRY.

Whereas, the National World War II Memorial will be formally dedicated on the National Mall in Washington, D.C., on May 29, 2004; and

Whereas, this memorial is the first national memorial to recognize the more than 16,000,000 Americans who served in the Army, Air Force, Navy, Marine Corps, Coast Guard, and Merchant Marine during World War II; and

Whereas, this memorial will also serve as a place to remember and honor the more than 400,000 American military service persons who died during World War II; and

Whereas, thousands of veterans and visitors are expected to attend the World War II Memorial dedication and other activities planned to pay tribute to those brave men and women often referred to as "The Greatest Generation"; and

Whereas, more than 395,900 North Carolinians served in the armed services during World War II; and

Whereas, the former and current members of the General Assembly who served in World War II are as follows:

Aldridge, Marvin Warren	House
Alexander, Hugh Quincy	House
Alford, Jr., Dallas Lloyd	Senate
Allen, Arch T.	House
Allen, John Franklin	Senate
Allsbrook, Julian Russell	Senate and House
Almond, Pearson Ellis	House
Andrews, Ike Franklin	Senate and House
Ansell, Norwood Maynard	House
Arledge, James Thurston	House

Askew, Allen Edgar	House
Badgley, Donald	House
Bahakel, Cy Nesbe	Senate
Bailey, Jr., Carl Leroy	House
Bailey, James H. Pou	Senate
Bailey, James Ruffin	Senate
Baldwin, Thomas Fleet	House
Ballenger, Thomas Cass	Senate and House
Banzet, Frank Broadhurst	Senate
Barbee, Allen Cromwell	House
Barbee, Sr., Bobby Harold	House
Barker, Christopher Sylvanus	House
Barker, Raymond C.	House
Barnhill, Howard Clinton	House
Barr, Basil Duke	House
Beall, Charles Millwee	House
Belk, Irwin	Senate and House
Bell, Clifton Linwood	House
Bell, Daniel Graham	House
Bell, Jesse Spencer	Senate
Bennett, Mark Wilson	House
Billings, Claude	House
Bingham, Donald William	Senate and House
Black, Bedford Worth	House
Blackburn, Charles Franklin	Senate
Blackmon, John Gerald	Senate
Blackwell Jr., Thomas Winfield	House
Blake, Colon Elwood	House
Blanchard, Williard Jackson	Senate
Bowen, Edward C.	House
Bowman, James C.	House
Bradley, William Pershing	House
Branch, Joseph	House
Braswell, Roland Clifton	House
Bridgers, Herbert Vinson	Senate
Brinkley, Harold Gwynn	House
Britt, David Maxwell	House
Britt, William Ross	House
Brown, John Walter	House
Brown, Jr. Frank H.	House
Brown, Wade E.	House
Buchannan, Marcellus	House
Bumgardner, Jr., David Webster	House
Bunn, Thomas Davis	House

Burden, Emmett Wynn	House
Burgwyn, Jr., William Hyslop	Senate
Burney, Jr., John Jay	Senate
Burrow, Samuel Jackson	House
Burrus, Archie	House
Bynum, Fredrick Williamson	House
Byrd, Joe Kincaid	Senate and House
Canipe, Albert Lee	Senate
Calder, Robert Edward	House
Carpenter, Robert C.	Senate
Carroll, Seay Alexander Wesley	Senate
Chambers, William Carter	House
Chapin, Howard Burdette	House
Chapman, Ray Etheridge	Senate
Childers, Jack Cely	Senate
Childers, Max Lamar	House
Church, John Trammel	Senate and House
Clark, Chatham Calhoun	Senate and House
Clark, David	Senate and House
Clark, Edward Breeden	Senate
Clark, Jr., George Thomas	House
Clark, Richard Schuyler	House
Clarke, James McClure	House
Clayton, Tom L.	Senate
Coates, Roy Columbus	House
Cocklereece, John A.	House
Codington, John Bonnell	Senate
Coggins, Jyles Jackson	Senate and House
Cole, James Monroe	House
Cook, Dennis Shelton	Senate
Cooke, Frank Patton	Senate
Cooper, William Vance	House
Copeland, James William	Senate
Courtney, Sr., Danny M.	House
Covington, Jr., John Walter	House
Cowen, Robert Henry	Senate
Creech, William Ayden	House
Crew, William Lunsford	Senate
Culp, Jr., Arlie Franklin	House
Culpepper, Jr., William Thomas	House
Dalrymple, Robert Watson	House
Daniels, Jr., Melvin Roy	Senate
Davis, James Taliver	House
Dearman, Claudius Hursell	Senate

DeBruhl, Claude	House
Delamar, Ned Everett	House
Dial, Adolph Lorenz	House
Dickson, Walter W.	House
Dill, Thomas Green	House
Dorsett, Charles Howard	Senate
Duncan, James Haralson	House
Eagles, Jr., Joseph Colin	Senate
Eagles, Larry P.	House
Edwards, Daniel Kramer	House
Edwards, Elton	Senate and House
Edwards, Herman Vance	House
Edwards, James Harrell	House
Edwards, Ralph Pearson	House
Edwards, Jr., Zeno Lester	House
Ellis, Albert Joseph	Senate
Ellis, Jr., Thomas William	House
Elmore, Bruce Alexander	House
Enloe, Jr., Jeff Hailen	House
Ervin, III, Samuel James	House
Erwin, Richard Cannon	House
Euliss, Jack Manning	House
Everett, Jr., James Alphonso	House
Everett, Richard Frank	House
Fearing, Jr., Malcolm Keith	House
Fenner, Julian Baker	House
Fisher, Henry Coleman	House
Folger, Jr., Fred	Senate
Fountain, Lawrence H.	Senate
Fowler, Jr., Joseph Ralph	House
Frink, Samuel Benjamin (Bunn)	Senate and House
Fussell, Aaron Eleazar	House
Futrell, Ashley Brown	Senate
Gaither, James Clyde	House
Gamble, Jr., John Reeves	House
Gardner, Jonas Melvin	House
Garland, James Boyce	House
Garrison, James Banks	Senate
Garriss, Garland Smith	Senate
Gash, Robert Taliafero	Senate
Gay, William Carrell	House
Gillespie, Melvin L.	House
Gilmore, Voit	Senate
Gist, Herman Colridge	House

Godwin, Philip Pittman	Senate and House
Goins, Cecil R.	Senate
Gold, Charles Fortune	Senate
Goldston, Jr., William David	Senate
Goodman, Jr., Arthur	House
Goodman, Spencer Brown	House
Grady, Richard Ralph	House
Graham, John Washington	House
Graves, Calvin	Senate
Gray, Gordon	Senate
Green, James Collins	Senate and House
Greenwood, Gordon Hicks	House
Griffin, Charles Franklin	Senate
Griffin, Edward Foster	Senate
Grimsley, William T.	House
Gudger, Jr., Vonno Lamar	Senate and House
Gurganus, Edgar Jarvis	Senate
Gwaltney, Maurice Luther	House
Hairston, Peter Wilson	House
Hall, Jr., Daniel Arnold C.	House
Hall, James Marshall	House
Hall, John Linwood	House
Hall, Roger Fisher	House
Halstead, William Ira	Senate
Hamilton, Sr., Luther	Senate and House
Hamlin, Edwin Jones	House
Hamrick, Claude Meredith	House
Hancock, III, Franklin Wills	Senate and House
Hancock, William Ira	House
Hardin, Charles W.	Senate
Hardison, Harold Woodrow	Senate and House
Hardy, Herbert Wallace	House
Harkins, Herschel Springfield	House
Harrill, William Davis	House
Harrington, Joseph Julian	Senate
Harris, III, Dela Fletcher	House
Harris, John Ollie	Senate
Harris, Shearon	House
Harris, Jr., William Clinton	House
Harris, Jr., William Shakespeare	House
Harrison, William Davis	House
Hatcher, Howell John	Senate and House
Hathaway, Jr., Clarence Percival	House
Hauser, Charlie Brady	House

Hayes, Jr., Madison James	House
Hege, Jr., Joe H.	House
Henderson, David H.	House
Henley, John Tannery	House and Senate
Hewlett, Jr. Addison	House
Hightower, Erwin Avery	Senate
Hill, Dewey Lewis	House
Hill, Jr., James Henry	House
Hill, Jr., Watts	House
Hines, Stedman Holt	House
Hobgood, Hamilton Harris	Senate
Holcombe, Harlon	House
Horton, Harry Perryman	Senate and House
Horton, Issac Joseph	House
Hostetler, Charles Anderson	House
Howard, Carl Wiley	House
Hoyle, James Womble	Senate
Hughes, James Frank	Senate and House
Hunt, Jr., Clifton Tredway	House
Hunt, John Jackson	House
Hunter, Thomas Bell	House
Huskins, J. Frank	House
Huskins, Joseph Patterson	House
Hutchins, Cyril Edley	House
Hyde, Herbert Lee	Senate and House
Isaacs, Mack Stewart	House
James, William Duer	Senate
Jernigan, Jr., Roberts Harrell	House
Johnson, Jr., Hugh Stewart	House
Johnson, James Marvin	Senate and House
Johnson, James V.	Senate
Johnson, Robert Lee	House
Jolly, Wilbur Morton	Senate
Joyner, Norman Hepler	Senate
Kemp, Clarence Edward	Senate and House
Kemp, Ramey Floyd	Senate
Kemp, William Powell	House
Kennedy, Jr., John Pressly	House
King, Jennings Graham	Senate and House
Kirby, James Russell	Senate
Lacey, Jr., Swan Burnett	House
Lackey, Pleas	Senate and House
Lacy, Philip Lewis	House
Lambert, Joel William	House

Larkins, Jr., John Davis	Senate
Lassiter, Jr., Robert	House
Lawing, William Craig	Senate and House
Leatherman, Clarence Edwin	House
Leatherwood, III, Robert	House
Ledbetter, Jesse Ingram	Senate
Lee, Hugh Alfred	House
Leonard, William	House
Lightner, Clarence E.	Senate
Ligon, Bradford Verdize	House
Lilley, Daniel Taylor	House
Lineberry, Sr., Albert S.	House
Little, Earl Fritz	House
Little, Hal W.	House
Little, James C.	House
Lloyd, Leonard Walter	House
Long, Richard Gwynn	Senate
Love, Claude L.	House
Love, Jack D.	House
MacLean, Hector	Senate
Malcolm Carlyle Paul	Senate
Marshall, Jr. William Flynt	House
Martin, Charles Brantley	House
Martin, Jr., Lester Poindexter L.	House
Mashburn, James T.	House
Mauney, Richard Pass	House
Maxwell, Charles K.	Senate
McAlister, Robert Lee	House
McClung, Ray S.	House
McCombs, Willard Eugene	House
McDaniel, C. Dempsey	House
McGeachy, Neill Hector	Senate
McGee, Edward Lewis	House
McGougan, Duncan F.	Senate
McKnight, James Earl	House
McLaughlin, John Robbins	Senate
McLawhorn, Charles L.	House
McLendon, Jr., Lennox Polk	Senate
McMichael, Jule	Senate
McMillan, Archibald A.	House
McMillan, Jr., Roscoe Drake	House
McRorie, Sr., Robert Grant	House
Medford, William	Senate
Mercer, Leo	House

Messer, Ernest Bryan	House
Mills, Fred Moore	Senate and House
Mills, George Henry	House
Mintz, Rudolph Ivey	Senate
Moody, Jack Arthur	House
Morgan, Robert Burren	Senate
Morgan, Robert Foster	Senate
Murphy, Ashley Monroe	House
Murrow, Calvin Coolidge	Senate
Newman, Marshall Thomas	House
O'Herron, Jr., Edward M.	House
O'Neal, Dick	House
Oldham, Warren Claude	House
Owens, Charles Donald	House
Owens, Jr., Hollis Monroe	House
Palmer, Joseph Hardy	Senate and House
Palmer, William Jackson	House
Parker, Howard Elliot	House
Parnell, David Russell	House
Parrott, Marion Arendell	House
Patterson, Jr., Frank Neville	Senate and House
Patton, Erwin William	House
Peel, Elbert Sidney	Senate and House
Penn, Frank Reid	Senate
Perkins, Samuel Richard	House
Phelps, John Mahlon	House
Pickard, Glenn Morris	House
Pittman, James Hicks	House
Poovey, Julius Reid	House
Pope, William Robert	House
Potts, Jack H.	House
Pou, Edwin S.	House
Powe, Edward Knox	House
Poyner, James M.	Senate
Pritchard, Warren H.	House
Propst, Clyde Luther	Senate and House
Quinn, Dwight Wilson	House
Ramsey, Liston Bryan	House
Rauch, Marshall Arthur	Senate
Rayfield, John M.	House
Reed, Jr., Norris Cummins	Senate
Rhodes, Frank Edwin	House
Richardson, James Franklin	House
Ridenour, III, John Lawson	House

Riggs, Zennie Lawrence	House
Roberson, Paul Dawson	House
Robert, C. Carpenter	Senate
Robinson, McDaniel "Dan"	Senate
Rodman, John Croom	Senate
Rose, Jr., Charles Grandison	House
Ross, Lemuel Hiram	Senate
Rountree, Herbert Horton	House
Royall, Kenneth Claiborne	Senate and House
Sanders, Richard Tatum	House
Sandlin, Hugh Cox	House
Sanford, Terry	Senate
Sapp, C. Odell	Senate
Sawyer, Thomas Benjamin	Senate and House
Scott, Leroy	House
Seay, Jr., Thomas Waller	Senate
Seymour, Woodrow Wilson	House
Shallington, Thomas William	House
Shaw, Robert G.	Senate
Shuford, Jr., Adrian Lafayette	Senate
Shuford, John Franklin	Senate
Simpkins, James Oscar	Senate
Simpson, Daniel Reid	House
Sims, Frank Knight	House
Sims, Jr., Robert Nirwana	Senate
Slagle, Jack	House
Smith, John McNeill	Senate and House
Smith, Paul Sanders	Senate
Smith, William Grey	Senate
Snepp, Frank W.	House
Snow, George Key	House
Snowden, Macon St. Clair	House
Speros, Gus	House
Spoon, LeRoy Page	House
Stamey, Melvin Lindsey	House
Staton, William Wayne	Senate and House
Stevens, Jr.,William Edward	House
Stewart, Clarence Poe	House
Stikeleather, James Gudger	Senate and House
Stone, Jr., Clarence E.	House
Strayhorn, Ralph Nichols	House
Strong, Jr., Charles Walter	Senate
Suddarth, Jr., Thomas Henry	Senate
Swain, Robert Stringfield	Senate

Swann, William Fred	House
Swindell, Russell A.	House
Tart, Charles Graham	House
Taylor, Hoyt Patrick	Senate and House
Taylor, Roy Arthur	House
Taylor, William Woodruff	House
Thomas, Arthur Webster	House
Thomas, Joe Max	Senate
Thomason, Benjamin Walter	Senate and House
Thompson, Raymond M.	House
Thompson, Sr., Raymond M.	House
Totherow, Carl Daniel	Senate
Turner, Thomas	House
Valentine, Jr., Itimous Thaddeus	House
Vanderlinden, Jr., William Harrison	House
Vaughn, Earl W.	House
Walker, Hal Hammer	Senate
Walker, Russell Grady	Senate
Warren, Ed Nelson	House
Warren, Stewart Bethune	Senate
Watkins, William Thomas	House
Weatherly, John Hugh	House
Webster, Wesley Davis	Senate and House
West, Wayne Grade	House
White, Eugene Morrison	House
White, Jack Hutchins	Senate
White, Vernon Eno	Senate
Whitehurst, Samuel Latham	Senate and House
Whitley, Jr., Daniel P.	House
Whitley, Philip Ray	House
Wicker, June Shelton	House
Wiley, Edwin Gavin	House
Wilkie, Carroll Weldon	Senate
Williams, H. Smith	House
Williams, Lafayette	Senate
Williams, Staton Pender	Senate
Williamson, Edward Lorenza	House
Williamson, Odell	House
Wills, Marshall Theodore	House
Wilson, Edward Howell	House
Wilson, Henry Hall	House
Withrow, William Harrill	House
Wolfe, Thomas Redwine	Senate
Womble, William Brantley	House

Womble, William Fletcher	House
Wood, William Zeno	Senate and House
Woodson, Nelson	Senate
Wright, Jr., Homer E.	House
Yarborough, Edward Foster	House
Young, John Clingman	House
Yow, Cicero Preston	Senate
Zollicoffer, Jr., Algernon Agustus	House

Whereas, these brave members, as well as the other veterans of World War II, deserve to be commended for their dedication and service to our State and Nation; Now, therefore,

Be it resolved by the House of Representatives:

SECTION 1. The House of Representatives wishes to honor the memory of those who lost their lives during World War II.

SECTION 2. The House of Representatives wishes to express its appreciation to the veterans who served during World War II and to their families for the great sacrifices and incredible contributions they made in order that we may all live in a free nation.

SECTION 3. This resolution is effective upon adoption.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for

H.R. 1683 A HOUSE RESOLUTION PAYING TRIBUTE TO THE VETERANS OF WORLD WAR II AND HONORING THE MEMORY OF THOSE WHO LOST THEIR LIVES IN SERVICE TO OUR COUNTRY.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE BILL 1640

Short Title:	Dare Affordable Housing for Teachers.	(Local)
Sponsors:	Representative Culpepper.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 25, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DARE COUNTY BOARD OF EDUCATION TO CONSTRUCT AND PROVIDE AFFORDABLE RENTAL HOUSING FOR TEACHERS AND OTHER LOCAL GOVERNMENTAL EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 66-58, G.S. 115C-518, or any other provision of law, the Dare County Board of Education may enter into a lease, partnership, joint venture, or similar arrangement with the Outer Banks Community Development Corporation, The Affordable Housing Group of North Carolina, Inc., and/or other governmental and nonprofit entities interested in providing affordable housing, to construct and provide affordable housing on property owned or leased by the Dare County Board of Education. The affordable housing program shall include a priority for teachers. The projects may contain a mixture of below-market and at-market rental units.

SECTION 2. This act shall not exempt any affordable housing project constructed pursuant to this act from compliance with applicable building codes, zoning ordinances, and other health and safety statutes, rules, and regulations.

SECTION 3. This act authorizes up to three affordable housing projects, one on the beach area of Dare County north of Oregon Inlet, one on Hatteras Island, and one on the Roanoke Island/mainland section of Dare County.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE BILL 1640
PROPOSED COMMITTEE SUBSTITUTE H1640-PCS80449-SW-71

Short Title: Dare Affordable Housing for Teachers. (Local)

Sponsors:

Referred to:

May 25, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DARE COUNTY BOARD OF EDUCATION TO CONSTRUCT AND PROVIDE AFFORDABLE RENTAL HOUSING FOR TEACHERS AND OTHER LOCAL GOVERNMENTAL EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 66-58, G.S. 115C-518, or any other provision of law, the Dare County Board of Education may enter into a lease, partnership, joint venture, or similar arrangement with the Outer Banks Community Development Corporation, Inc., The Affordable Housing Group of North Carolina, Inc., and/or other governmental and nonprofit entities interested in providing affordable housing, to construct and provide affordable housing on property owned or leased by the Dare County Board of Education. The affordable housing program shall include a priority for teachers. The projects may contain a mixture of below-market and at-market rental units.

SECTION 2. This act shall not exempt any affordable housing project constructed pursuant to this act from compliance with applicable building codes, zoning ordinances, and other health and safety statutes, rules, and regulations.

SECTION 3. This act authorizes up to three affordable housing projects, one on the beach area of Dare County north of Oregon Inlet, one on Hatteras Island, and one on the Roanoke Island/mainland section of Dare County.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1640 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DARE COUNTY BOARD OF EDUCATION TO CONSTRUCT AND PROVIDE AFFORDABLE RENTAL HOUSING FOR THE TEACHERS AND OTHER LOCAL GOVERNMENTAL EMPLOYEES

☐ 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 the committee substitute bill, unfavorable as to the original bill.

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

☐ 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)

03/19/03

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.B. 1640 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE DARE COUNTY BOARD OF EDUCATION TO CONSTRUCT AND PROVIDE AFFORDABLE RENTAL HOUSING FOR TEACHERS AND OTHER LOCAL GOVERNMENTAL EMPLOYEES.

☐ 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 the committee substitute bill ~~(#), ☐ which changes the title~~, unfavorable as to ~~(~~the 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.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules — 5/26/04

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Luke Crosby	Gov affrs
Joe Delk	Gov Affrs
Gene Causby	NCMA
John Mattox	Gov affrs
FRAN PRESTON	NCRMA
John Bourdich	Astra Zeneca
Katherine Joyce	NCASA
Glenn P. Morris	Public Sch Forum
Deanne Wrenn	NCSBA
Jim Ayers	SAE
Rick Zechini	NC Assoc. of REALTORS
Sandy Sanders	NCSJ
John Allen	Allen Creasor
Michael Hover	NCAE
Elizabeth Dalton	Bone & Assoc.
Kerry Scarborough	NCSR
J Bowley	LBA
Chris D Valaris	NC Beer & Wine
Dean Plunkett	" " "
Andy Romanet	NCLM
Tommie Wright-Keany	Bill Drafting
Erin Walker	Bill Drafting
Kas Kenney	NCCS
Joe Johnson	Insider
BILL EGGERS	KCLH
Kathy Hawkins	Progress Energy
Hallon Skinner	intern - Rep. Wilpepper

VISITOR REGISTRATION SHEET

Name of Committee _____ Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Rich Webb	Intern, Rep. Alexander
John Holton	"

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JUNE 15, 2004
12:00 P.. M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE JOINT RESOLUTION 1342-A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLARD EUGENE "GENE" MCCOMBS, FORMER MEMBER OF THE GENERAL ASSEMBLY

HOUSE JOINT RESOLUTION 1558-A JOINT RESOLUTION RECOGNIZING THE IMPORTANCE OF MILITARY BASES LOCATED IN THIS STATE TO ALL NORTH CAROLINIANS AND EXPRESSING THE GENERAL ASSEMBLY'S INTENT TO SUPPORT PROGRAMS AND STRATEGIES THAT PREVENT ENCROACHMENT UPON MILITARY INSTALLATIONS, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON MILITARY AFFAIRS

COMMITTEE SUBSTITUTE FOR SENATE BILL 464-AN ACT TO CREATE THE DEBT AFFORDABILITY ADVISORY COMMITTEE AND THE CAPITAL PROJECTS PRIORITY COMMITTEE

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 582-AN ACT TO IMPROVE PUBLIC HEALTH PREPAREDNESS AND RESPONSE

SENATE JOINT RESOLUTION 1438-A JOINT RESOLUTION COMMEMORATING THE LIFE AND ACCOMPLISHMENTS OF RONALD WILSON REAGAN, 40TH PRESIDENT OF THE UNITED STATES OF AMERICA

HOUSE BILL 1529-AN ACT TO ALLOW THE MOORE COUNTY BOARD OF EDUCATION TO PERMIT THE USE OF PUBLIC SCHOOL ACTIVITY BUSES TO SERVE THE TRANSPORTATION NEEDS OF THE U. S. OPEN GOLF TOURNAMENT

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

June 15, 2004

The Committee on Rules, Calendar and Operations of the House met on June 15, 2004 at 12:00 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representatives Culpepper, Chairman; Hackney, Vice Chairman; Brubaker, Church, Gorman, Howard, LaRoque, Luebke, McComas, Owens, Setzer, Sherrill and Yongue.

The following bills were considered:

HOUSE JOINT RESOLUTION 1342-A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLARD EUGENE "GENE" MCCOMBS, FORMER MEMBER OF THE GENERAL ASSEMBLY. Representative Mitchell was recognized to speak on the resolution. Representative Luebke made a motion that the resolution be given a favorable report, and the motion carried.

HOUSE JOINT RESOLUTION 1558 – A JOINT RESOLUTION RECOGNIZING THE IMPORTANCE OF MILITARY BASES LOCATED IN THIS STATE TO ALL NORTH CAROLINIANS AND EXPRESSING THE GENERAL ASSEMBLY'S INTENT TO SUPPORT PROGRAMS AND STRATEGIES THAT PREVENT ENCROACHMENT UPON MILITARY INSTALLATIONS, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON MILITARY AFFAIRS. Representative Keith Williams was recognized to speak on the resolution. Representative Gorman made a motion that the resolution be given a favorable report. The motion carried.

COMMITTEE SUBSTITUTE FOR SENATE BILL 464 – AN ACT TO CREATE THE DEBT AFFORDABILITY ADVISORY COMMITTEE AND THE CAPITAL PROJECTS PRIORITY COMMITTEE. A House committee substitute changing the title to AN ACT TO CREATE THE DEBT AFFORDABILITY ADVISORY COMMITTEE was offered. The chairman ruled that the committee substitute be adopted. Dianna Jessup, staff attorney, was recognized to explain the committee substitute. Joe Stewart, representing the State Treasurer's office, was recognized and spoke in favor of the bill. Representative Hackney moved that the bill be referred to the Committee of Finance. The motion carried. Representative Owens moved that the proposed House committee substitute be given a favorable report as amended, unfavorable to the Senate committee substitute, and the motion passed.

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 582 – AN ACT TO IMPROVE PUBLIC HEALTH PREPAREDNESS AND RESPONSE. Representative Glazier was recognized to explain the bill. Dr. Leah Devlin, representing the State Health Office, spoke in favor of the bill, and Dr. Jeff Ingell, North Carolina State Epidemiologist, responded to a question by Representative LaRoque. Representative Setzer moved that the bill be reported without prejudice. The motion passed.

SENATE JOINT RESOLUTION 1438 – A JOINT RESOLUTION COMMEMORATING THE LIFE AND ACCOMPLISHMENTS OF RONALD WILSON REAGAN, 40TH PRESIDENT OF THE UNITED STATES OF AMERICA. A proposed House committee substitute was offered and Representative Brubaker moved for its adoption. The chairman stated that the proposed committee substitute was to make grammatical changed, and without objection, ruled for its adoption. Representative Brubaker made a motion that the proposed House committee substitute be given a favorable report, unfavorable to the Senate joint resolution, and the motion passed.

HOUSE BILL 1529 – AN ACT TO ALLOW THE MOORE COUNTY BOARD OF EDUCATION TO PERMIT THE USE OF PUBLIC SCHOOL ACTIVITY BUSES TO SERVE THE TRANSPORTATION NEEDS OF THE U. S. OPEN GOLF TOURNAMENT. The chairman explained the bill, and Representative Setzer moved that it be given a favorable report. The motion carried.

The meeting adjourned at 12:50.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H 1

HOUSE JOINT RESOLUTION 1342

Sponsors: Representatives Mitchell; Coates, Steen, Goodwin, Alexander, Dickson, Gillespie, Glazier, Pate, Rayfield, Setzer, and Weiss.

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

May 10, 2004

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLARD EUGENE "GENE" MCCOMBS, FORMER MEMBER OF THE GENERAL ASSEMBLY.

Whereas, Willard Eugene "Gene" McCombs was born on June 16, 1925, in Faith, North Carolina, to Junius Ray McCombs and Ethel Irene Peeler McCombs; and

Whereas, Gene McCombs graduated from Granite Quarry High School in 1942 and attended Catawba College; and

Whereas, Gene McCombs served as a private with the 31st Infantry in the United States Army from 1943 to 1946; and

Whereas, Gene McCombs was a merchant who successfully ran McCombs & Co., a family-owned grocery store, until 1999; and

Whereas, Gene McCombs dutifully served the people of Faith and Rowan County in various public offices for more than 35 years; and

Whereas, Gene McCombs served on the Faith Board of Aldermen from 1948 to 1959 and served as Mayor of Faith from 1959 to 1961; and

Whereas, Gene McCombs served on the Rowan County Board of Commissioners from 1966 to 1976, eight of those years as Chair, and from 1980 to 1982; and

Whereas, Gene McCombs served with honor and distinction as a member of the General Assembly from 1993 to 2003; and

Whereas, during his six terms in the House of Representatives, Gene McCombs made contributions as a member of numerous committees and commissions, including Pensions and Retirement, Congressional Redistricting, Education, Finance, Public Utilities, Rules, and Environment and Natural Resources Committees; and

Whereas, Gene McCombs was active in his community serving as a member of the Jaycees, Civitan Club, and American Legion Post 327; and

Whereas, Gene McCombs served as Chair of the Rowan County Board of Health for 10 years and as a Governor's appointee to the Law and Order Commission; and

Whereas, Gene McCombs was a member of Shiloh United Church of Christ; and

Whereas, Gene McCombs received the Jaycees' Distinguished Service Award and the Rowan Chamber of Commerce's Outstanding Service Award and was twice named "Man of the Year" by the Faith Civitan Club; and

Whereas, Gene McCombs died on January 20, 2004, at the age of 78; and

Whereas, Gene McCombs is survived by his wife, Jean; son, Keith; daughter, Pam; and four grandchildren; and

Whereas, Gene McCombs will be greatly missed by his family, friends, and colleagues; Now, therefore,

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

SECTION 1. The General Assembly honors the life, memory, and service of Willard Eugene McCombs and expresses its gratitude for his service to the people of his district, State, and country.

SECTION 2. The General Assembly extends its heartfelt sympathy to the family of Willard Eugene McCombs for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of Willard Eugene McCombs.

SECTION 4. This resolution is effective upon ratification.

2004 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 1342 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF WILLARD EUGENE "GENE" MCCOMBS, 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE JOINT RESOLUTION 1558

Sponsors: Representatives K. Williams; Sutton, Pate, Warner, Lucas, C. Johnson, Glazier, Goodwin, Gorman, McGee, Moore, Steen, Wainwright, and Warren.

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

May 20, 2004

A JOINT RESOLUTION RECOGNIZING THE IMPORTANCE OF MILITARY BASES LOCATED IN THIS STATE TO ALL NORTH CAROLINIANS AND EXPRESSING THE GENERAL ASSEMBLY'S INTENT TO SUPPORT PROGRAMS AND STRATEGIES THAT PREVENT ENCROACHMENT UPON MILITARY INSTALLATIONS, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON MILITARY AFFAIRS.

Whereas, North Carolina is the home of Fort Bragg, and the XVIII Airborne Corps, with the 82nd Airborne Division as the Army's premier force to project power anywhere in the world on little or no notice; and

Whereas, Fort Bragg is the home of the U.S. Army Special Operations Command, the U.S. Army John F. Kennedy Special Warfare Center and School, and of all Army Special Forces soldiers; and

Whereas, Pope Air Force Base and the 317th Airlift Wing play a vital role in our nation's defense by providing the means to deliver troops and equipment wherever needed in the world; and

Whereas, North Carolina is the home of Camp Lejeune, one of the nation's largest Marine Corps bases, and provides the training necessary to keep the Marines in a high state of readiness for any mission; and

Whereas, North Carolina is the home of Seymour Johnson Air Force Base, the base of an active air combat wing that can deploy worldwide on short notice and immediately generate combat power; and

Whereas, North Carolina is the home of the largest Marine Corps air station in the world, Cherry Point Marine Corps Air Station, and is the home of the 2d Marine Corps Aircraft Wing, the Naval Air Depot, and the Marine Corps Air Station at New River; and

Whereas, North Carolina is the home of several United States Coast Guard stations, including the United States Coast Guard Air Station at Elizabeth City, with

missions that include search and rescue, international ice patrol, maritime law enforcement, aids to navigation, and environmental response, and

Whereas, North Carolina ranks high in the United States with 4.5 percent of the total military payroll, and that defense spending in the 2002 federal fiscal year in North Carolina was approximately $6.7 billion; and

Whereas, the military in North Carolina materially affects North Carolina's economy, generating approximately $18 billion per year, and the loss of any military presence in North Carolina would have a tremendous negative impact on jobs and tax revenues in the entire State of North Carolina; and

Whereas, both the State of North Carolina and conservation entities have a long and historic partnership with the federal government, with the goal of preserving and protecting areas needed by the military bases to conduct training and to maintain operational readiness; and

Whereas, in 1995, an innovative, first-of-its-kind agreement with the Army was put into place that helped prevent urban sprawl and alleviate training area shortfalls near Fort Bragg; and

Whereas, a partnership with the Marine Corps has resulted in the purchase of a 2,500 acre tract of land, which borders Camp Lejeune on two sides, that had been slated for residential development; and

Whereas, a 38,000 acre tract that spans nine counties was purchased in the Onslow Bight, an important coastal plain landscape conservation area where Camp Lejeune is located; and

Whereas, land near Seymour Johnson Air Force Base was recently purchased through local government efforts, and a moratorium was placed on new development in the accident potential zone; and

Whereas, it is in the best interests of North Carolina and the federal government to continue the close relationships that have developed, and to continue to work together to provide for, and to expand, the military presence in North Carolina; and

Whereas, the North Carolina General Assembly, recognizing the importance of the military in North Carolina, created the North Carolina Advisory Commission on Military Affairs in 2001 with the purpose of advising the Governor and Secretary of Commerce on the existing military infrastructure in North Carolina, and to promote new military missions and economic opportunities for the State and its citizens; Now, therefore,

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

SECTION 1. The General Assembly expresses its appreciation to the Department of Defense for the military bases and installations that are located in the State of North Carolina, and that are vital parts of the national defense of the United States.

SECTION 2. The General Assembly declares its full support for its military installations and acknowledges the important role of the military in North Carolina's economy.

SECTION 3. The General Assembly expresses its intent to continue to support efforts designed to prevent encroachment upon military installations and to ensure that the military is fully able to train to accomplish its assigned missions.

SECTION 4. The General Assembly states its commitment to take measures necessary to avoid any closure of military installations or the realignment of military missions that would have a negative impact on the State and its citizens.

SECTION 5. The Secretary of State shall transmit a certified copy of this resolution to the elected representatives to the Congress of the United States from the State of North Carolina.

SECTION 6. This resolution is effective upon ratification.

2004 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report from standing committee is presented:

By Representative **Culpepper** (Chair) for the Committee on **Rules, Calendar and Operations of the House.**

☐ Committee Substitute for

H.J.R. 1558 A JOINT RESOLUTION RECOGNIZING THE IMPORTANCE OF MILITARY BASES LOCATED IN THIS STATE TO ALL NORTH CAROLINIANS AND EXPRESSING THE GENERAL ASSEMBLY'S INTENT TO SUPPORT PROGRAMS AND STRATEGIES THAT PREVENT ENCROACHMENT UPON MILITARY INSTALLATIONS, AS RECOMMENDED BY THE JOINT SELECT COMMITTEE ON MILITARY AFFAIRS.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 464
Finance Committee Substitute Adopted 7/15/03
Third Edition Engrossed 7/17/03

Short Title: Managing Debt Capacity. (Public)

Sponsors:

Referred to:

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE THE DEBT AFFORDABILITY ADVISORY COMMITTEE AND THE CAPITAL PROJECTS PRIORITY COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 10.

"Managing Debt Capacity.

"**§ 142-100. Purpose.**

The purpose of this Article is to provide tools for sound debt management by providing an annual debt affordability study to establish guidelines for maintaining prudent debt levels and by establishing a system for prioritizing State capital needs when the needs exceed the State's capacity for new debt.

"**§ 142-101. Debt Affordability Advisory Committee.**

(a) Membership. – The Debt Affordability Advisory Committee is created in the Department of State Treasurer. The Committee shall consist of five ex officio members or their designees and two appointed members, as follows:

(1) The State Treasurer.

(2) The Secretary of Revenue.

(3) The State Budget Officer.

(4) The State Auditor.

(5) The State Controller.

(6) A member of the public appointed by the President Pro Tempore of the Senate.

(7) A member of the public appointed by the Speaker of the House of Representatives.

(b) Officers and Staff. – The State Treasurer shall serve as the chair of the Committee. The Committee shall meet at the call of the chair. The Department of State

Treasurer shall provide space for the Committee to meet. The Department shall also provide the Committee with necessary staff and supplies to enable it to carry out its duties in an effective manner.

(c) Compensation. – Members of the Committee shall serve without pay but shall receive per diem and allowances provided by G.S. 138-5 and G.S. 138-6.

(d) Duties. – The Debt Affordability Advisory Committee shall annually advise the Governor and the General Assembly on the estimated debt capacity of the State for the upcoming 10 fiscal years. The Committee shall oversee the undertaking of an annual debt affordability study and the establishment of guidelines for evaluating the State's debt burden. The guidelines should include target and ceiling ratios of net tax-supported debt to personal income and debt service to revenues, target and floor percentages for the 10-year payout ratio, and target and floor percentages for the unreserved General Fund balance. The Committee shall also recommend any other debt management policies it considers desirable and consistent with sound management of the State's debt.

(d) Reports. – The Committee shall report its findings and recommendations to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division by February 1 of each year.

"**§ 142-102. Capital Projects Priority Committee.**

(a) Membership. – The Capital Projects Priority Committee is created in the Department of State Treasurer. The Committee shall consist of eight ex officio members or their designees and four appointed members, as follows:

(1) The State Treasurer.
(2) The Secretary of Administration.
(3) The State Budget Officer.
(4) The State Controller.
(5) The Chair of the Board of Governors of The University of North Carolina.
(6) The Chair of the State Board of Community Colleges.
(7) The Superintendent of Public Instruction.
(8) The Chair of the State Board of Education.
(9) A Senator appointed by the President Pro Tempore of the Senate.
(10) A Representative appointed by the Speaker of the House of Representatives.
(11) A member of the public appointed by the President Pro Tempore of the Senate.
(12) A member of the public appointed by the Speaker of the House of Representatives.

(b) Officers and Staff. – The State Treasurer shall serve as the chair of the Committee. The Committee shall meet at the call of the chair. The State Treasurer shall provide space for the Committee to meet. The State Treasurer shall also provide the Committee with necessary staff and supplies to enable it to carry out its duties in an effective manner.

(c) Compensation. – Members of the Committee shall serve without pay but shall receive per diem and allowances provided by G.S. 138-5 and G.S. 138-6.

(d) Duties. – The Capital Projects Priority Committee shall develop a scoring system as a tool to assist the Governor and the General Assembly in evaluating priorities for capital projects supported by General Fund revenues. The Committee shall update the system annually based on changing conditions as well as input from the public and from State agencies. The scoring system shall include two categories of criteria for evaluating capital projects: critical criteria and strategic criteria. Points shall be assigned to each criterion. Critical criteria include consideration of danger to life and health, legal liability, binding prior commitments, and other similar criteria identified by the Committee. Strategic criteria include consideration of the following:

(1) The need for the project (i) as a necessary component of identifiable State programs or policies, (ii) to address longer term safety issues, or (iii) to improve services to citizens,

(2) The extent to which the project will benefit citizens of the entire State rather than just a part of the State.

(3) The extent to which the project is supported by user revenue or non-State funding.

(4) Whether the project is necessary for maintenance and repair of existing capital facilities.

(5) The extent to which the project will improve operating efficiencies.

(6) Any other strategic criteria identified by the Committee.

(d) Reports. – The Committee shall report its scoring system as well as its findings and recommendations to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Fiscal Research Division by November 1 of each year."

SECTION 2. From funds appropriated to the Department of State Treasurer for the 2003-2005 fiscal biennium, the State Treasurer shall allocate the amounts necessary to implement the provisions of this act.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 464
Finance Committee Substitute Adopted 7/15/03
Third Edition Engrossed 7/17/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S464-CSSW-74 [v.2]

6/10/2004 2:32:23 PM

Short Title: Managing Debt Capacity. (Public)

Sponsors:

Referred to:

March 20, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE THE DEBT AFFORDABILITY ADVISORY COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 10.

"Managing Debt Capacity.

"**§ 142-100. Purpose.**

The purpose of this Article is to provide a tool for sound debt management by requiring the undertaking of an annual debt affordability study to establish guidelines for maintaining prudent debt levels.

"**§ 142-101. Debt Affordability Advisory Committee.**

(a) Membership. – The Debt Affordability Advisory Committee is created in the Department of State Treasurer. The Committee shall consist of five ex officio members or their designees and two appointed members, as follows:

(1) The State Treasurer.

(2) The Secretary of Revenue.

(3) The State Budget Officer.

(4) The State Auditor.

(5) The State Controller.

(6) A member of the public appointed by the President Pro Tempore of the Senate.

(7) A member of the public appointed by the Speaker of the House of Representatives.

(b) Officers and Staff. – The State Treasurer shall serve as the chair of the Committee. The Committee shall meet at the call of the chair. The Department of State

Treasurer shall provide space for the Committee to meet. The Department shall also provide the Committee with necessary staff and supplies to enable it to carry out its duties in an effective manner.

(c) Compensation. – Members of the Committee shall serve without pay but shall receive per diem and allowances provided by G.S. 138-5 and G.S. 138-6.

(d) Duties. – The Debt Affordability Advisory Committee shall annually advise the Governor and the General Assembly on the estimated debt capacity of the State for the upcoming 10 fiscal years. The Committee shall oversee the undertaking of an annual debt affordability study and the establishment of guidelines for evaluating the State's debt burden. The guidelines should include target and ceiling ratios of net tax-supported debt to personal income and debt service to revenues, target and floor percentages for the 10-year payout ratio, and target and floor percentages for the unreserved General Fund balance. The Committee shall also recommend any other debt management policies it considers desirable and consistent with sound management of the State's debt.

(d) Reports. – The Committee shall report its findings and recommendations to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the General Assembly's Fiscal Research Division by February 1 of each year. "

SECTION 2. From funds appropriated to the Department of State Treasurer for the 2003-2005 fiscal biennium, the State Treasurer shall allocate the amounts necessary to implement this act.

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

2004 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **Rules, Calendar and Operations of the House**.

☒ Committee Substitute for

S.B. 464 A BILL TO BE ENTITLED AN ACT TO CREATE THE DEBT AFFORDABILITY ADVISORY COMMITTEE AND THE CAPITAL PROJECTS PRIORITY COMMITTEE.

☐ 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 the House committee substitute bill, unfavorable as to the Senate Committee Substitute Bill, which changes the title, 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 582*

Health & Human Resources Committee Substitute Adopted 4/30/03
House Committee Substitute Favorable 6/2/04

Short Title: Public Health Preparedness and Response. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPROVE PUBLIC HEALTH PREPAREDNESS AND RESPONSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-2(3a) reads as rewritten:

"(3a) 'Isolation authority' means the authority to issue an order to limit the freedom of movement or action of ~~a person or animal~~ persons or animals that are infected or reasonably suspected to be infected with a communicable disease or communicable condition for the period of communicability to prevent the direct or indirect conveyance of the infectious agent from the person or animal to other persons or animals who are susceptible or who may spread the agent to others."

SECTION 2. G.S. 130A-145(d) reads as rewritten:

"(d) When quarantine or isolation limits the freedom of movement of a person or animal or of access to a person or animal whose freedom of movement is limited, the period of limited freedom of movement or access shall not exceed ~~10~~ 30 calendar days. Any person substantially affected by that limitation may institute in superior court in Wake County or in the county in which the limitation is imposed an action to review that limitation. The official who exercises the quarantine or isolation authority shall give the persons known by the official to be substantially affected by the limitation reasonable notice under the circumstances of the right to institute an action to review the limitation. If a person or a person's representative requests a hearing, the hearing shall be held within 72 hours of the filing of that request, excluding Saturdays and Sundays. The person substantially affected by that limitation is entitled to be represented by counsel of the person's own choice or if the person is indigent, the person shall be represented by counsel appointed in accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted by the Office of Indigent Defense Services. The court shall reduce or terminate the limitation ~~if~~ unless it determines, by the

preponderance of the evidence, that the limitation is ~~not~~ reasonably necessary to prevent or limit the conveyance of a communicable disease or condition to others.

If the State Health Director or the local health director determines that a ~~10-calendar-day~~30-calendar-day limitation on freedom of movement or access is not adequate to protect the public health, the State Health Director or local health director must institute in superior court in the county in which the limitation is imposed an action to obtain an order extending the period of limitation of freedom of movement or access. If the person substantially affected by the limitation has already instituted an action in superior court in Wake County, the State Health Director must institute the action in superior court in Wake ~~County. The~~ County or as a counterclaim in the pending case. Except as provided below for persons with tuberculosis, the court shall continue the limitation for a period not to exceed 30 days if it determines, by the preponderance of the evidence, that the limitation is reasonably necessary to prevent or limit the conveyance of a communicable disease or condition to others. The court order shall specify the period of time the limitation is to be continued and shall provide for automatic termination of the order upon written determination by the State Health Director or local health director that the quarantine or isolation is no longer necessary to protect the public health. In addition, where the petitioner can prove by a preponderance of the evidence that quarantine or isolation was not or is no longer needed for protection of the public health, the person quarantined or isolated may move the trial court to reconsider its order extending quarantine or isolation before the time for the order otherwise expires and may seek immediate or expedited termination of the order. Before the expiration of an order issued under this section, the State Health Director or local health director may move to continue the order for additional periods not to exceed 30 days each. If the person whose freedom of movement has been limited has tuberculosis, the court shall continue the limitation for a period not to exceed one calendar year if it determines, by a preponderance of the evidence, that the limitation is reasonably necessary to prevent or limit the conveyance of tuberculosis to others. The court order shall specify the period of time the limitation is to be continued and shall provide for automatic termination of the order upon written determination by the State Health Director or local health director that the quarantine or isolation is no longer necessary to protect the public health. In addition, where the petitioner can prove by a preponderance of the evidence that quarantine or isolation was not or is no longer needed for protection of the public health, the person quarantined or isolated may move the trial court to reconsider its order extending quarantine or isolation before the time for the order otherwise expires and may seek immediate or expedited termination of the order. Before the expiration of an order limiting the freedom of movement of a person with tuberculosis, the State Health Director or local health director may move to continue the order for additional periods not to exceed one calendar year each."

SECTION 3. G.S. 130A-475(b) reads as rewritten:

"(b) The authority under subsection (a) of this section shall be exercised only when and so long as a public health threat may exist, all other reasonable means for correcting the problem have been exhausted, and no less restrictive alternative exists. Before applying the authority under subdivision (4) or (5) of subsection (a) of this

section to livestock or poultry for the purpose of preventing the direct or indirect conveyance of a biological, chemical or nuclear agent to persons, the State Health Director shall consult with the State Veterinarian in the Department of Agriculture and Consumer Services.

The period of limited freedom of movement or access under subdivisions (4) and (5) of subsection (a) of this section shall not exceed ~~10~~ 30 calendar days. Any person substantially affected by that limitation may institute, in superior court in Wake County or in the county in which the limitation is imposed, an action to review the limitation. The State Health Director shall give the persons known by the State Health Director to be substantially affected by the limitation reasonable notice under the circumstances of the right to institute an action to review the limitation. If a person or a person's representative requests a hearing, the hearing shall be held within 72 hours of the filing of the request, excluding Saturdays and Sundays. The person substantially affected by that limitation is entitled to be represented by counsel of the person's own choice or if the person is indigent, the person shall be represented by counsel appointed in accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted by the Office of Indigent Defense Services. The court shall reduce or terminate the limitation ~~if~~ unless it determines, by the preponderance of the evidence, that the limitation is ~~not~~ reasonably necessary to prevent or limit the conveyance of biological, chemical or nuclear agents to others, and may apply such conditions to the limitation as the court deems reasonable and necessary.

If the State Health Director determines that a ~~10-calendar-day~~ 30-calendar-day limitation on freedom of movement or access is not adequate to protect the public health, the State Health Director must institute in superior court in the county in which the limitation is imposed, an action to obtain an order extending the period limiting the freedom of movement or access. If the person substantially affected by the limitation has already instituted an action in superior court in Wake County, the State Health Director must institute the action in superior court in Wake ~~County.~~County or as a counterclaim in the pending case. The court shall continue the limitation for a period not to exceed 30 days, subject to conditions it deems reasonable and necessary, if it determines by the preponderance of the evidence, that additional limitation is reasonably necessary to prevent or limit the conveyance of biological, chemical, or nuclear agents to others. The court order shall specify the period of time the limitation is to be continued and shall provide for automatic termination of the order upon written determination by the State Health Director or local health director that the quarantine or isolation is no longer necessary to protect the public health. In addition, where the petitioner can prove by a preponderance of the evidence that quarantine or isolation was not or is no longer needed for protection of the public health, the person quarantined or isolated may move the trial court to reconsider its order extending quarantine or isolation before the time for the order otherwise expires and may seek immediate or expedited termination of the order. Before the expiration of an order issued under this section, the State Health Director may move to continue the order for additional periods not to exceed 30 days each."

SECTION 4. G.S. 130A-12 reads as rewritten:

"**§ 130A-12. Confidentiality of records.**

All records containing privileged patient medical information or information protected under 45 C.F.R. Parts 160 and 164 that are in the possession of the Department or local health departments shall be confidential and shall not be public records pursuant to G.S. 132-1. Information contained in the records may be disclosed only when disclosure is authorized or required by State or federal law. Notwithstanding G.S. 8-53 or G.S. 130A-143, the information contained in the records may be disclosed for purposes of treatment, payment, or health care operations. For purposes of this section, the terms 'treatment,' 'payment,' and 'health care operations' have the meanings given those terms in 45 C.F.R. § 164.501."

SECTION 5. Part 1 of Article 6 of Chapter 130A of the General Statutes is amended by adding the following new section to read:

"**§ 130A-141.1. Temporary order to report.**

(a) The State Health Director may issue a temporary order requiring health care providers to report symptoms, diseases, conditions, trends in use of health care services, or other health-related information when necessary to conduct a public health investigation or surveillance of an illness, condition, or symptoms that may indicate the existence of a communicable disease or condition that presents a danger to the public health. The order shall specify which health care providers must report, what information is to be reported, and the period of time for which reporting is required. The period of time for which reporting is required pursuant to a temporary order shall not exceed 90 days. The Commission may adopt rules to continue the reporting requirement when necessary to protect the public health.

(b) For the purposes of this section, the term 'health care provider' has the same meaning as that term is defined in G.S. 130A-476(g)."

SECTION 6. G.S. 130A-144(b) reads as rewritten:

"(b) Physicians and persons in charge of medical facilities or laboratories shall, upon request and proper identification, permit a local health director or the State Health Director to examine, review, and obtain a copy of medical or other records in their possession or under their control which the State Health Director or a local health director determines pertain to the (i) diagnosis, treatment, or prevention of a communicable disease or communicable condition for a person infected, exposed, or reasonably suspected of being infected or exposed to such a disease or ~~condition.~~condition, or (ii) the investigation of a known or reasonably suspected outbreak of a communicable disease or communicable condition."

SECTION 7. G.S. 130A-476(c) reads as rewritten:

"(c) ~~The~~ Health care providers and persons in charge of health care facilities or laboratories shall, upon request and proper identification, permit the State Health Director ~~and~~ or a local health director ~~may~~ to examine, review, and obtain a copy of records containing confidential or protected health information, or a summary of pertinent portions of those records, (i) that pertain to a report authorized by subsection (a) or required by subsection (b) of this ~~section.~~section, or (ii) that, in the opinion of the State Health Director or local health director, are necessary for an investigation of a

case or outbreak of an illness, condition, or health hazard that may have been caused by a terrorist incident using nuclear, biological, or chemical agents."

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

SENATE BILL 582:
Public Health Preparedness and Response

BILL ANALYSIS

Committee:	Rules, Calendar and Operations of the House	**Introduced by:**	Sen. Purcell
		Summary by:	Dianna Jessup Committee Counsel
Date:	June 15, 2004		
Version:	Third Edition		

SUMMARY: ***The bill would make changes to the public health laws relating to quarantine and isolation authority and the confidentiality of medical records and other information. Specifically, the bill would change the authority of the State Health Director and local health directors to:***

1. Extend the authority to isolate persons or animals to those reasonably suspected to be infected with a communicable disease. (They already have this authority with respect to quarantine authority).

2. Extend the time the State Health Director or local health directors could isolate or quarantine a person or animal without a court order from 10 days to 30 days. The bill would provide a procedure for a person affected by the quarantine or isolation to go to court to terminate the limitation. The bill would also permit extensions of up to a year in the case of tuberculosis.

3. Authorize the State Health Director to issue temporary orders requiring health care providers to report symptoms, diseases, conditions, trends in use of health care services, or other health-related information when necessary to conduct a public health investigation or surveillance of an illness, condition, or symptoms that may indicate the existence of a communicable disease or condition that presents a danger to the public health. (The Director already has this authority for illnesses caused by bioterrorism).

4. Require physicians and persons in charge of medical facilities or laboratories to permit examination, review, and copying of any record determined to pertain to (i) diagnosis, treatment, or prevention of a communicable disease or condition or (ii) the investigation of a known or suspected outbreak of a communicable disease or an illness caused by bioterrorism.

5. Permit disclosure of patient medical records or information for purposes of treatment, payment, or health care operations without the patient's consent.

The act would become effective when it becomes law.

The original bill as it came over from the Senate would have established the Commission on Childhood Obesity.

CURRENT LAW: ***Communicable Disease Control Laws***: Under these laws, the Commission for Health Services adopts rules as to which communicable diseases must be reported by which entities. Physicians, schools, clinical laboratories, etc., are required to report all cases of a communicable disease or condition to the local health director. Currently the list of reportable diseases includes 68 communicable diseases and conditions, including AIDS, meningococcal disease, rabies, and SARS. Local health directors then investigate reported cases and ensure that control measures are in place to prevent the spread of the disease.

Local health directors and the State Health Director have isolation and quarantine authority in order to prevent the spread of communicable diseases or conditions. **Isolation** applies to persons who actually

have a communicable disease or condition, and **quarantine** applies to persons who have been or are reasonably suspected of having been exposed to a communicable disease or condition. Isolation and quarantine authority may only be exercised when and for so long as the public health is endangered, and only when all other reasonable means for correcting the problem have been exhausted and no less restrictive alternative exists. When a person or animal is quarantined, their freedom of movement is restricted. An area of land or a facility is quarantined by restricting access by persons or animals to the area of land or facility. When quarantine or isolation limits the freedom of movement of a person or animal or access to a person or animal whose freedom of movement is limited, the period of quarantine or isolation cannot exceed 10 days. Persons affected by the limitation can file an action in superior court to review the limitation. If the State Health Director or the local health director determines that the 10 day limit is not adequate, the State Health Director or local health director must institute an action in superior court to obtain an order extending the period of limitation, which can be extended for a period not to exceed 30 days if the court determines by the preponderance of the evidence that the limitation is reasonably necessary to prevent or limit the conveyance of a communicable disease or condition. A person who is indigent can be represented by counsel pursuant to Article 36 of Chapter 7A of the General Statutes and the Office of Indigent Services.

Public Health Threats Caused by Acts of Terrorism: The State Health Director is authorized to undertake an investigation upon a reasonable suspicion that a public health threat may exist as a result of a terrorist incident using nuclear, biological, or chemical agents. "Public health threat" is defined as a situation likely to cause an immediate risk to human life, of serious physical injury or illness, or of serious adverse health effects.

The State Health Director may, with the concurrence of the Governor issue orders to (i) require persons and animals to submit to testing to determine possible exposure, (ii) test property to determine presence of nuclear, biological, or chemical agents, (iii) close property to investigate suspected contamination, (iv) limit the movement or action of animals or persons that may be contaminated with a biological, chemical or nuclear agent, (v) limit access to areas housing persons or animals that may have been contaminated with a biological, chemical or nuclear agent, and (vi) quarantine or isolate persons and animals. The State Health Director may only take these actions when a public health threat may exist and all other reasonable means for correcting the problem have been exhausted and no less restrictive alternative exists. An order to limit movement or access or to quarantine or isolate is limited to a period of 10 calendar days. A person substantially affected by one of these limitations to institute an action in superior court to review the order. If the Director determines that 10 days is inadequate to protect the public health, the Director must institute an action in superior court to obtain an order to extend the period of limitation. The court may continue the period of limitation up to 30 days if it determines by the preponderance of evidence that the limitation is reasonably necessary to prevent or limit the conveyance of nuclear, biological, or chemical agents to others. Before an order has expired the Director may move to continue the limitation for additional periods not to exceed 30 days each. A person who is indigent can be represented by counsel pursuant to Article 36 of Chapter 7A of the General Statutes and the Office of Indigent Services.

Access to Confidential Health Information: Current law provides the State Health Director or local health directors access to confidential health information related to any communicable disease or condition or if necessary to investigate a suspected public health threat that may be caused by an act of terrorism using biological, chemical or nuclear weapons. The State Health Director can issue a temporary order (no longer than 90 days) requiring certain health care providers to make reports for a specific period of time that might indicate a suspected illness, condition, or health hazard that may have been caused by

an act of terrorism using nuclear, biological or chemical agents. The State Health Director or local health director may also obtain and review copies of confidential medical records.

Confidentiality of patient medical information: Current law provides that all records containing privileged patient medical information that are in the possession of the Department or local health departments are confidential and are not public records. If the Department or a local health department wishes to use patient information for the purposes of further treatment, for payment, or for other reasons, consent of the patient is required.

BILL ANALYSIS:

Changes to Article 1 of the Public Health Statutes (the General article):

Section 1 would change the definition of "isolation authority" to extend the authority of the State Health Director and local health directors to persons or animals that are reasonably suspected to be infected with a communicable disease. This is the same authority the State Health Director and the local health directors have with respect to quarantine authority.

Section 4 would add a new section to Article 1 that would exempt all information subject to federal HIPAA regulations from the public records statutes, but would permit the disclosure of information when authorized or required by State or federal law, or for purposes of treatment, payment, or health care operations, as those terms are defined under federal law.[1] This would give the Department and local health departments the same ability as private providers to disclose certain information for the purposes described, without having to obtain the consent of the patient.

Changes to Article 6 (the Communicable Disease article):

Section 2 would extend the initial time the State Health Director or local health director can quarantine or isolate a person or animal, without a court order, from 10 days to 30 days. If a person substantially affected by the limitation files an action, the court shall reduce or terminate the limitation unless it determines by the preponderance of the evidence, that the limitation is reasonably necessary to prevent or limit the conveyance of the disease. Persons known to be substantially affected by the limitation have to be notified of the right to challenge the limitation. If the State Health Director or local health director wants to extend the 30 day time period for an additional 30 days, the State Health Director or local health director must institute an action in Wake County Superior Court or file a counterclaim in a pending case. If the court determines that the time is to be extended, the court order shall provide for automatic termination of the limitation upon written determination by the State Health Director or local health director that the limitation is no longer necessary. If a person wants to terminate the extension, the person

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[1] **Treatment** is the provision, coordination, or management of health care and related services for an individual by one or more health care providers, including consultation between providers regarding a patient and referral of a patient by one provider to another. **Payment** encompasses activities of a health plan to obtain premiums, determine or fulfill responsibilities for coverage and provisions of benefits, and furnish or obtain reimbursement for health care delivered to an individual and activities of a health care provider to obtain payment or be reimbursed for the provision of health care to an individual. **Health care operations** are any of the following activities: (a) quality assessment and improvement activities, including case management and care coordination; (b) competency assurance activities, including provider or health plan performance evaluation, credentialing, and accreditation; (c) conducting or arranging for medical reviews, audits, or legal services, including fraud and abuse detection and compliance programs; (d) specified insurance functions, such as underwriting, risk rating, and reinsuring risk; (e) business planning, development, management, and administration; and (f) business management an general administrative activities of the entity, including de-identifying protected health information, creating a limited data set, and certain fundraising for the benefit of the covered entity.

has to file a motion in court and must prove by a preponderance of the evidence that the quarantine or isolation is no longer necessary.

The section also adds a new provision as it relates to tuberculosis. If a person has tuberculosis, the court can extend the period for up to a year if it determines, by a preponderance of the evidence that the limitation is reasonably necessary. If a person wants to terminate the extension, the person has to file a motion in court and must prove by a preponderance of the evidence that the quarantine or isolation is no longer necessary.

Section 5 would authorize the State Health Director to issue temporary orders requiring health care providers to report symptoms, diseases, conditions, trends in use of health care services, or other health-related information when necessary to conduct a public health investigation or surveillance of an illness, condition, or symptoms that may indicate the existence of a communicable disease or condition that presents a danger to the public health. The State Health Director currently has this authority with respect to illnesses caused by a terrorist incident.[2]

Section 6 would require physicians and persons in charge of medical facilities or laboratories to permit a local health director or the State Health Director to examine, review and obtain a copy of *any* record the State Health Director or a local health director determines pertain to (i) diagnosis, treatment, or prevention of a communicable disease or communicable condition or (ii) the investigation of a known or reasonably suspected outbreak of a communicable disease or communicable condition.

Changes to Article 22 (the bioterrorism article)

Section 3 would make the same changes to this article described in the explanation to Section 2.

Section 7 would make the same changes to this article described in the explanation to Section 6.

Section 8 would make the act effective when it becomes law.

BACKGROUND INFORMATION CONCERNING SARS: According to the federal Centers for Disease Control and Prevention, SARS (severe acute respiratory syndrome) is a viral respiratory illness. The primary way that SARS appears to spread is by close person-to-person contact. Available information suggests that persons with SARS are most likely to be contagious only when they have symptoms, such as fever or cough. The incubation period for SARS is typically 2 to 7 days, although in some cases it may be as long as 10 days.

During November 2002 through July 2003, a total of 8,098 persons worldwide became sick with SARS. Of these, 774 died. In the United States during this outbreak, 8 persons were laboratory-confirmed as SARS cases, and there were no SARS-related deaths.

As of April 26, 2004, eight possible cases of SARS were reported in China.

S582-SMSW-003

[2] G.S. 130A-476(b).

2004 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ House Committee Substitute for
S.B. 582 A BILL TO BE ENTITLED AN ACT TO IMPROVE PUBLIC HEALTH PREPAREDNESS AND RESPONSE.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE JOINT RESOLUTION 1438

Sponsors:	Senators Horton; Albertson, Allran, Apodaca, Basnight, Berger, Bingham, Blake, Brock, Carpenter, Carrington, Clodfelter, Dannelly, Dorsett, Forrester, Foxx, Garrou, Garwood, Hagan, Hargett, Hunt, Jenkins, Kinnaird, Lucas, Malone, Moore, Pittenger, Purcell, Queen, Reeves, Rucho, Shaw, Sloan, Smith, Soles, Stevens, Swindell, Thomas, Tillman, Weinstein, and White.
Referred to:	Rules and Operations of the Senate.

June 8, 2004

A JOINT RESOLUTION COMMEMORATING THE LIFE AND ACCOMPLISHMENTS OF RONALD WILSON REAGAN, 40TH PRESIDENT OF THE UNITED STATES OF AMERICA.

Whereas, Ronald Wilson Reagan, our 40th President died on June 5, 2004, at the age of 93 years; and

Whereas, we remember him as a man of charm, wit, and endless self-confidence, embodying the optimism of Franklin Delano Roosevelt, the eloquence of John Fitzgerald Kennedy, and the inflexible will of Theodore Roosevelt. Especially do we remember his recovery for us all of the virtues of middle America and the values of our founding fathers; his reminding us in his first inaugural address that the states created our union not vice-versa; and his thrust toward devolution of power to the states. We remember, too, his trenchant assertion that "Government is not the solution – Government is the problem;" and

Whereas, we remember that our own State in March 1976, when his political career seemed hopeless after five successive primary defeats, broke that string of defeats, revived his campaign, and laid the foundation for his ultimate presidency in 1981; and

Whereas, we remember his steadfastness of opposition to "the Evil Empire" of the Soviet Union even though many in his own party and the opposing party as well as the media urged accommodation, urged that "we go along to get along." Indeed, we remember the consternation of old Europe when he and Prime Minister Margaret Thatcher pressed forward with a zeal to rearm the forces of freedom. We remember especially that day of 1997 at Brandenburg Gate when he challenged Mikhail Gorbachev, "If you seek peace, if you seek prosperity for the Soviet Union and Eastern

Europe, if you seek liberalization, come to this Gate ... open this Gate ... tear down this wall;" and

Whereas, his determination, his spirited belief in the ultimate strength and victory of freedom over oppression resulted in large part in the collapse of the Soviet Empire and the liberation of more than 158,000,000 souls among the captive nations of Eastern Europe; and

Whereas, his eloquence in the espousal of limited government, individual self-reliance, and the lowering of our tax burden was accompanied by boundless good humor, self-effacing wit, and a warmth which embraced all of his fellow citizens in all walks of life and all political persuasions; and

Whereas, after two terms, he left office, he left with the affection of our entire nation, and left us finally a legacy of personal courage as he met the ultimate adversary with these poignant words, "I now begin the journey that will lead me into the sunset of life ... [but] I know that for America there will always be a bright dawn ahead;" Now, therefore,

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

SECTION 1. The General Assembly mourns the passing of President Ronald Reagan, a great American and a towering spirit who led us and the free world through a time of peril to ultimate victory over, perhaps historically, our most dangerous enemy.

SECTION 2. The Secretary of State shall transmit a certified copy of this Resolution to the family of President Ronald Reagan and the Legislature and Governor of his home State of California.

SECTION 3. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S **D**

SENATE JOINT RESOLUTION 1438
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1438-PCS85356-RW-80

Sponsors:

Referred to:

June 8, 2004

A JOINT RESOLUTION COMMEMORATING THE LIFE AND ACCOMPLISHMENTS OF RONALD WILSON REAGAN, 40TH PRESIDENT OF THE UNITED STATES OF AMERICA.

Whereas, Ronald Wilson Reagan, our 40th President, died on June 5, 2004, at the age of 93 years; and

Whereas, we remember him as a man of charm, wit, and endless self-confidence, embodying the optimism of Franklin Delano Roosevelt, the eloquence of John Fitzgerald Kennedy, and the inflexible will of Theodore Roosevelt. Especially do we remember his recovery for us all of the virtues of middle America and the values of our founding fathers; his reminding us in his first inaugural address that the states created our union not vice-versa; and his thrust toward devolution of power to the states. We remember, too, his trenchant assertion that "Government is not the solution – Government is the problem;" and

Whereas, we remember that in our own State in March 1976, when his political career seemed hopeless after five successive primary defeats, he broke that string of defeats, revived his campaign, and laid the foundation for his presidency in 1981; and

Whereas, we remember the steadfastness of his opposition to "the Evil Empire" of the Soviet Union even though many in his own party and the opposing party as well as the media urged accommodation, urged that "we go along to get along." Indeed, we remember the consternation of old Europe when he and Prime Minister Margaret Thatcher pressed forward with a zeal to rearm the forces of freedom. We remember especially that day in 1987 at Brandenburg Gate when he challenged Mikhail Gorbachev, "If you seek peace, if you seek prosperity for the Soviet Union and Eastern Europe, if you seek liberalization, come to this Gate ... open this Gate ... tear down this wall;" and

Whereas, his determination, his spirited belief in the ultimate strength and victory of freedom over oppression resulted in large part in the collapse of the Soviet Empire and the liberation of more than 158,000,000 souls among the captive nations of Eastern Europe; and

Whereas, his eloquence in the espousal of limited government, individual self-reliance, and the lowering of our tax burden was accompanied by boundless good humor, self-effacing wit, and a warmth that embraced all of his fellow citizens in all walks of life and all political persuasions; and

Whereas, after two terms, when he left office, he left with the affection of our entire nation, and left us finally a legacy of personal courage as he met the ultimate adversary with these poignant words, "I now begin the journey that will lead me into the sunset of life ... [but] I know that for America there will always be a bright dawn ahead;" Now, therefore,

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

SECTION 1. The General Assembly mourns the passing of President Ronald Reagan, a great American and a towering spirit who led us and the free world through a time of peril to ultimate victory over, perhaps historically, our most dangerous enemy.

SECTION 2. The Secretary of State shall transmit a certified copy of this Resolution to the family of President Ronald Reagan and the Legislature and Governor of his home state of California.

SECTION 3. This resolution is effective upon ratification.

2004 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.J.R. 1438 A JOINT RESOLUTION COMMEMORATING THE LIFE AND ACCOMPLISHMENTS OF RONALD WILSON REAGAN, 40TH PRESIDENT OF THE UNITED STATED OF AMERICA.

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

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE BILL 1529

Short Title:	Moore School Buses/2005 US Open.	(Local)
Sponsors:	Representatives Culpepper; and Hackney.	
Referred to:	Rules, Calendar, and Operations of the House.	

May 19, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE MOORE COUNTY BOARD OF EDUCATION TO PERMIT THE USE OF PUBLIC SCHOOL ACTIVITY BUSES TO SERVE THE TRANSPORTATION NEEDS OF THE U. S. OPEN GOLF TOURNAMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding G.S. 66-58 or any other provision of law, the Moore County Board of Education may enter into a contract, under terms and conditions set by the Moore County Board of Education, that permits public school activity buses to be used from June 12, 2005, through June 20, 2005, for activities related to the U.S. Open Golf Tournament to be held in Moore County.

State funds shall not be used for the use and operation of buses under this act.

Neither the State of North Carolina nor the Moore County Schools shall incur any liability for any damages resulting from the use and operation of buses under this act. Pinehurst, Inc., shall carry liability insurance covering the use and operation of buses under this act.

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

2004 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **Rules, Calendar and Operations of the House.**

☐ Committee Substitute for

H.B. 1529 A BILL TO BE ENTITLED AN ACT TO ALLOW THE MOORE COUNTY BOARD OF EDUCATION TO PERMIT THE USE OF PUBLIC SCHOOL ACTIVITY BUSES TO SERVE THE TRANSPORTATION NEEDS OF THE U. S. OPEN GOLF TOURNAMENT.

☒ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

FOR JOURNAL USE ONLY

____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

____ The (committee substitute) bill/resolution (, as amended,) is (ordered engrossed and) re-referred to the Committee on _____.

____ 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(b), 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
_____ the House amendment (s).
_____the House committee substitute bill.
____ 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.

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — June 15, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
R. Paul Wilms	NCHBA
Alex Wilson	Edmisten & Webb
Henry Jones	Attorney — Raleigh
ANN LORE	DOAS
Marina Lasater	Dept of State Treasurer
John McLawhorn	DST
Michelle Frazier	NC Bar Ass'n
Mary Gurganus	NC Bar Assn
Leah Devlin	NC DHHS-DPH
Deborah Ramey	NC Public Health Assoc NC Assoc of Local Health Dirs
Dawn Seavy	NCMA
Gene Causby	NCMA
Elizabeth Dalton	Bond Assoc.
Camille Stell	KCLH

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — June 15, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sorien Schmidt	NC DOC
Chaner Walker	NC Statewatch
Clifton Dowell	↓
John McHugh	Gov Office
Hollon Skinner	intern - Rep Culpepper
Michael Houser	NCAE
Brian Lewis	Planned Parenthood Health Sys, Charlotte / Wilmington / Asheville
Renne Winnie	AAA
Rikki Blanks	House Intern
Julian Fitzgerald	NC DOR
Donna Alderman	NC DOR

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — June 15, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Sharif Durhams	Charlotte Observer
Rob Schofield	NC Justice Ctr.
Zeb Alley	Alley Associates
[signature]	NCRA - [illegible]

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JUNE 16, 2004
4:20 P.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE COMMITTEE SUBSTITUTE #2 FOR SENATE BILL 1098-AN ACT TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE VITAL STATE FACILITIES FOR HEALTH CARE AND BIOTECHNOLOGY RESEARCH, AND TO DIRECT THE STATE TREASURER TO STUDY THE POTENTIAL COSTS AND BENEFITS OF INNOVATIVE STATE FINANCING

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

June 16, 2004

The Committee on Rules, Calendar and Operations of the House met on June 16, 2004 at 4:20 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representatives Culpepper, Chairman; Hackney, Vice Chairman; Church, Crawford, Gorman, Hill, Howard, Justus, LaRoque, Luebke, Miller, Miner, Owens, Setzer, Sherrill and Yongue.

The following bill was considered:

HOUSE COMMITTEE SUBSTITUTE #2 FOR SENATE BILL 1098 – AN ACT TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE VITAL STATE FACILITIES FOR HEALTH CARE AND BIOTECHNOLOGY RESEARCH, AND TO DIRECT THE STATE TREASURER TO STUDY THE POTENTIAL COSTS AND BENEFITS OF INNOVATIVE STATE FINANCING. A proposed committee substitute #3 was offered, and Representative Owens moved for its adoption. Without objection, the chairman so ordered. Dianna Jessup, staff attorney, was recognized to explain the proposed committee substitute. Representative Hill offered an amendment and moved for its adoption. The motion passed. Representative Owens made a motion that the amendment be incorporated into the proposed House committee substitute and that House committee substitute #3 be given a favorable report, unfavorable to House committee substitute #2. The motion passed.

The meeting adjourned at 4:45 p.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker,
Legislative Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 1098

House Committee Substitute Favorable 6/15/04

Short Title: State Health and Biotechnology Financing. (Public)

Sponsors:

Referred to:

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE VITAL STATE FACILITIES FOR HEALTH CARE AND BIOTECHNOLOGY RESEARCH, TO SUPPORT REPAYMENT OF THE DEBT FROM THE HEALTH AND WELLNESS AND TOBACCO TRUST FUNDS, AND TO DIRECT THE STATE TREASURER TO STUDY THE POTENTIAL COSTS AND BENEFITS OF INNOVATIVE STATE FINANCING.

The General Assembly of North Carolina enacts:

SECTION 1. In accordance with G.S. 142-83, this section authorizes the issuance or incurrence of special indebtedness in the following maximum aggregate principal amounts to finance the costs of acquiring, constructing, and equipping the following projects. The State; with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the cost of these projects.

(1) One hundred eighty million dollars ($180,000,000) for a new cancer rehabilitation and treatment center, a nearby physicians' office building, and a walkway between the two, all to be located at the University of North Carolina Hospitals at Chapel Hill.

(2) Sixty million dollars ($60,000,000) for the North Carolina Cardiovascular Diseases Institute at East Carolina University.

(3) Thirty-five million dollars ($35,000,000) for a Bioinformatics Center at the University of North Carolina at Charlotte.

(4) Twenty-eight million dollars ($28,000,000) for a stand-alone facility to house the new Pharmacy School program to be located at Elizabeth City State University, and interim temporary facilities to house the program during construction of the stand-alone facility.

(5) Thirty-five million dollars ($35,000,000) for a Center for Health Promotion and Partnerships at the University of North Carolina at Asheville.

SECTION 2. G.S. 147-86.30 reads as rewritten:

"**§ 147-86.30. Health and Wellness Trust Fund established.**

(a) Fund Established. – There is established the Health and Wellness Trust Fund in the Office of the State Treasurer to ~~that shall~~ be used to develop a comprehensive plan to finance programs and initiatives to improve the health and wellness of the people of North Carolina. As used in this Article, the term "Fund" means the Health and Wellness Trust Fund. It is the intent of the General Assembly that the funds provided pursuant to this Article to address the health needs of North Carolinians be used to supplement, not supplant, existing funding of health and wellness programs.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to directives of the Commission. The Commission may expend moneys in the Fund only as provided in subsections (c) and (d) of this section.

(c) ~~Creation of Fund Reserve. The Commission shall reserve, and shall not expend, fifty percent (50%) of each annual payment allocated to the Health and Wellness Trust Fund pursuant to G.S. 143-16.4 during years 2001 through 2025 to create and build the Fund Reserve. During years 2001 through 2025, the Commission may expend any investment earnings on the reserved funds. Beginning in year 2026, and thereafter, the Commission shall not expend the reserved funds but may continue to expend any investment earnings on the reserved funds.~~ Priority Use of Funds. – As soon as practicable after the beginning of each fiscal year, the State Treasurer must certify in writing to the chair of the Commission the estimated amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by Senate Bill 1098, 2003 General Assembly. The chair of the Commission must issue a warrant from the Fund to the General Fund for the lesser of (i) the amount certified by the Treasurer and (ii) all uncommitted moneys in the Fund as of the end of the previous fiscal year plus sixty percent (60%) of the Fund's receipts for the current fiscal year. As soon as practicable after issuing this warrant, the chair of the Commission must certify in writing to the chair of the Tobacco Trust Fund Commission created in G.S. 143-717 the amount, if any, by which the amount certified by the Treasurer exceeds the amount of the warrant.

(d) Use of ~~Nonreserved~~ Remaining Funds. – The Commission may expend or commit moneys in the Fund in a fiscal year only after the payment required by subsection (c) of this section has been made. ~~all of the annual payments for years 1998, 1999, and 2000 and may expend the remaining fifty percent (50%) portion of each annual payment thereafter through the year 2025 that is not reserved pursuant to~~

~~subsection (c) of this section. Any unexpended or unencumbered portion of the nonreserved portion of each annual payment for years 2001 through 2025 that has not been expended or encumbered by the third June 30th following the date of the receipt of the payment shall be reserved pursuant to subsection (c) of this section. The Commission may expend any investment earnings on the nonreserved funds in the year in which the investment earnings are received by the Fund.~~

(e) Fund Purposes. – Moneys from the Fund may be used for any of the following purposes:

(1) To address the health needs of vulnerable and underserved populations in North Carolina.

(2) To fund programs and initiatives that include research, education, prevention, and treatment of health problems in North Carolina and to increase the capacity of communities to respond to the public's health needs.

(3) To develop a comprehensive, community-based plan with goals and objectives to improve the health and wellness of the people of North Carolina with a priority on preventing, reducing, and remedying the health effects of tobacco use and with an emphasis on reducing youth tobacco use. The plan shall include measurable health and wellness objectives and a proposed timetable for achieving these objectives. In developing the plan, the Commission shall consider all facets of health, including prevention, education, treatment, research, and related areas.

(f) Limit on Operating and Administrative Expenses. – No more than two and one-half percent (2 1/2%) of the annual receipts of the Fund for the fiscal year beginning July 1 or a total ~~sum~~ of one million dollars ($1,000,000), whichever is less, may be used each fiscal year for administrative and operating expenses of the Commission and its staff. All administrative expenses of the Commission shall be paid from the Fund."

SECTION 3. G.S. 143-719 reads as rewritten:

"**§ 143-719. Tobacco Trust Fund; creation; ~~investment.~~investment; priority use.**

(a) Fund Established. – The Tobacco Trust Fund is established in the Office of the State Treasurer. The Fund shall be used ~~to provide financial assistance in accordance with~~for the purposes provided in this Article.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer ~~shall be~~ is the custodian of the Fund and shall invest the assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the Fund ~~shall~~ become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year ~~shall be~~ is carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to the directives of the Commission.

(c) Priority Use of Funds. – The Commission shall not spend moneys in the Fund in accordance with G.S. 143-720 or G.S. 143-721 in a fiscal year until after the

requirements of this subsection have been satisfied. As soon as practicable each fiscal year after receiving the certification from the chair of the Health and Wellness Trust Fund Commission pursuant to G.S. 147-86.30, the chair of the Commission must issue a warrant in the certified amount, if any, from the Fund to the General Fund."

SECTION 4. Article 9 of Chapter 142 of the General Statutes is amended by adding a new section to read:

"**§ 142-95. RECOP indebtedness.**

(a) Authorization. – In addition to special indebtedness described in the preceding sections of this Article, the State may incur special indebtedness as described in this section to be called real estate certificates of participation (RECOP) indebtedness. RECOP indebtedness shall be incurred for the purposes and otherwise as prescribed in the preceding sections of this Article, with the exceptions and limitations provided in this section. All of the provisions of this Article apply to RECOP indebtedness except to the extent a provision of this section specifically conflicts with a provision in the preceding sections of this Article.

(b) Purposes. – In addition to the purposes provided in G.S. 142-83, RECOP indebtedness may be incurred to refund any indebtedness of the State. RECOP indebtedness may refund non-RECOP indebtedness to the same extent it may refund RECOP indebtedness in accordance with the preceding sections of this Article, except that the General Assembly must first enact legislation authorizing the incurrence of RECOP indebtedness for this purpose up to a specific maximum amount. The proceeds of RECOP indebtedness may not be used for operating expenses, start-up costs, or other items of working capital.

(c) Security. – In addition to the security authorized in G.S. 142-85(a), RECOP indebtedness may be secured by any property or interest in property of the State selected by the Director of the Budget in consultation with the State Treasurer and approved by the Council of State in accordance with this Article. Before selecting as security any property or interest in property not authorized in G.S. 142-85, the Director of the Budget must consult with the Joint Legislative Commission on Governmental Operations. This subsection supplements G.S. 142-85(a); all of the remaining provisions of G.S. 142-85 apply to RECOP indebtedness.

(d) Principal. – The entire principal amount may mature on a single date. No principal reduction is required prior to maturity.

(e) Interest. – Interest on RECOP indebtedness may be payable partly periodically and partly at maturity or earlier redemption, in the latter case with interest accreting and compounding at a stated interest rate.

(f) Additional State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any sale of the State's interest in property securing RECOP indebtedness if the sales proceeds are used first to pay, or provide for the payment of, all or a portion of that RECOP indebtedness. The property law exceptions in G.S. 142-85(h) also apply to RECOP indebtedness."

SECTION 5.(a) Findings. – The General Assembly finds that there are circumstances in which the State may benefit from the use of innovative or flexible public financing tools not previously considered in North Carolina. In light of the value

of State property and its great potential for appreciation, financing vehicles may be developed that provide for a lower annual debt service in exchange for a larger payment when the debt matures. In the context of urgent State needs or temporary budget restrictions, the General Assembly finds that it may be in the best interest of the State to be able to take advantage of this type of financing option. In order for the General Assembly to make a policy decision on this issue, more economic and financial information is needed.

SECTION 5.(b) Study. – The State Treasurer shall study the effects of refunding State indebtedness or financing new State facilities with RECOP indebtedness as defined in G.S. 142-95. In evaluating the feasibility of incurring RECOP indebtedness and the surrounding policy issues, the State Treasurer shall evaluate all of the following:

(1) The overall net economic cost to the State in incurring RECOP indebtedness as compared to other forms of indebtedness.

(2) The relative annual debt service costs and final maturity payments of RECOP indebtedness as compared to other forms of indebtedness.

(3) The availability of alternative financing opportunities and their relative costs to the State.

(4) For refundings, whether the refunding would result in an economic gain, overall lower borrowing costs, or other benefits to the State.

(5) Factors that affect which circumstances might make RECOP financing more or less desirable.

(6) The impact on the State's credit rating of various debt options in various situations.

(7) Any other issues the State Treasurer considers relevant.

SECTION 5.(c) Report. – The State Treasurer shall report to the Joint Legislative Commission on Governmental Operations by February 1, 2005, the results of this study, including specific findings and recommendations.

SECTION 6. Sections 2 and 3 of this act become effective July 1, 2004. The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1098

House Committee Substitute Favorable 6/15/04
House Committee Substitute #2 Favorable 6/15/04
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1098-PCS65460-LC-147

Short Title: State Health and Biotechnology Financing. (Public)

Sponsors:

Referred to:

May 17, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE VITAL STATE FACILITIES FOR HEALTH CARE AND BIOTECHNOLOGY RESEARCH, TO SUPPORT REPAYMENT OF THE DEBT FROM THE HEALTH AND WELLNESS AND TOBACCO TRUST FUNDS, AND TO DIRECT THE STATE TREASURER TO STUDY THE POTENTIAL COSTS AND BENEFITS OF INNOVATIVE STATE FINANCING.

The General Assembly of North Carolina enacts:

SECTION 1. In accordance with G.S. 142-83, this section authorizes the issuance or incurrence of special indebtedness in the following maximum aggregate principal amounts to finance the costs of acquiring, constructing, and equipping the following projects. The State, with the prior approval of the State Treasurer and the Council of State, as provided in Article 9 of Chapter 142 of the General Statutes, is authorized to issue or incur special indebtedness in order to provide funds to the State to be used, together with other available funds, to pay the cost of these projects.

(1) One hundred eighty million dollars ($180,000,000) for a new cancer rehabilitation and treatment center, a nearby physicians' office building, and a walkway between the two, all to be located at the University of North Carolina Hospitals at Chapel Hill.

(2) Sixty million dollars ($60,000,000) for the North Carolina Cardiovascular Diseases Institute at East Carolina University.

(3) Thirty-five million dollars ($35,000,000) for a Bioinformatics Center at the University of North Carolina at Charlotte.

(4) Twenty-eight million dollars ($28,000,000) for a stand-alone facility to house the new Pharmacy School program to be located at Elizabeth

City State University, and interim temporary facilities to house the program during construction of the stand-alone facility.

(5) Thirty-five million dollars ($35,000,000) for a Center for Health Promotion and Partnerships at the University of North Carolina at Asheville.

SECTION 2. G.S. 147-86.30 reads as rewritten:

"**§ 147-86.30. Health and Wellness Trust Fund established.**

(a) Fund Established. – There is established the Health and Wellness Trust Fund in the Office of the State Treasurer to ~~that shall~~ be used to develop a comprehensive plan to finance programs and initiatives to improve the health and wellness of the people of North Carolina. As used in this Article, the term "Fund" means the Health and Wellness Trust Fund. It is the intent of the General Assembly that the funds provided pursuant to this Article to address the health needs of North Carolinians be used to supplement, not supplant, existing funding of health and wellness programs.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to directives of the Commission. The Commission may expend moneys in the Fund only as provided in subsections (c) and (d) of this section.

(c) ~~Creation of Fund Reserve. The Commission shall reserve, and shall not expend, fifty percent (50%) of each annual payment allocated to the Health and Wellness Trust Fund pursuant to G.S. 143-16.4 during years 2001 through 2025 to create and build the Fund Reserve. During years 2001 through 2025, the Commission may expend any investment earnings on the reserved funds. Beginning in year 2026, and thereafter, the Commission shall not expend the reserved funds but may continue to expend any investment earnings on the reserved funds.~~ Priority Use of Funds. – As soon as practicable after the beginning of each fiscal year, the State Treasurer must certify in writing to the chair of the Commission the estimated amount of debt service anticipated to be paid during the fiscal year for special indebtedness authorized by Senate Bill 1098, 2003 General Assembly. The chair of the Commission must issue a warrant from the Fund to the General Fund for the lesser of (i) one-half of the amount certified by the Treasurer and (ii) thirty percent (30%) of all uncommitted moneys in the Fund as of the end of the previous fiscal year plus thirty percent (30%) of the Fund's receipts for the current fiscal year.

(d) Use of ~~Nonreserved~~ Remaining Funds. – The Commission may expend or commit moneys in the Fund in a fiscal year only after the payment required by subsection (c) of this section has been made. ~~all of the annual payments for years 1998, 1999, and 2000 and may expend the remaining fifty percent (50%) portion of each annual payment thereafter through the year 2025 that is not reserved pursuant to subsection (c) of this section. Any unexpended or unencumbered portion of the~~

~~nonreserved portion of each annual payment for years 2001 through 2025 that has not been expended or encumbered by the third June 30th following the date of the receipt of the payment shall be reserved pursuant to subsection (c) of this section. The Commission may expend any investment earnings on the nonreserved funds in the year in which the investment earnings are received by the Fund.~~

(e) Fund Purposes. – Moneys from the Fund may be used for any of the following purposes:

(1) To address the health needs of vulnerable and underserved populations in North Carolina.

(2) To fund programs and initiatives that include research, education, prevention, and treatment of health problems in North Carolina and to increase the capacity of communities to respond to the public's health needs.

(3) To develop a comprehensive, community-based plan with goals and objectives to improve the health and wellness of the people of North Carolina with a priority on preventing, reducing, and remedying the health effects of tobacco use and with an emphasis on reducing youth tobacco use. The plan shall include measurable health and wellness objectives and a proposed timetable for achieving these objectives. In developing the plan, the Commission shall consider all facets of health, including prevention, education, treatment, research, and related areas.

(f) Limit on Operating and Administrative Expenses. – No more than two and one-half percent (2 1/2%) of the annual receipts of the Fund for the fiscal year beginning July 1 or a total ~~sum~~ of one million dollars ($1,000,000), whichever is less, may be used each fiscal year for administrative and operating expenses of the Commission and its staff. All administrative expenses of the Commission shall be paid from the Fund."

SECTION 3. G.S. 143-719 reads as rewritten:

"**§ 143-719. Tobacco Trust Fund; creation; ~~investment.~~investment; priority use.**

(a) Fund Established. – The Tobacco Trust Fund is established in the Office of the State Treasurer. The Fund shall be used ~~to provide financial assistance in accordance with~~for the purposes provided in this Article.

(b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer ~~shall be~~ is the custodian of the Fund and shall invest the assets in accordance with G.S. 147-69.2 and G.S. 147-69.3. Investment earnings credited to the Fund ~~shall~~ become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year ~~shall be~~ is carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the chair of the Commission, pursuant to the directives of the Commission.

(c) Priority Use of Funds. – As soon as practicable after the beginning of each fiscal year, the State Treasurer must certify in writing to the chair of the Commission the estimated amount of debt service anticipated to be paid during the fiscal year for

special indebtedness authorized by Senate Bill 1098, 2003 General Assembly. The chair of the Commission must issue a warrant from the Fund to the General Fund for the lesser of (i) one-half of the amount certified by the Treasurer and (ii) thirty percent (30%) of all uncommitted moneys in the Fund as of the end of the previous fiscal year plus thirty percent (30%) of the Fund's receipts for the current fiscal year."

SECTION 4. Article 9 of Chapter 142 of the General Statutes is amended by adding a new section to read:

"**§ 142-95. RECOP indebtedness.**

(a) Authorization. – In addition to special indebtedness described in the preceding sections of this Article, the State may incur special indebtedness as described in this section to be called real estate certificates of participation (RECOP) indebtedness. RECOP indebtedness shall be incurred for the purposes and otherwise as prescribed in the preceding sections of this Article, with the exceptions and limitations provided in this section. All of the provisions of this Article apply to RECOP indebtedness except to the extent a provision of this section specifically conflicts with a provision in the preceding sections of this Article.

(b) Purposes. – In addition to the purposes provided in G.S. 142-83, RECOP indebtedness may be incurred to refund any indebtedness of the State. RECOP indebtedness may refund non-RECOP indebtedness to the same extent it may refund RECOP indebtedness in accordance with the preceding sections of this Article, except that the General Assembly must first enact legislation authorizing the incurrence of RECOP indebtedness for this purpose up to a specific maximum amount. The proceeds of RECOP indebtedness may not be used for operating expenses, start-up costs, or other items of working capital.

(c) Security. – In addition to the security authorized in G.S. 142-85(a), RECOP indebtedness may be secured by any property or interest in property of the State selected by the Director of the Budget in consultation with the State Treasurer and approved by the Council of State in accordance with this Article. Before selecting as security any property or interest in property not authorized in G.S. 142-85, the Director of the Budget must consult with the Joint Legislative Commission on Governmental Operations. This subsection supplements G.S. 142-85(a); all of the remaining provisions of G.S. 142-85 apply to RECOP indebtedness.

(d) Principal. – The entire principal amount may mature on a single date. No principal reduction is required prior to maturity.

(e) Interest. – Interest on RECOP indebtedness may be payable partly periodically and partly at maturity or earlier redemption, in the latter case with interest accreting and compounding at a stated interest rate.

(f) Additional State Property Law Exception. – Chapter 146 of the General Statutes does not apply to any sale of the State's interest in property securing RECOP indebtedness if the sales proceeds are used first to pay, or provide for the payment of, all or a portion of that RECOP indebtedness. The property law exceptions in G.S. 142-85(h) also apply to RECOP indebtedness."

SECTION 5.(a) Findings. – The General Assembly finds that there are circumstances in which the State may benefit from the use of innovative or flexible

public financing tools not previously considered in North Carolina. In light of the value of State property and its great potential for appreciation, financing vehicles may be developed that provide for a lower annual debt service in exchange for a larger payment when the debt matures. In the context of urgent State needs or temporary budget restrictions, the General Assembly finds that it may be in the best interest of the State to be able to take advantage of this type of financing option. In order for the General Assembly to make a policy decision on this issue, more economic and financial information is needed.

SECTION 5.(b) Study. – The State Treasurer shall study the effects of refunding State indebtedness or financing new State facilities with RECOP indebtedness as defined in G.S. 142-95. In evaluating the feasibility of incurring RECOP indebtedness and the surrounding policy issues, the State Treasurer shall evaluate all of the following:

(1) The overall net economic cost to the State in incurring RECOP indebtedness as compared to other forms of indebtedness.

(2) The relative annual debt service costs and final maturity payments of RECOP indebtedness as compared to other forms of indebtedness.

(3) The availability of alternative financing opportunities and their relative costs to the State.

(4) For refundings, whether the refunding would result in an economic gain, overall lower borrowing costs, or other benefits to the State.

(5) Factors that affect which circumstances might make RECOP financing more or less desirable.

(6) The impact on the State's credit rating of various debt options in various situations.

(7) Any other issues the State Treasurer considers relevant.

SECTION 5.(c) Report. – The State Treasurer shall report to the Joint Legislative Commission on Governmental Operations by February 1, 2005, the results of this study, including specific findings and recommendations.

SECTION 6. Sections 2 and 3 of this act become effective July 1, 2004. The remainder of this act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1098

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S1098-ALC-88 [v.1]

Date _____,2004

Comm. Sub. [YES]
Amends Title [NO]
PCS

Representative _____

moves to amend the bill on page 2, lines 36 – 37,
by deleting the phrase "thirty percent (30%) of all uncommitted moneys in the Fund as of the end of the previous fiscal year plus ";

and on page 4, lines 3 – 4,
by deleting the phrase "thirty percent (30%) of all uncommitted moneys in the Fund as of the end of the previous fiscal year plus ";

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

SB 1098 (PCS): State Health & Biotechnology Financing

BILL ANALYSIS

Committee: House Rules
Date: June 16, 2004
Version: LC-147

Sponsor: Sen. Jenkins
Analysis by: Martha H. Harris
Staff Attorney

SUMMARY: The proposed committee substitute for Senate Bill 1098 does four things:

1. *Authorizes the State to use special indebtedness to finance five health and biotechnology facilities in the UNC system.*
2. *Requires the Health and Wellness Trust Fund and the Tobacco Trust fund each to transfer to the General Fund annually one-half the estimated debt service on the indebtedness authorized in this bill. The amount transferred each fiscal year is capped at 30% of the trust fund's uncommitted funds plus 30% of its receipts for the year. (Added in PCS.)*
3. *Enacts a statutory framework for a new type of State special indebtedness called "RECOP indebtedness," which would involve lower debt service payments during the term of the debt in exchange for a larger payment due at maturity. RECOP indebtedness could not be issued unless the General Assembly enacted legislation specifically providing for the projects or refunding to be financed with RECOPs.*
4. *Directs the Treasurer to study RECOP indebtedness and report to Gov Ops by February 1, 2005.*

FIVE PROJECTS:

Section 1 of the proposed committee substitute for Senate Bill 1098 would authorize the issuance of special indebtedness for the following capital projects:

Purpose	Amount in Millions
Cancer Center at UNC-CH	$180
Cardiovascular Institute at ECU	$60
Bioinformatics Center at UNC-C	$35
Pharmacy Program at ECSU	$28
Health Partnership Center at UNC-A	$35

Commonly referred to as "certificates of participation," special indebtedness is nonvoted debt that is secured only by an interest in State property being acquired or improved. There is no pledge of the State's faith and credit or taxing power to secure the debt. Thus, voter approval is not necessary for the borrowing. If the State defaulted on its repayments, no deficiency judgment could be rendered against the State, but the State property that serves as security could be disposed

of to generate funds to satisfy the debt. The State could choose not to appropriate funds to repay the debt, but such a decision would have negative consequences for the State's credit rating.

The term "special indebtedness" is employed to cover the three forms that this type of debt can take: installment purchase (with or without certificates of participation), lease-purchase (with or without certificates of participation), and bonds. The particular form to be used for a given project will depend on its size, the nature of the property and the improvement, and other circumstances. Based on these circumstances, one form or another of special indebtedness may be the least expensive and most practical for the State to utilize. Article 9 of Chapter 142 of the General Statutes prohibits the issuance of special indebtedness except for projects specifically authorized by the General Assembly.

Before special indebtedness could be issued or incurred, the State Treasurer must certify that debt financing may be desirable for a specific project presented to it by the Department of Administration. Next, the Council of State must give preliminary approval. If preliminary approval is obtained, the Council of State must give final approval, setting out details such as the maximum amount to be financed, the maximum maturity, and the maximum interest rates. The maximum maturity may not exceed 40 years. The State Treasurer must approve the details of the financing, finding that the amount to be borrowed is adequate and not excessive and will not require an excessive increase in any State revenues to provide for repayment, and that the special indebtedness can be incurred or issued on terms favorable to the State. Finally, the State Treasurer must report to the Joint Legislative Commission on Governmental Operations at least five days before any special indebtedness is issued or incurred.

HEALTH AND WELLNESS TRUST FUND and TOBACCO TRUST FUND:

The proposed committee substitute for Senate Bill 1098 would provide that a portion of the funds available to the Health and Wellness Trust Fund and the Tobacco Trust Fund would be used to reimburse the General Fund each year for debt service on debt authorized by the bill. Each trust fund would be required to transfer to the General Fund annually one-half of the debt service amount certified by the Treasurer. The required transfer from each trust fund is capped, however, at 30% of the uncommitted balance in the trust fund from earlier years plus 30% of current year receipts. (The bill eliminates the requirement that 50% of the Health and Wellness Trust Fund's annual receipts be reserved.) These provisions become effective July 1, 2004.

The Health and Wellness Trust Fund receives annual tobacco settlement payments to be used to improve the health and wellness of North Carolinians. In order to build up a fund reserve for future projects, the governing body of the Trust Fund has been required to reserve 50% of each annual payment since 2001. The Commission may spend unreserved funds and investment earnings in the reserve to award grants to state and local agencies and to nonprofit corporations.

The Tobacco Trust fund receives annual tobacco settlement payments to be used to assist tobacco producers, tobacco allotment holders, and persons engaged in tobacco related businesses.

In late 1998, forty-six states and several U.S. territories reached an agreement to settle the lawsuits they had filed against the major cigarette manufacturers. The terms of the settlement were incorporated into an agreement known as the Master Settlement Agreement. The Master Settlement Agreement contractually imposes some restrictions on tobacco marketing and requires the tobacco companies to make annual payments to the states. As part of the North Carolina consent decree, the judge (at the request of the Attorney General) awarded 50% of the settlement funds to the State's Settlement Reserve Fund and 50% to a nonprofit corporation, the Golden L.E.A.F. Foundation, that will assist tobacco-dependent and economically-affected communities. The 50% that is paid to the Settlement Reserve Fund is divided equally between the Health and Wellness Trust Fund and the Tobacco Trust Fund.

STATUTORY FRAMEWORK FOR RECOPs:

Section 4 of the proposed committee substitute for Senate Bill 1098 would enact the statutory framework for a new type of special indebtedness to be called Real Estate Certificates of Participation (RECOP) indebtedness. RECOP indebtedness is a form of special indebtedness that is intended to be structured so that the principal and a portion of the interest is not paid in installments over the term of the debt. This portion of the interest compounds and is payable, along with the principal, only at maturity or earlier redemption. This structure is intended to reduce ongoing debt service payments and provide for payment of the remaining obligation at a time when the property securing the debt will most likely have appreciated substantially in value.

Like other special indebtedness, RECOP indebtedness may be incurred only if the amount and specific purposes have been authorized in an act of the General Assembly. RECOP indebtedness differs from current law special indebtedness in several ways:

- Special indebtedness may be incurred only for capital projects. RECOP indebtedness may be incurred to retire existing State debt as well as for capital projects.
- Special indebtedness may be secured only by the capital facilities being constructed, renovated, or repaired with the proceeds of the debt. RECOP indebtedness may be secured by these projects but may also be secured by any other State property. The property to serve as collateral would be selected by the Governor after first consulting with the Joint Governmental Commission on Governmental Operations. The choice of collateral must also be approved by the Council of State.

- State property law does not apply to a transfer of an interest in State property to secure special indebtedness or, in the case of default, to repay special indebtedness. With RECOP indebtedness, there is an additional exemption from State property law for transfers when the proceeds are used first to pay RECOP indebtedness, even if there is no default.

A major difference between RECOP indebtedness and the types of debt the State and local governments normally incur involves the payment of principal and interest. The usual practice is for the governmental entity to pay off the principal during the term of the debt while also paying interest. Normally, the outstanding principal balance declines relatively steadily during the term of the debt. With RECOP indebtedness, it is intended that no principal would be paid off during the term of the debt. In addition, it is intended that only part of the interest would be paid during the term of the debt. Postponing these payments until maturity makes the debt service payments during the life of the debt much lower than with traditional debt. The entire principal becomes due at maturity along with that portion of the interest that was not paid in installments.

TREASURER STUDY:

Section 5 of the bill sets out findings of the General Assembly and requires the State Treasurer to conduct a study of RECOP indebtedness. The findings indicate that there may be circumstances in which the State would benefit from taking advantage of flexible financing tools such as RECOPs, but that more information is needed for the General Assembly to consider such a policy decision. The bill directs the State Treasurer to study the effects of using RECOPs either for new projects or refunding outstanding debt and to report the results of the study and any recommendations by February 1, 2005, to the Joint Legislative Commission on Governmental Operations.

1.

2004 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ House Committee Substitute #2 for
SB 1098 A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS TO FINANCE VITAL STATE FACILITIES FOR HEALTH CARE AND BIOTECHNOLOGY RESEARCH, AND TO DIRECT THE STATE TREASURER TO STUDY THE POTENTIAL COSTS AND BENEFITS OF INNOVATIVE STATE FINANCING.

☐ 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 the House committee substitute bill #3, ☒ which changes the title, unfavorable as to House Committee Substitute Bill # 2.

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

☐ 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)

03/19/03

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 12, 2004
6:00 P.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE JOINT RESOLUTION 1805-A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN WESLEY JONES, FORMER EDUCATOR AND INFLUENTIAL LEADER

HOUSE JOINT RESOLUTION 1806-A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MILTON F. FITCH, SR., AND CORA WHITTED FITCH, DISTINGUISHED CITIZENS AND CIVIL RIGHTS ACTIVISTS

HOUSE COMMITTEE SUBSTITUTE #2 FOR SENATE BILL 6-AN ACT TO CHANGE THE LAW REGULATING GAMING MACHINES

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

July 12, 2004

The Committee on Rules, Calendar and Operations of the House met on July 12, 2004 at 6:00 p.m. in Room 421 of the legislative Office Building. The following members were present: Representative Culpepper, Chairman; Hackney, Vice Chairman; Brubaker, Church, Crawford, Gorman, Justus, LaRoque; Owens, Setzer, Sherrill and Yongue.

The following bills were considered:

HOUSE JOINT RESOLUTION 1805 –A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN WESLEY JONES, FORMER EDUCATOR AND INFLUENTIAL LEADER. A proposed committee substitute was offered and Representative Church moved for its adoption. Without objection, the chairman so ordered. Representative Farmer-Butterfield, sponsor, was recognized to speak on the resolution. Representative Sherrill made a motion that the proposed committee substitute be given a favorable report, unfavorable to the original resolution. The motion carried.

HOUSE JOINT RESOLUTION 1806- A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MILTON F. FITCH, SR., AND CORA WHITTED FITCH, DISTINGUISHED CITIZENS AND CIVIL RIGHTS ACTIVISTS. A proposed committee substitute was offered and Representative Hackney moved for its adoption. Without objection, the chairman so ordered. Representative Farmer-Butterfield was recognized to speak on the resolution. Representative Hackney made a motion that the proposed committee substitute be given a favorable report, unfavorable to the original resolution. The motion carried.

HOUSE COMMITTEE SUBSTITUTE #2 FOR SENATE BILL 6 –AN ACT TO CHANGE THE LAW REGULATING GAMING MACHINES. A proposed House committee substitute changing the title to AN ACT TO STRENGTHEN THE LAW ENFORCEMENT STATUTES PERTAINING TO VIDEO GAMING MACHINES BY PROVIDING THAT MACHINES BE EQUIPPED WITH A HAND COURT FEATURE; TO PROVIDE THAT VIDEO GAMING MACHINES SHALL HAVE A UNIQUE SERIAL NUMBER THAT SHALL BE PERMANENTLY AFFIXED TO THE MACHINE; TO PROVIDE FOR THE ANNUAL REGISTRATION OF VIDEO GAMING MACHINES WITH THE ALCOHOL LAW ENFORCEMENT DIVISION OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY (DIVISION); TO REQUIRE EVERY OWNER OF A VIDEO GAMING MACHINE TO PAY A THREE HUNDRED DOLLAR FEE PER MACHINE TO THE DIVISION FOR USE IN ENFORCING CERTAIN GAMING STATUTES; TO PERMIT REGISTERED MACHINES TO BE WAREHOUSED; TO PROVIDE THAT ANY PERSON WHO KNOWINGLY OWNS A MACHINE THAT VIOLATES G.S. 14-306.1(A) IS GUILTY OF A CLASS G FELONY; AND TO LEVY AN EXCISE TAX ON ILLEGAL VIDEO GAMING MACHINES OF FIVE THOUSAND DOLLARS PER MACHINE was

offered and Representative Yongue moved for its adoption. Without objection, it was so ordered by the chairman. Dianna Jessup, staff attorney, was recognized to explain the committee substitute. Representative Yongue moved that the proposed House committee substitute be reported without prejudice, unfavorable to House committee substitute #2and the motion carried.

The meeting adjourned at 6:15 p.m.

Representative Culpepper
Chairman

Dorothy C. Crocker,
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

HOUSE JOINT RESOLUTION 1805

Sponsors:	Representative Farmer-Butterfield.
Referred to:	Rules, Calendar, and Operations of the House.

June 16, 2004

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN WESLEY JONES, FORMER EDUCATOR AND INFLUENTIAL LEADER.

Whereas, John Wesley Jones grew up in the City of Wilson; and

Whereas, John Wesley Jones graduated from Charles H. Darden High School in 1941, at the age of 15; and

Whereas, John Wesley Jones spent a year helping to construct a new addition to Charles H. Darden High School before attending North Carolina A & T State University; and

Whereas, John Wesley Jones's college education was interrupted by World War II, when he was drafted into the United States Navy; and

Whereas, John Wesley Jones returned to North Carolina A & T State University after serving in the navy, earning a bachelor of science degree in electrical engineering in 1948 and later receiving a masters degree in mathematics; and

Whereas, John Wesley Jones was a schoolteacher in Greene and Wilson Counties from 1948 to 1968 and served as an assistant principal and principal in the Wilson County public schools from 1968 to 1988; and

Whereas, John Wesley Jones served the education community proudly as a member of State and national organizations, including the North Carolina Teachers Association, North Carolina Association of Educators, and National Education Association; and

Whereas, after his retirement as a principal, John Wesley Jones continued to be an advocate for education by becoming a member of the Wilson County Board of Education, serving as a member from 1988 to 2004 and as the Chair for one term; and

Whereas, John Wesley Jones rendered distinguished service to his community by helping to establish the Charles H. Darden High School Alumni Association in 1971, a national, nonprofit organization whose primary mission is to promote the educational, cultural, and social level of the community; and

Whereas, John Wesley Jones's success in establishing the Alumni Association has allowed former students of Charles H. Darden High School, who now live in other

parts of the country, to communicate and stay in touch with each other, resulting in an annual reunion held in the City of Wilson and reunions held in other states; and

Whereas, John Wesley Jones served as the Alumni Association's first president and later as executive secretary to the board of directors; and

Whereas, John Wesley Jones's vision to build a community center came true in 1991, when the Charles H. Darden Alumni Center opened, providing a location for a tutorial program and community activities; and

Whereas, John Wesley Jones, as a member of the National North Carolina A & T State University Alumni Scholarship Committee, which provided four-year scholarships to deserving high school graduates, helped students achieve their dreams of attending college; and

Whereas, John Wesley Jones was active in the American Legion Post # 17, NAACP, Men's Civic Club, served as treasurer of the Board of Directors of the Hattie Daniels Day Care Center, and was a charter member and past president of the Beta Beta Beta Chapter of Omega Psi Phi Fraternity, Inc.; and

Whereas, John Wesley Jones was a devoted member of the Jackson Chapel First Missionary Baptist Church, serving on the Board of Trustees, Finance Committee, and as Chair of the Construction Committee for the Education Building; and

Whereas, John Wesley Jones died on April 3, 2004; Now, therefore,

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

SECTION 1. The General Assembly honors the life and memory of John Wesley Jones for the service he rendered to his community, State, and nation.

SECTION 2. The General Assembly extends its deepest sympathy to the family of John Wesley Jones for the loss of a beloved family member.

SECTION 3. The Secretary of State shall transmit a certified copy of this resolution to the family of John Wesley Jones.

SECTION 4. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H D

HOUSE JOINT RESOLUTION 1805
PROPOSED COMMITTEE SUBSTITUTE H1805-PCS70505-RW-95

Sponsors:

Referred to:

June 16, 2004

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN WESLEY JONES, FORMER EDUCATOR AND INFLUENTIAL LEADER.

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Whereas, John Wesley Jones graduated from Charles H. Darden High School in 1941 at the age of 15; and

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Whereas, John Wesley Jones was a schoolteacher in Greene and Wilson Counties from 1948 to 1968 and served as an assistant principal and principal in the Wilson County public schools from 1968 to 1988; and

Whereas, John Wesley Jones served the education community proudly as a member of State and national organizations, including the North Carolina Teachers Association, Inc., North Carolina Association of Educators, Inc., and National Education Association; and

Whereas, after his retirement as a principal, John Wesley Jones continued to be an advocate for education by becoming a member of the Wilson County Board of Education, serving as a member from 1988 to 2004 and as the Chair for one term; and

Whereas, John Wesley Jones rendered distinguished service to his community by helping to establish the Charles H. Darden High School Alumni Association, Inc., in 1971, a national, nonprofit organization whose primary mission is to promote the educational, cultural, and social level of the community; and

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parts of the country, to communicate and stay in touch with each other, resulting in an annual reunion held in the City of Wilson and reunions held in other states; and

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SECTION 4. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 1805 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF JOHN WESLEY JONES, FORMER EDUCATOR AND INFLUENTIAL LEADER.

☐ 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 the committee substitute bill (# house joint resolution), ☐ ~~which changes the title,~~ unfavorable as to ~~the original bill) (Committee Substitute Bill #~~ house joint resolution ~~), (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.

☐ 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)

03/19/03

H 1

HOUSE JOINT RESOLUTION 1806

Sponsors: Representative Farmer-Butterfield.

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

June 28, 2004

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MILTON F. FITCH, SR., AND CORA WHITTED FITCH, DISTINGUISHED CITIZENS AND CIVIL RIGHTS ACTIVISTS.

Whereas, Milton F. Fitch, Sr., of New Haven, Connecticut, and Cora Jordan Whitted of Wilson, North Carolina, were married in 1941; and

Whereas, Milton Fitch served nearly five years in the United States Army, earning several medals and three battle stars and distinguishing himself during World War II by contributing to the success of the Red Ball Express, a massive convoy that delivered supplies to the Allied troops; and

Whereas, after the war, Milton and Cora Fitch settled in the City of Wilson where he became a postal worker and she became a schoolteacher; and

Whereas, Milton and Cora Fitch were married for 47 years and were the loving parents of five children; and

Whereas, Milton and Cora Fitch stressed the importance of education in their household and were proud that Jerome and Ernestine earned doctorate degrees, Milton, Jr., and Patricia received law degrees, and Christine obtained a medical degree; and

Whereas, Milton and Cora Fitch became strong advocates for civil rights and frequently took action without regard to their own personal safety to improve the unjust and inequitable conditions faced by African-Americans in their community; and

Whereas, Milton Fitch won a lawsuit against the federal government to become the first African-American letter carrier in the City of Wilson since Reconstruction and helped to initiate a lawsuit against Wilson County over the County's voting patterns, a case which was argued before the United States Supreme Court and led to the County's adoption of a ward system of representation; and

Whereas, Milton Fitch was instrumental in securing burial space for poor veterans in the Rest Haven Cemetery and played a key role convincing the Wilson County government to remove a plaque on the courthouse that listed the County's World War II dead by race; and

Whereas, Cora Fitch organized the first African-American Girl Scout troop in Wilson and was elected to the Wilson County Board of County Commissioners in 1986; and

Whereas, Milton and Cora Fitch also made significant contributions to their community through their involvement in numerous social, fraternal, and civic organizations; and

Whereas, Milton Fitch served as the North Carolina Coordinator for the Southern Christian Leadership Conference, a role which caused him to participate in activities throughout the South, was active in the NAACP, and worked on the campaigns of candidates seeking national and statewide offices; and

Whereas, Milton Fitch was a 33rd degree Mason and on October 7, 1995, was elected Most Worshipful Grand Master of the Prince Hall Masons, Jurisdiction of North Carolina, an honor bestowed upon him for his many years of commitment and dedication to the Masons; and

Whereas, Milton Fitch held a number of other positions as a Mason and was associated with many lodges, including Mizpah Temple #66 and C.A. Whitehead Consistory #188; and

Whereas, Cora Fitch served on the boards of the Wilson County Department of Social Services and the Wilson County Library and was a founding member of the Wilson Alumnae Chapter of Delta Sigma Theta Sorority, Inc., an organization that boasts more than 200,000 members across the country and more than 150 chapters in the South Atlantic Region; and

Whereas, Cora Fitch was active in the Jackson Chapel First Baptist Church, serving as Minister of Music and Youth Choir Director; and

Whereas, Cora Fitch died on August 7, 1987, and Milton Fitch died on November 2, 1995; Now, therefore,

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

SECTION 1. The General Assembly expresses its deep appreciation for the lives, accomplishments, and courage of Milton F. Fitch, Sr., and Cora Whitted Fitch, and for the service they rendered to the citizens in their community, the State of North Carolina, and the nation.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the family of Milton F. Fitch, Sr., and Cora Whitted Fitch.

SECTION 3. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

H **D**

HOUSE JOINT RESOLUTION 1806
PROPOSED COMMITTEE SUBSTITUTE H1806-PCS80482-RW-94

Sponsors:

Referred to:

June 28, 2004

A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MILTON F. FITCH, SR., AND CORA WHITTED FITCH, DISTINGUISHED CITIZENS AND CIVIL RIGHTS ACTIVISTS.

Whereas, Milton F. Fitch, Sr., of New Haven, Connecticut, and Cora Jordan Whitted of Wilson, North Carolina, were married in 1941; and

Whereas, Milton Fitch served nearly five years in the United States Army, earning several medals and three battle stars and distinguishing himself during World War II by contributing to the success of the Red Ball Express, a massive convoy system that delivered supplies to the Allied troops at the war front in Europe; and

Whereas, after the war, Milton and Cora Fitch settled in the City of Wilson where he became a postal worker and she became a schoolteacher; and

Whereas, Milton and Cora Fitch were married for 47 years and were the loving parents of five children; and

Whereas, Milton and Cora Fitch stressed the importance of education in their household and were proud that Jerome and Christine earned doctorate degrees, Milton, Jr., and Patricia received law degrees, and Ernestine obtained a medical degree; and

Whereas, Milton and Cora Fitch became strong advocates for civil rights and frequently took action without regard to their own personal safety to improve the unjust and inequitable conditions faced by African-Americans in their community; and

Whereas, Milton Fitch won a lawsuit against the federal government to become the first African-American letter carrier in the City of Wilson since Reconstruction and helped to initiate a lawsuit against Wilson County over the county's voting patterns, a case that was argued before the United States Supreme Court and led to the county's adoption of a ward system of representation; and

Whereas, Milton Fitch was instrumental in securing burial space for poor veterans in the Rest Haven Cemetery and played a key role convincing the Wilson County government to remove a plaque on the courthouse that listed the county's World War II dead by race; and

Whereas, Cora Fitch organized the first African-American Girl Scout troop in Wilson and was elected to the Wilson County Board of County Commissioners in 1986; and

Whereas, Milton and Cora Fitch also made significant contributions to their community through their involvement in numerous social, fraternal, and civic organizations; and

Whereas, Milton Fitch served as the North Carolina Coordinator for the Southern Christian Leadership Conference, a role which caused him to participate in activities throughout the South, was active in the NAACP, and worked on the campaigns of candidates seeking national and statewide offices; and

Whereas, Milton Fitch was a 33rd degree Mason and on October 7, 1995, was elected Most Worshipful Grand Master of the Prince Hall Masons, Jurisdiction of North Carolina, an honor bestowed upon him for his many years of commitment and dedication to the Masons; and

Whereas, Milton Fitch held a number of other positions as a Mason and was associated with many lodges, including Mizpah Temple #66 and C.A. Whitehead Consistory #188; and

Whereas, Cora Fitch served on the boards of the Wilson County Department of Social Services and the Wilson County Library and was a founding member of the Wilson Alumnae Chapter of Delta Sigma Theta Sorority, Inc., an organization that boasts more than 200,000 members across the country and more than 150 chapters in the South Atlantic Region; and

Whereas, Cora Fitch was active in the Jackson Chapel First Baptist Church, serving as Minister of Music and Youth Choir Director; and

Whereas, Cora Fitch died on August 7, 1987, and Milton Fitch died on November 2, 1995; Now, therefore,

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

SECTION 1. The General Assembly expresses its deep appreciation for the lives, accomplishments, and courage of Milton F. Fitch, Sr., and Cora Whitted Fitch, and for the service they rendered to the citizens in their community, the State of North Carolina, and the nation.

SECTION 2. The Secretary of State shall transmit a certified copy of this resolution to the family of Milton F. Fitch, Sr., and Cora Whitted Fitch.

SECTION 3. This resolution is effective upon ratification.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
H.J.R. 1806 A JOINT RESOLUTION HONORING THE LIFE AND MEMORY OF MILTON F. FITCH, SR., AND CORA WHITTED FITCH, DISTINGUISHED CITIZENS AND CIVIL RIGHTS ACTIVISTS.

☐ 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 the committee substitute ~~bill (#)~~ House joint resolution ☐ ~~which changes the title,~~ unfavorable as to ~~(the original bill) (Committee Substitute Bill #)~~ House joint resolution ~~, (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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 4

SENATE BILL 6

Judiciary I Committee Substitute Adopted 4/17/03
House Committee Substitute Favorable 6/30/04
House Committee Substitute #2 Favorable 7/8/04

Short Title: Strengthen Law Enforcement vs. Video Poker. (Public)

Sponsors:

Referred to:

February 10, 2003

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE LAW REGULATING GAMING MACHINES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 14-306(c) reads as rewritten:

"(c) Any video machine, the operation of which is made lawful by ~~subsection~~ subdivision (b)(2) of this section, shall have affixed to it in view of the player a sticker informing that person that it is a criminal offense with the potential of imprisonment to pay more than ~~that which~~what is allowed by law. In addition, if the machine has an attract chip ~~which~~that allows programming, the static display shall contain the same ~~message.~~message regarding the illegality of payments in excess of those allowed by law. All machines referred to in subdivision (b)(2) of this section shall be equipped with a hand count feature to permit the reconciliation of the number of plays and the number of paper coupons issued."

SECTION 1.(b) All machines required to be equipped with the hand count feature required under this section shall be equipped with the feature within 60 days after the effective date of this act.

SECTION 2.(a) G.S. 14-306.1 reads as rewritten:

"**§ 14-306.1. Types of machines and devices prohibited by law; penalties.**

(a) Ban on New Machines. – It shall be unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation any video gaming machine as defined in subsection (c) of this section unless either:

(1) Such machine was:

a. Lawfully in operation, and available for play, within this State on or before June 30, 2000; and

b. Listed in this State by January 31, 2000 for ad valorem taxation for the 2000-2001 tax year; or

(2) Such machine is within the scope of the exclusion provided in G.S. 14-306(b)(1).

(b) Prohibition of More Than Three Existing Video Gaming Machines at One Location. – It shall be unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation at one location more than three video gaming machines as defined in subsection (c).

(c) Definitions. – As used in this section, a video gaming machine means a slot machine as defined in G.S. 14-306(a) and other forms of electrical, mechanical, or computer games such as by way of illustration:

(1) A video poker game or any other kind of video playing card game.
(2) A video bingo game.
(3) A video craps game.
(4) A video keno game.
(5) A video lotto game.
(6) Eight liner.
(7) Pot-of-gold.
(8) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

For the purpose of this section, a video gaming machine is a video machine ~~which~~that requires deposit of any coin, token, or use of any credit card, debit card, or any other payment method ~~that requires payment~~in order to activate play of any of the games listed in this subsection. The enumeration of games in the list in this subsection does not authorize the possession or operation of such game if it is otherwise prohibited by law.

For the purpose of this section, a video gaming machine includes those that are within the scope of the exclusion provided in G.S. 14-306(b)(2), but does not include those that are within the scope of the exclusion provided in G.S. 14-306(b)(1).

(d) Age Requirement. – It shall be an infraction for any person under the age of 18 years to play any video gaming machine defined in subsection (c) of this section. It shall be unlawful for the operator of the video gaming machine to knowingly allow a person under the age of 18 years to play any video gaming machine as proscribed by this subsection.

(e) Hours of Operation. – It shall be unlawful to operate or allow the operation of any video gaming machine during the hours of 2:00 A.M. Sunday through 7:00 A.M. Monday.

(f) Plain View. – Any video gaming machine available for operation shall be in plain view of persons visiting the premises.

(g) Advertising Prohibited. – It is unlawful to advertise the operation of video gaming machines by use of on-premise or off-premise signs.

(g1) Serial Number Required. – Every video gaming machine shall have a unique serial number that shall be permanently affixed to the machine.

(g2) Certain Display Prohibited. – No video gaming machine shall visually display the words "jackpot", "casino", or "Las Vegas", nor shall any machine audibly emit those words.

(h) Proximity to Other Locations Regulated; Permanent Building Required. – Each location where it is lawful to operate any video gaming machines as defined in G.S. 14-306.1(c) shall be at least 300 feet in any plane from any other location where such machines are operated. For the purpose of this section, a location is a permanent building having, or being within, a single exterior structure. Notwithstanding this subsection, two or more places where video gaming machines were lawfully operated under separate ownership on June 30, 2000, shall be considered to be separate locations more than 300 feet from each other, regardless of the distance from each other or whether they are located in the same building or edifice. Video gaming machines as defined in G.S. 14-306.1(c) may be operated only within permanent buildings.

(i) Annual Registration With ~~Sheriff.~~The Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety. – ~~No later than October 1, 2000, the~~On or before July 1 of every year, the owner of any video ~~game~~ gaming machine ~~which is~~ regulated by this section ~~shall register the machine with the Sheriff of the county in which the machine is located~~shall register each machine with the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety (Division) using a standardized registration form or online process supplied by the ~~Sheriff.~~Division. The registration shall contain all of the following information for each machine:

(1) The name and address of the owner.

(2) The serial number of the machine.

(3) The name and address of the location of the machine at the time of registration.

(4) The name of the owner of the location of the machine.

~~The registration form shall be signed under oath by the~~The owner of the ~~machine.~~ machine shall sign the registration form under oath. A material false statement or omission in the registration form shall subject the owner to seizure of the machine under G.S. 14-298 in addition to any other punishment imposed by law. The owner of the machine shall pay to the Division a fee of three hundred dollars ($300.00) for each machine registered, payable on July 1 of every year. Fees collected pursuant to this subsection shall be used by the Division for administering and enforcing this section and G.S. 14-298, 14-306, 14-306.2, and 14-309. ~~At any time that the video gaming machine is moved to a different location, the owner shall reregister the machine with the Sheriff prior to its being placed in operation. At a minimum, the registration form shall require that the registrant provide evidence of the date on which the machine was placed in operation, the serial number of the machine, the location of the facility at which the machine is operated, and the name of the owner of the facility at which the machine is operated. Each Sheriff shall report to the Joint Legislative Commission on Governmental Operations no later than November 1, 2000, on the total number of machines registered in that county, itemizing how many locations have one, two, or three machines.~~Upon proper registration and payment of the fee, the Division shall affix

a decal that has a unique number to the machine. By August 1 of every year, the Division shall send a report to each sheriff that describes the number of machines and the location of the machines in that sheriff's county.

(i1) Notification Required When Machine Relocated. – The owner of a registered machine shall report any change in the location of the machine to the Division within five days of the relocation and before the machine is operational. The Division shall notify the sheriff of the county to which the machine is relocated of the change in location.

(i2) Authority to Enter to Inspect. – Persons owning or controlling any location where a video gaming machine is operated or housed shall allow the Division to enter the location at any time to inspect the machine.

(j) Report on Receipts and Prizes and Merchandise Awarded. – The owner of each machine or the agent of that owner shall report each calendar quarter to the Department of Revenue, under oath on a form provided by that Department, the total amount of gross receipts itemized by each machine, the number of machines at that location, and the total value of prizes and merchandise awarded to players of each machine at that location. The report shall be filed by the fifteenth day of the month after the quarter ends. Failure of the owner or agent to timely file the required report, or filing a report containing a material false statement shall subject the owner of the machine to seizure of the machine under G.S. 14 298 in addition to any other punishment imposed by law. Upon request of the Sheriff of the county, the Department of Revenue shall forward a copy of the report to the Sheriff of the county where the machines are located. The Department of Revenue shall compile the reports and make a summary report each quarter to the Joint Legislative Commission on Governmental Operations.

~~(k) Report to 2001 Session. The North Carolina Sheriffs' Association, Inc., after consultation with the Division of Alcohol Law Enforcement, and the Conference of District Attorneys of North Carolina, shall report to the Joint Legislative Commission on Governmental Operations no later than January 1, 2001, its estimates of the costs of the registration process and the cost of enforcement of this section, along with suggested fees to make the registration and enforcement self-supporting, and recommendations as to a system with registration at the State level and primary enforcement at the local level. Such fee schedule is not effective until approved by the General Assembly.~~

(l) Exemption for Certain Machines. – This section shall not apply to assemblers, manufacturers, and transporters of video gaming machines who assemble, manufacture, and transport them for sale in another state as long as the machines, while located in this State, cannot be used to play the prohibited games, and does not apply to those who assemble, manufacture, and sell such machines for the use only by a federally recognized Indian Tribe if such machines may be lawfully used on Indian Land under the Indian Gaming Regulatory Act.

(m) Ban on Warehousing. – It is unlawful to warehouse any video gaming machine ~~except~~unless:

(1) ~~in~~The machine is being warehoused in conjunction with the permitted assembly, manufacture, and transportation of such machines under subsection (l) of this ~~section.~~section; or

(2) The machine is registered under subsection (i) of this section.

(n) Exemption for Activities Under IGRA. – This section does not make any activities of a federally recognized Indian Tribe unlawful or against public policy, which are lawful for any federally recognized Indian Tribe under the Indian Gaming Regulatory Act, Public Law 100-497.

(o) No Local Preemption. – This section does not preempt any more restrictive ordinance lawfully adopted under Article 18 of Chapter 153A of the General Statutes or under Article 19 of Chapter 160A of the General Statutes.

(p) No person who has been convicted:

(1) Once under G.S. 14-309(a) or (b) may own or possess any video gaming machine as defined in G.S. 14-306.1 for a period of one year.

(2) Twice under G.S. 14-309(a) or (b) may own or possess any video gaming machine as defined in G.S. 14-306.1 for a period of two years.

(3) Three or more times under G.S. 14-309(a) or (b) may own or possess any video gaming machine.

(q) Not Legalizing Unlawful Activity. – This section does not make lawful any activity which is currently unlawful."

SECTION 2.(b) Notwithstanding G.S. 14-306.1(i), owners of video gaming machines regulated under G.S. 14-306.1 and that meet the criteria set forth in G.S. 14-306.1(a)(1) shall register and pay the fee for all machines with the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety no later than December 1, 2004, and the Division shall notify the sheriffs no later than January 1, 2005.

SECTION 3. G.S. 14-298 reads as rewritten:

"**§ 14-298. ~~Gaming tables, illegal punchboards, slot machines, and prohibited video game machines to be destroyed by police officers.~~Seizure of unlawful gaming items.**

(a) ~~All sheriffs and officers of police are hereby authorized and directed, on information made to them on oath~~Any law enforcement officer, including an agent of the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety, may seize ~~that~~ any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1, that is in the possession or use of any person within the limits of their ~~jurisdiction,~~jurisdiction when probable cause exists as to the unlawful possession or use.~~to destroy the same by every means in their power; and they shall call to their aid all the good citizens of the county, if necessary, to effect its destruction.~~

(b) Any law enforcement agency in possession of an item seized pursuant to subsection (a) of this section shall retain the item pending a disposition order from a district or superior court judge.

(c) At the conclusion of any criminal proceeding regarding an item seized, upon application by the law enforcement agency, district attorney, or owner of the seized item, and after notice and opportunity to be heard by all parties, if the court finds that either of the following occurred or existed at the time the item was seized, the court

shall enter an order releasing the item to the law enforcement agency to be destroyed or used for training purposes:

(1) The item was unlawfully possessed.

(2) The item was being unlawfully used with the knowledge of the owner of the item.

If the court does not find that either condition occurred or existed at the time the item was seized, the item shall be ordered released to its owner upon satisfactory proof of ownership."

SECTION 4. G.S. 14-309 reads as rewritten:

"**§ 14-309. Violation made ~~criminal.~~criminal; prima facie evidence of violation.**

(a) Any person who violates any provision of G.S. 14-304 through 14-309 is guilty of a Class 1 misdemeanor for the first offense, and is guilty of a Class I felony for a second offense and a Class H felony for a third or subsequent offense.

(b) Notwithstanding the provisions of subsection (a) of this section, any person violating the provisions of G.S. 14-306.1 involving the operation of five or more machines prohibited by that section or knowingly owning or possessing a machine that violates G.S. 14-306.1(a)(1), is guilty of a Class G felony.

(c) The absence of the decal on a machine that is affixed by the Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety pursuant to G.S. 14-306.1(i) shall be prima facie evidence that the person knowingly owned or possessed a machine that violates G.S. 14-306.1(a)(1)."

SECTION 5. G.S. 14-307 reads as rewritten:

"**§ 14-307. Issuance of license prohibited.**

There shall be no ~~State, county,~~county or municipal tax levied for the privilege of operating the machines or devices the operation of which is prohibited by G.S. 14-304 through 14-309."

SECTION 6. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 2E.

"Illegal Video Gaming Machine Tax.

"**§ 105-113.120. Purpose.**

The purpose of this Article is to levy an excise tax to generate revenue for the General Fund. Nothing in this Article may in any manner provide immunity from criminal prosecution for a person who possesses an illegal video gaming machine.

"**§ 105-113.121. Definitions.**

The following definitions apply in this Article:

(1) Illegal video gaming machine. – A video gaming machine that is prohibited under G.S. 14-306.1.

(2) Local law enforcement agency. – A municipal police department, a county police department, or a sheriff's office.

(3) Person. – Defined in G.S. 105-228.90.

(4) Secretary. – Defined in G.S. 105-228.90.

(5) State law enforcement agency. – Any State agency, force, department, or unit responsible for enforcing criminal laws.

(6) Video gaming machine. – Defined in G.S. 14-306.1.

"**§ 105-113.122. Excise tax on illegal video gaming machines.**

(a) Tax Imposed. – An excise tax at the rate of five thousand dollars ($5,000) per machine is levied on the possession of an illegal video gaming machine.

(b) Revenue Stamps. – The Secretary shall issue stamps to affix to illegal video gaming machines to indicate payment of the tax required by this Article. A person who possesses an illegal video gaming machine shall report the taxes payable under this Article at the time and on the form prescribed by the Secretary. A person who possesses an illegal video gaming machine is not required to give his or her name, address, social security number, or other identifying information on the form. Upon payment of the tax, the Secretary shall issue stamps in an amount equal to the amount of the tax paid. Taxes may be paid and stamps may be issued either by mail or in person.

(c) Reports. – Every local law enforcement agency and every State law enforcement agency must report to the Department within 48 hours after seizing an illegal video gaming machine, or making an arrest of an individual in possession of an illegal gaming machine, upon which a stamp has not been affixed. The report must be in the form prescribed by the Secretary, and it must include the time and place of the arrest or seizure, the identification of an individual in possession of the illegal video gaming machine and that individual's social security number, and any other information prescribed by the Secretary. The report must be made when the arrest or seizure involves any illegal video gaming machine upon which a stamp has not been affixed as required by this Article.

(d) Payment. – The tax imposed by this Article is payable by any person who actually or constructively possesses an illegal video gaming machine in this State upon which the tax has not been paid, as evidenced by a stamp. The tax is payable within 48 hours after the person acquires actual or constructive possession of a non-tax-paid illegal video gaming machine, exclusive of Saturdays, Sundays, and legal holidays of this State, in which case the tax is payable on the next working day. Upon payment of the tax, the person shall permanently affix the appropriate stamps to the illegal video gaming machine. Once the tax due on an illegal video gaming machine has been paid, no additional tax is due under this Article even though the illegal video gaming machine may be handled by other people.

(e) Administration. – Article 9 of this Chapter applies to this Article.

"**§ 105-113.123. Assessments.**

Notwithstanding any other provision of law, an assessment against a person who possesses an illegal video gaming machine to which a stamp has not been affixed as required by this Article shall be made as provided in this section. The Secretary shall assess a tax, applicable penalties, and interest based on personal knowledge or information available to the Secretary. The Secretary shall notify the person in writing of the amount of the tax, penalty, and interest due, and demand its immediate payment. The notice and demand shall be either mailed to the person at the person's last known address or served in person. If the person does not pay the tax, penalty, and interest immediately upon receipt of the notice and demand, the Secretary shall collect the tax, penalty, and interest pursuant to the procedure set forth in G.S. 105-241.1(g) for

jeopardy assessments or the procedure set forth in G.S. 105-242, including causing execution to be issued immediately against the personal property of the person, unless the person files with the Secretary a bond in the amount of the asserted liability for the tax, penalty, and interest. The Secretary shall use all means available to collect the tax, penalty, and interest from any property in which the person has a legal, equitable, or beneficial interest. The person may seek review of the assessment as provided in Article 9 of this Chapter.

"**§ 105-113.124. Confidentiality of information.**

Notwithstanding any other provision of law, information obtained pursuant to this Article is confidential and may not be disclosed or, unless independently obtained, used in a criminal prosecution other than a prosecution for a violation of this Article. Stamps issued pursuant to this Article may not be used in a criminal prosecution other than a prosecution for a violation of this Article. A person who discloses information obtained pursuant to this Article is guilty of a Class 1 misdemeanor. This section does not prohibit the Secretary from publishing statistics that do not disclose the identity of persons or the contents of particular returns or reports.

"**§ 105-113.125. Use of tax proceeds.**

(a) Special Account. – The Secretary shall credit the net proceeds of the tax levied by this Article to a special nonreverting account, to be called the State Illegal Video Gaming Machine Tax Account, until the tax proceeds are unencumbered. In determining the amount of the net proceeds to be credited, the Secretary shall deduct from the gross proceeds the expenses of the Department of Revenue in performing the duties imposed by this Article. The Secretary shall remit the unencumbered net proceeds as provided in this section on a quarterly or more frequent basis. Net proceeds are unencumbered when either of the following occurs:

(1) The tax has been fully paid and the taxpayer has no current right under G.S. 105-267 to seek a refund.

(2) The taxpayer has been notified of the final assessment of the tax under G.S. 105-241.1 and has neither fully paid nor timely contested the tax under G.S. 105-241.1 through G.S. 105-241.4 or G.S. 105-267.

(b) Distribution. – The Secretary shall remit the unencumbered net proceeds that were collected by assessment to the State or local law enforcement agency that conducted the investigation of a person that led to the assessment. If more than one State or local law enforcement agency conducted the investigation, the Secretary shall determine the equitable share for each agency based on the contribution each agency made to the investigation.

(c) Refunds. – The refund of a tax that has already been distributed shall be drawn initially from the State Illegal Video Gaming Machine Tax Account. The amount of refunded taxes that had been distributed to a law enforcement agency under this section and any interest shall be subtracted from succeeding distributions from the Account to that law enforcement agency."

SECTION 7. On or before July 1, 2005, the Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety shall report to the House and Senate Appropriations Subcommittees on Justice and Public Safety as to the

status of the administration and enforcement of the gaming machine statutes that have occurred as a result of this act. This report shall include the following:

(1) The number of gaming machines registered and how many machines are registered in each county.

(2) The amount of fees that have been collected by the Division for registering the machines.

(3) The number of gaming items seized by the Division pursuant to G.S. 14-298(a).

(4) The number of gaming items destroyed pursuant to court order entered pursuant to G.S. 14-298(b).

(5) The number of gaming items released to their owners pursuant to G.S. 14-298(b).

(6) Any suggested changes to the statutes that would further strengthen the Division's ability to enforce the gaming machine statutes.

SECTION 8. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 9. Section 6 of this act becomes effective December 1, 2004, and applies to illegal video gaming machines possessed on or after that date. Except as otherwise provided in this act, the remainder of this act becomes effective October 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 6

Judiciary I Committee Substitute Adopted 4/17/03
House Committee Substitute Favorable 6/30/04
House Committee Substitute #2 Favorable 7/8/04
PROPOSED HOUSE COMMITTEE SUBSTITUTE S6-PCS15293-SWxf-84

Short Title: Strengthen Law Enforcement vs. Video Poker.	(Public)
Sponsors:	
Referred to:	

February 10, 2003

A BILL TO BE ENTITLED

AN ACT TO STRENGTHEN THE LAW ENFORCEMENT STATUTES PERTAINING TO VIDEO GAMING MACHINES BY PROVIDING THAT MACHINES BE EQUIPPED WITH A HAND COUNT FEATURE; TO PROVIDE THAT VIDEO GAMING MACHINES SHALL HAVE A UNIQUE SERIAL NUMBER THAT SHALL BE PERMANENTLY AFFIXED TO THE MACHINE; TO PROVIDE FOR THE ANNUAL REGISTRATION OF VIDEO GAMING MACHINES WITH THE ALCOHOL LAW ENFORCEMENT DIVISION OF THE DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY (DIVISION); TO REQUIRE EVERY OWNER OF A VIDEO GAMING MACHINE TO PAY A THREE HUNDRED DOLLAR FEE PER MACHINE TO THE DIVISION FOR USE IN ENFORCING CERTAIN GAMING STATUTES; TO PERMIT REGISTERED MACHINES TO BE WAREHOUSED; TO PROVIDE THAT ANY PERSON WHO KNOWINGLY OWNS A MACHINE THAT VIOLATES G.S. 14-306.1(a)(1) IS GUILTY OF A CLASS G FELONY; AND TO LEVY AN EXCISE TAX ON ILLEGAL VIDEO GAMING MACHINES OF FIVE THOUSAND DOLLARS PER MACHINE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 14-306(c) reads as rewritten:

"(c) Any video machine, the operation of which is made lawful by ~~subsection~~ subdivision (b)(2) of this section, shall have affixed to it in view of the player a sticker informing that person that it is a criminal offense with the potential of imprisonment to pay more than ~~that which~~what is allowed by law. In addition, if the machine has an attract chip ~~which~~that allows programming, the static display shall contain the same ~~message.~~message regarding the illegality of payments in excess of those allowed by

law. All machines referred to in subdivision (b)(2) of this section shall be equipped with a hand count feature to permit the reconciliation of the number of plays and the number of paper coupons issued."

SECTION 1.(b) All machines required to be equipped with the hand count feature required under this section shall be equipped with the feature within 60 days after the effective date of this act.

SECTION 2.(a) G.S. 14-306.1 reads as rewritten:

"**§ 14-306.1. Types of machines and devices prohibited by law; penalties.**

(a) Ban on New Machines. – It shall be unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation any video gaming machine as defined in subsection (c) of this section unless either:

(1) Such machine was:

a. Lawfully in operation, and available for play, within this State on or before June 30, 2000; and

b. Listed in this State by January 31, 2000 for ad valorem taxation for the 2000-2001 tax year; or

(2) Such machine is within the scope of the exclusion provided in G.S. 14-306(b)(1).

(b) Prohibition of More Than Three Existing Video Gaming Machines at One Location. – It shall be unlawful for any person to operate, allow to be operated, place into operation, or keep in that person's possession for the purpose of operation at one location more than three video gaming machines as defined in subsection (c).

(c) Definitions. – As used in this section, a video gaming machine means a slot machine as defined in G.S. 14-306(a) and other forms of electrical, mechanical, or computer games such as by way of illustration:

(1) A video poker game or any other kind of video playing card game.

(2) A video bingo game.

(3) A video craps game.

(4) A video keno game.

(5) A video lotto game.

(6) Eight liner.

(7) Pot-of-gold.

(8) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player.

For the purpose of this section, a video gaming machine is a video machine ~~which~~that requires deposit of any coin, token, or use of any credit card, debit card, or any other payment method ~~that requires payment~~in order to activate play of any of the games listed in this subsection. The enumeration of games in the list in this subsection does not authorize the possession or operation of such game if it is otherwise prohibited by law.

For the purpose of this section, a video gaming machine includes those that are within the scope of the exclusion provided in G.S. 14-306(b)(2), but does not include those that are within the scope of the exclusion provided in G.S. 14-306(b)(1).

(d) Age Requirement. – It shall be an infraction for any person under the age of 18 years to play any video gaming machine defined in subsection (c) of this section. It shall be unlawful for the operator of the video gaming machine to knowingly allow a person under the age of 18 years to play any video gaming machine as proscribed by this subsection.

(e) Hours of Operation. – It shall be unlawful to operate or allow the operation of any video gaming machine during the hours of 2:00 A.M. Sunday through 7:00 A.M. Monday.

(f) Plain View. – Any video gaming machine available for operation shall be in plain view of persons visiting the premises.

(g) Advertising Prohibited. – It is unlawful to advertise the operation of video gaming machines by use of on-premise or off-premise signs.

(g1) Serial Number Required. – Every video gaming machine shall have a unique serial number that shall be permanently affixed to the machine.

(g2) Certain Display Prohibited. – No video gaming machine shall visually display the words "jackpot", "casino", or "Las Vegas", nor shall any machine audibly emit those words.

(h) Proximity to Other Locations Regulated; Permanent Building Required. – Each location where it is lawful to operate any video gaming machines as defined in G.S. 14-306.1(c) shall be at least 300 feet in any plane from any other location where such machines are operated. For the purpose of this section, a location is a permanent building having, or being within, a single exterior structure. Notwithstanding this subsection, two or more places where video gaming machines were lawfully operated under separate ownership on June 30, 2000, shall be considered to be separate locations more than 300 feet from each other, regardless of the distance from each other or whether they are located in the same building or edifice. Video gaming machines as defined in G.S. 14-306.1(c) may be operated only within permanent buildings.

(i) Annual Registration With ~~Sheriff.~~the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety. – ~~No later than October 1, 2000, the~~On or before July 1 of every year, the owner of any video ~~game~~ gaming machine ~~which is~~ regulated by this section ~~shall register the machine with the Sheriff of the county in which the machine is located~~shall register each machine with the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety (Division) using a standardized registration form or online process supplied by the ~~Sheriff.~~Division. The registration shall contain all of the following information for each machine:

(1) The name and address of the owner.

(2) The serial number of the machine.

(3) The name and address of the location of the machine at the time of registration.

(4) The name of the owner of the location of the machine.

~~The registration form shall be signed under oath by the~~The owner of the ~~machine.~~ machine shall sign the registration form under oath. A material false statement or omission in the registration form shall subject the owner to seizure of the machine under G.S. 14-298 in addition to any other punishment imposed by law. The owner of the machine shall pay to the Division a fee of three hundred dollars ($300.00) for each machine registered, payable on July 1 of every year. Fees collected pursuant to this subsection shall be used by the Division for administering and enforcing this section and G.S. 14-298, 14-306, 14-306.2, and 14-309. ~~At any time that the video gaming machine is moved to a different location, the owner shall reregister the machine with the Sheriff prior to its being placed in operation. At a minimum, the registration form shall require that the registrant provide evidence of the date on which the machine was placed in operation, the serial number of the machine, the location of the facility at which the machine is operated, and the name of the owner of the facility at which the machine is operated. Each Sheriff shall report to the Joint Legislative Commission on Governmental Operations no later than November 1, 2000, on the total number of machines registered in that county, itemizing how many locations have one, two, or three machines.~~Upon proper registration and payment of the fee, the Division shall affix a decal that has a unique number to the machine. By August 1 of every year, the Division shall send a report to each sheriff that describes the number of machines and the location of the machines in that sheriff's county.

(i1) Notification Required When Machine Relocated. – The owner of a registered machine shall report any change in the location of the machine to the Division within five days of the relocation and before the machine is operational. The Division shall notify the sheriff of the county to which the machine is relocated of the change in location.

(i2) Authority to Enter to Inspect. – Persons owning or controlling any location where a video gaming machine is operated or housed shall allow the Division to enter the location at any time to inspect the machine.

(j) Report on Receipts and Prizes and Merchandise Awarded. – The owner of each machine or the agent of that owner shall report each calendar quarter to the Department of ~~Revenue,~~ Revenue and to the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety, under oath on a form provided by ~~that Department,~~ the Department of Revenue, the total amount of gross receipts itemized by each machine, the number of machines at that location, and the total value of prizes and merchandise awarded to players of each machine at that location. The report shall be filed by the fifteenth day of the month after the quarter ends. Failure of the owner or agent to timely file the required report, or filing a report containing a material false statement shall subject the owner of the machine to seizure of the machine under G.S. 14 298 in addition to any other punishment imposed by law. Upon request of the Sheriff of the county, the Department of Revenue shall forward a copy of the report to the Sheriff of the county where the machines are located. ~~The Department of Revenue shall compile the reports and make a summary report each quarter to the Joint Legislative Commission on Governmental Operations.~~

~~(k) Report to 2001 Session. – The North Carolina Sheriffs' Association, Inc., after consultation with the Division of Alcohol Law Enforcement, and the Conference of District Attorneys of North Carolina, shall report to the Joint Legislative Commission on Governmental Operations no later than January 1, 2001, its estimates of the costs of the registration process and the cost of enforcement of this section, along with suggested fees to make the registration and enforcement self-supporting, and recommendations as to a system with registration at the State level and primary enforcement at the local level. Such fee schedule is not effective until approved by the General Assembly.~~

(l) Exemption for Certain Machines. – This section shall not apply to assemblers, manufacturers, and transporters of video gaming machines who assemble, manufacture, and transport them for sale in another state as long as the machines, while located in this State, cannot be used to play the prohibited games, and does not apply to those who assemble, manufacture, and sell such machines for the use only by a federally recognized Indian Tribe if such machines may be lawfully used on Indian Land under the Indian Gaming Regulatory Act.

(m) Ban on Warehousing. – It is unlawful to warehouse any video gaming machine ~~except~~unless:

(1) ~~in~~The machine is being warehoused in conjunction with the permitted assembly, manufacture, and transportation of such machines under subsection (l) of this ~~section.~~section; or

(2) The machine is registered under subsection (i) of this section.

(n) Exemption for Activities Under IGRA. – This section does not make any activities of a federally recognized Indian Tribe unlawful or against public policy, which are lawful for any federally recognized Indian Tribe under the Indian Gaming Regulatory Act, Public Law 100-497.

(o) No Local Preemption. – This section does not preempt any more restrictive ordinance lawfully adopted under Article 18 of Chapter 153A of the General Statutes or under Article 19 of Chapter 160A of the General Statutes.

(p) No person who has been convicted:

(1) Once under G.S. 14-309(a) or (b) may own or possess any video gaming machine as defined in G.S. 14-306.1 for a period of one year.

(2) Twice under G.S. 14-309(a) or (b) may own or possess any video gaming machine as defined in G.S. 14-306.1 for a period of two years.

(3) Three or more times under G.S. 14-309(a) or (b) may own or possess any video gaming machine.

(q) Not Legalizing Unlawful Activity. – This section does not make lawful any activity which is currently unlawful."

SECTION 2.(b) Notwithstanding G.S. 14-306.1(i), owners of video gaming machines regulated under G.S. 14-306.1 and that meet the criteria set forth in G.S. 14-306.1(a)(1) shall register and pay the fee for all machines with the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety no later than December 1, 2004, and the Division shall notify the sheriffs no later than January 1, 2005.

SECTION 3. G.S. 14-298 reads as rewritten:

"§ 14-298. ~~Gaming tables, illegal punchboards, slot machines, and prohibited video game machines to be destroyed by police officers.~~Seizure of unlawful gaming items.

(a) ~~All sheriffs and officers of police are hereby authorized and directed, on information made to them on oath~~Any law enforcement officer, including an agent of the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety, may seize ~~that~~ any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1, that is in the possession or use of any person within the limits of their ~~jurisdiction,~~jurisdiction when probable cause exists as to the unlawful possession or use.~~to destroy the same by every means in their power; and they shall call to their aid all the good citizens of the county, if necessary, to effect its destruction.~~

(b) Any law enforcement agency in possession of an item seized pursuant to subsection (a) of this section shall retain the item pending a disposition order from a district or superior court judge.

(c) At the conclusion of any criminal proceeding regarding an item seized, upon application by the law enforcement agency, district attorney, or owner of the seized item, and after notice and opportunity to be heard by all parties, if the court finds that either of the following occurred or existed at the time the item was seized, the court shall enter an order releasing the item to the law enforcement agency to be destroyed or used for training purposes:

(1) The item was unlawfully possessed.

(2) The item was being unlawfully used with the knowledge of the owner of the item.

If the court does not find that either condition occurred or existed at the time the item was seized, the item shall be ordered released to its owner upon satisfactory proof of ownership."

SECTION 4. G.S. 14-309 reads as rewritten:

"**§ 14-309. Violation made ~~criminal.~~criminal; prima facie evidence of violation.**

(a) Any person who violates any provision of G.S. 14-304 through 14-309 is guilty of a Class 1 misdemeanor for the first offense, and is guilty of a Class I felony for a second offense and a Class H felony for a third or subsequent offense.

(b) Notwithstanding the provisions of subsection (a) of this section, any person violating the provisions of G.S. 14-306.1 involving the operation of five or more machines prohibited by that section or knowingly owning or possessing a machine that violates G.S. 14-306.1(a)(1), is guilty of a Class G felony.

(c) The absence of the decal on a machine that is affixed by the Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety pursuant to G.S. 14-306.1(i) shall be prima facie evidence that the person knowingly owned or possessed a machine that violates G.S. 14-306.1(a)(1)."

SECTION 5. G.S. 14-307 reads as rewritten:

"**§ 14-307. Issuance of license prohibited.**

There shall be no ~~State, county,~~county or municipal tax levied for the privilege of operating the machines or devices the operation of which is prohibited by G.S. 14-304 through 14-309."

SECTION 6. Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 2E.

"Illegal Video Gaming Machine Tax.

"**§ 105-113.120. Purpose.**

The purpose of this Article is to levy an excise tax to generate revenue for the General Fund. Nothing in this Article may in any manner provide immunity from criminal prosecution for a person who possesses an illegal video gaming machine.

"**§ 105-113.121. Definitions.**

The following definitions apply in this Article:

(1) Illegal video gaming machine. – A video gaming machine that is prohibited under G.S. 14-306.1.

(2) Local law enforcement agency. – A municipal police department, a county police department, or a sheriff's office.

(3) Person. – Defined in G.S. 105-228.90.

(4) Secretary. – Defined in G.S. 105-228.90.

(5) State law enforcement agency. – Any State agency, force, department, or unit responsible for enforcing criminal laws.

(6) Video gaming machine. – Defined in G.S. 14-306.1.

"**§ 105-113.122. Excise tax on illegal video gaming machines.**

(a) Tax Imposed. – An excise tax at the rate of five thousand dollars ($5,000) per machine is levied on the possession of an illegal video gaming machine.

(b) Revenue Stamps. – The Secretary shall issue stamps to affix to illegal video gaming machines to indicate payment of the tax required by this Article. A person who possesses an illegal video gaming machine shall report the taxes payable under this Article at the time and on the form prescribed by the Secretary. A person who possesses an illegal video gaming machine is not required to give his or her name, address, social security number, or other identifying information on the form. Upon payment of the tax, the Secretary shall issue stamps in an amount equal to the amount of the tax paid. Taxes may be paid and stamps may be issued either by mail or in person.

(c) Reports. – Every local law enforcement agency and every State law enforcement agency must report to the Department within 48 hours after seizing an illegal video gaming machine, or making an arrest of an individual in possession of an illegal gaming machine, upon which a stamp has not been affixed. The report must be in the form prescribed by the Secretary, and it must include the time and place of the arrest or seizure, the identification of an individual in possession of the illegal video gaming machine and that individual's social security number, and any other information prescribed by the Secretary. The report must be made when the arrest or seizure involves any illegal video gaming machine upon which a stamp has not been affixed as required by this Article.

(d) Payment. – The tax imposed by this Article is payable by any person who actually or constructively possesses an illegal video gaming machine in this State upon which the tax has not been paid, as evidenced by a stamp. The tax is payable within 48 hours after the person acquires actual or constructive possession of a non-tax-paid illegal video gaming machine, exclusive of Saturdays, Sundays, and legal holidays of this State, in which case the tax is payable on the next working day. Upon payment of the tax, the person shall permanently affix the appropriate stamps to the illegal video gaming machine. Once the tax due on an illegal video gaming machine has been paid, no additional tax is due under this Article even though the illegal video gaming machine may be handled by other people.

(e) Administration. – Article 9 of this Chapter applies to this Article.

"**§ 105-113.123. Assessments.**

Notwithstanding any other provision of law, an assessment against a person who possesses an illegal video gaming machine to which a stamp has not been affixed as required by this Article shall be made as provided in this section. The Secretary shall assess a tax, applicable penalties, and interest based on personal knowledge or information available to the Secretary. The Secretary shall notify the person in writing of the amount of the tax, penalty, and interest due and demand its immediate payment. The notice and demand shall be either mailed to the person at the person's last known address or served in person. If the person does not pay the tax, penalty, and interest immediately upon receipt of the notice and demand, the Secretary shall collect the tax, penalty, and interest pursuant to the procedure set forth in G.S. 105-241.1(g) for jeopardy assessments or the procedure set forth in G.S. 105-242, including causing execution to be issued immediately against the personal property of the person, unless the person files with the Secretary a bond in the amount of the asserted liability for the tax, penalty, and interest. The Secretary shall use all means available to collect the tax, penalty, and interest from any property in which the person has a legal, equitable, or beneficial interest. The person may seek review of the assessment as provided in Article 9 of this Chapter.

"**§ 105-113.124. Confidentiality of information.**

Notwithstanding any other provision of law, information obtained pursuant to this Article is confidential and may not be disclosed or, unless independently obtained, used in a criminal prosecution other than a prosecution for a violation of this Article. Stamps issued pursuant to this Article may not be used in a criminal prosecution other than a prosecution for a violation of this Article. A person who discloses information obtained pursuant to this Article is guilty of a Class 1 misdemeanor. This section does not prohibit the Secretary from publishing statistics that do not disclose the identity of persons or the contents of particular returns or reports.

"**§ 105-113.125. Use of tax proceeds.**

(a) Special Account. – The Secretary shall credit the net proceeds of the tax levied by this Article to a special nonreverting account, to be called the State Illegal Video Gaming Machine Tax Account, until the tax proceeds are unencumbered. In determining the amount of the net proceeds to be credited, the Secretary shall deduct from the gross proceeds the expenses of the Department of Revenue in performing the

duties imposed by this Article. The Secretary shall remit the unencumbered net proceeds as provided in this section on a quarterly or more frequent basis. Net proceeds are unencumbered when either of the following occurs:

(1) The tax has been fully paid and the taxpayer has no current right under G.S. 105-267 to seek a refund.

(2) The taxpayer has been notified of the final assessment of the tax under G.S. 105-241.1 and has neither fully paid nor timely contested the tax under G.S. 105-241.1 through G.S. 105-241.4 or G.S. 105-267.

(b) Distribution. – The Secretary shall remit the unencumbered net proceeds that were collected by assessment to the State or local law enforcement agency that conducted the investigation of a person that led to the assessment. If more than one State or local law enforcement agency conducted the investigation, the Secretary shall determine the equitable share for each agency based on the contribution each agency made to the investigation.

(c) Refunds. – The refund of a tax that has already been distributed shall be drawn initially from the State Illegal Video Gaming Machine Tax Account. The amount of refunded taxes that had been distributed to a law enforcement agency under this section and any interest shall be subtracted from succeeding distributions from the Account to that law enforcement agency."

SECTION 7. On or before July 1, 2005, the Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety shall report to the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety as to the status of the administration and enforcement of the gaming machine statutes that have occurred as a result of this act. This report shall include the following:

(1) The number of gaming machines registered and how many machines are registered in each county.

(2) The amount of fees that have been collected by the Division for registering the machines.

(3) The number of gaming items seized by the Division pursuant to G.S. 14-298(a).

(4) The number of gaming items destroyed pursuant to court order entered pursuant to G.S. 14-298(b).

(5) The number of gaming items released to their owners pursuant to G.S. 14-298(b).

(6) Any suggested changes to the statutes that would further strengthen the Division's ability to enforce the gaming machine statutes.

SECTION 8. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SECTION 9. Section 6 of this act becomes effective December 1, 2004, and applies to illegal video gaming machines possessed on or after that date. Except as

otherwise provided in this act, the remainder of this act becomes effective October 1, 2004.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 6 A BILL TO BE ENTITLED AN ACT TO CHANGE THE LAW REGULATING GAMING MACHINES.

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

☒ ~~With a favorable report as~~ Without prejudice to House committee substitute bill (# 3), ☒ which changes the title, unfavorable as to ~~Senate~~ House committee substitute bill. #2 .

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July 12, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JOHN GOODMAN	ALLEY ASSOCIATES
R. Paul Wilms	NCHBA
Rogers Bone	Bone & Assoc.
JERRY SCHILL	NCFA
Patrick Reeder	NAACC
Eddie Caldwell	NC Sheriffs Assn.
Ed Summey SHERIFF	HENDERSON CO. SHERIFFS OFFICE
GEORGE ERWIN, JR.	Henderson County
LT. KENT AUTON	CATAWBA COUNTY SHERIFFS OFFICE
Captain Steve Lail	Catawba County Sheriff's Office
Coy Reid	Catawba Cnty Sheriff's Office

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July 12, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Ronald E. Hewett	Brunswick Co. Sheriff
Keith Smith	Brunswick Co. Sheriff
John Rustin	NC Family Policy Council
Kelly Alley	Alley Assoc.
Ku-Ann Coe	NCPA
Rev. Mark Creech	CAL
Estherine Davis	EC
Michelle Frazier	NC Bar Ass'n
NC Chandler	NC NAACP
JJ Simmons	NCALE
E.J. Edwards	N.C. ALE

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July 12, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Casandra Skinner	NCCCPS
Stephanie Simpson	NC Assn. of Realtors
Bill Brooks	NCFPC
Chris Fitzsimon	NC Policy Watch
Mark Fleming	University System
Thom Mansfield	NC Medical Board
Dean Plunkett	NCB&WW
Jon Carr	Jordan Price Law Firm
Mary K Hackney	Intern - Rep. Hackney
Rob Schofield	NC Justice Center.
Anne Wine	NC Conservation Network
Gordy McCollum	

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 16, 2004
2:50 P.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

COMMITTEE SUBSTITUTE FOR SENATE BILL 577-AN ACT TO PERMIT THE MORE EFFICIENT USE OF ALL COURT PERSONNEL RESOURCES THROUGH CONCURRENT AND REVISED JURISDICTION AND PROCEDURES BY AUTHORIZING DISTRICT COURT JUDGES TO ACCEPT GUILTY PLEAS FOR CERTAIN CLASSES OF FELONY, BY PROVIDING FOR CONCURRENT JURISDICTION FOR DISTRICT AND SUPERIOR COURT JUDGES IN INFRACTIONS AND MISDEMEANOR CASES, BY RAISING THE JURISDICTIONAL AMOUNT FOR SMALL CLAIMS BY AUTHORIZING THE USE OF EXPEDITED CHILD SUPPORT PROCESS UPON THE AGREEMENT OF THE CHIEF DISTRICT COURT JUDGE AND CLERK OF SUPERIOR COURT, AND BY CONFORMING CERTAIN PROCEDURAL REQUIREMENTS IN ACTIONS FOR ABSOLUTE DIVORCE TO THE REQUIREMENTS IN OTHER CIVIL CASES, AS RECOMMENDED BY THE STATE JUDICIAL COUNCIL

HOUSE JOINT SUBSTITUTE FOR SENATE BILL 1044-AN ACT TO PERMIT THE COURT OF WILKES TO ACQUIRE PROPERTY AND CONVEY IT TO THE STATE FOR USE AS A VISITOR'S CENTER/REST AREA

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 823-AN ACT TO AMEND VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENVIRONMENTAL HEALTH, AND NATURAL RESOURCES TO: (1) MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENT; (2) MODIFY ENVIRONMENTAL REPORTING REQUIREMENTS; (3) ABOLISH OBSOLETE AND INACTIVE COUNCILS; (4) EXTEND BY ONE YEAR THE TIME FOR THE DEVELOPMENT OF PERMANENT RULES RELATED TO WATER CONSERVATION PURSUANT TO SECTION 3 OF S.L. 2002-167; (5) PROVIDE FOR STAGGERED TERMS OF THE MEMBERS OF THE AGRICULTURAL FINANCE AUTHORITY AND SPECIFY THE MAXIMUM NUMBER OF SUCCESSIVE TERMS THAT MEMBERS OF THE AUTHORITY MA SERVE; AND (6) PROHIBIT THE SALE OR DISPENSING OF RAW MILK

SENATE BILL 243-AN ACT TO NAME THE HALIFAX-NORTHAMPTON REGIONAL AIRPORT AUTHORITY

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

July 16, 2004

The Committee on Rules, Calendar and Operations of the House met on July 16, 2004 at 2:50 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representatives Culpepper, Chairman; Hackney, Vice Chairman; Brubaker, Church, Crawford, Gorman, Justus, Luebke, McComas, and Owens.

The following bills were considered:

COMMITTEE SUBSTITUTE FOR SENATE BILL 577 – AN ACT TO PERMIT THE MORE EFFICIENT USE OF ALL COURT PERSONNEL RESOURCES THROUGH CONCURRENT AND REVISED JURISDICTION AND PROCEDURES BY AUTHORIZING DISTRICT COURT JUDGES TO ACCEPT GUILTY PLEAS FOR CERTAIN CLASSES OF FELONY, BY PROVIDING FOR CONCURRENT JURISDICTION FOR DISTRICT AND SUPERIOR COURT JUDGES IN INFRACTIONS AND MISDEMEANOR CASES, BY RAISING THE JURISDICTIONAL AMOUNT FOR SMALL CLAIMS, BY AUTHORIZING THE USE OF EXPEDITED CHILD SUPPORT PROCESS UPON THE AGREEMENT OF THE CHIEF DISTRICT COURT JUDGE AND CLERK OF SUPERIOR COURT, AND BY CONFORMING CERTAIN PROCEDURAL REQUIREMENTS IN ACTIONS FOR ABSOLUTE DIVORCE TO THE REQUIREMENTS IN OTHER CIVIL CASES, AS RECOMMENDED BY THE STATE JUDICIAL COUNCIL. A proposed House committee substitute which changes the title to AN ACT TO RAISE THE JURISDICTIONAL AMOUNT FOR SMALL CLAIMS ACTIONS TO FIVE THOUSAND DOLLARS, TO CLARIFY SUPERIOR COURT JURISDICTION FOR REVOCATION OF PROBATION WHEN PLEAS WERE ENTERED IN DISTRICT COURT, TO DEFINE DRUG TREATMENT COURT AS AN INTERMEDIATE PUNISHMENT, TO REQUIRE THE COURT TO GIVE NOTICE OF RIGHTS TO CONTEST MECHANIC LIEN STORAGE CHARGES OF VEHICLES SEIZED UNDER THE DWI FORFEITURE LAWS, TO PERMIT CLERKS OF COURT TO GRANT DIVORCES IN UNCONTESTED ABSOLUTE DIVORCE ACTIONS, TO TERMINATE AS A MATTER OF LAW CERTAIN PARENTAL RIGHTS OF A PERSON CONVICTED OF CERTAIN CRIMES THAT RESULT IN THE VICTIM BECOMING PREGNANT, AND TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO CHANGE THE TERM OF OFFICE OF MAGISTRATES FOR AN INITIAL TERM OF TWO YEARS AND SUBSEQUENT TERMS OF FOUR YEARS was offered and Representative Hackney moved that it be adopted. Without objection, the chairman so ordered. Walker Reagan, staff attorney was recognized to explain the proposed committee substitute. Representative Owens sent forth an amendment and moved for its adoption. The motion carried. Representative Hackney sent forth amendment #2 and moved for its adoption. The motion carried. Representative Hackney sent forth amendment #3 and moved for its adoption. The motion carried. Representative Hackney sent forth amendment #4 and moved for its adoption. The

motion carried. Representative Hackney then moved that the amendments be incorporated into a new committee substitute, and that the new committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion carried.

SENATE BILL 1044 – AN ACT TO PERMIT THE COURT OF WILKES TO ACQUIRE PROPERTY AND CONVEY IT TO THE STATE FOR USE AS A VISITORS' CENTER/REST AREA. A proposed House committee substitute changing the title to AN ACT TO ALLOW THE TOWN OF CORNELIUS TO PROVIDE FOR STREET OR SIDEWALK IMPROVEMENTS WITHOUT PETITION was offered, and Representative Hackney moved for its adoption. Without objection, the chairman so ordered. George Givens, staff attorney, was recognized to explain the proposed committee substitute. Representative Hackney made a motion that the proposed House committee substitute be given a favorable report, unfavorable to the original bill. The motion carried.

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 823-AN ACT TO AMEND VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENVIRONMENTAL HEALTH, AND NATURAL RESOURCES TO: (1) MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS; (2) MODIFY ENVIRONMENTAL REPORTING REQUIREMENTS; (3) ABOLISH OBSOLETE AND INACTIVE COUNCILS; (4) EXTEND BY ONE YEAR THE TIME FOR THE DEVELOPMENT OF PERMANENT RULES RELATED TO WATER CONSERVATION PURSUANT TO SECTION 3 OF S.L. 2002-167; (5) PROVIDE FOR STAGGERED TERMS OF THE MEMBERS OF THE AGRICULTURAL FINANCE AUTHORITY AND SPECIFY THE MAXIMUM NUMBER OF SUCCESSIVE TERMS THAT MEMBERS OF THE AUTHORITY MAY SERVE; AND (6) PROHIBIT THE SALE OR DISPENSING OF RAW MILK. A proposed House committee substitute #3 changing the title to AN ACT TO AMEND VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENVIRONMENTAL HEALTH, AND NATURAL RESOURCES TO: (1) MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS; (2) MODIFY ENVIRONMENTAL REPORTING REQUIREMENTS (3) ABOLISH OBSOLETE AND INACTIVE COUNCILS; (4) EXTEND BY ONE YEAR THE TIME FOR THE DEVELOPMENT OF PERMANENT RULES RELATED TO WATER CONSERVATION PURSUANT TO SECTION 3 OF S.L.2002-167; (5) PROVIDE FOR STAGGERED TERMS FOR THE MEMBERS OF THE AGRICULTURAL FINANCE AUTHORITY, TO MAKE APPOINTMENTS TO THE AUTHORITY, AND SPECIFY THE MAXIMUM NUMBER OF SUCCESSIVE TERMS THAT MEMBERS OF THE AUTHORITY MAY SERVE; AND (6) PROHIBIT THE SALE OR DISPENSING OF RAW MILK, AND TO PROVIDE FOR FILLING VACANCIES IN LEGISLATIVE APPOINTMENT IN CERTAIN CIRCUMSTANCES was offered. Representative Hackney moved for its adoption. Without objection, the chairman so ordered. George Givens, staff attorney, ws recognized to explain the proposed committee substitute. Representative Hackney moved that the proposed House committee substitute #2 be given a favorable report, unfavorable to House committee substitute #1. The motion carried.

SENATE BILL 243 –AN ACT TO NAME THE HALIFAX-NORTHAMPTON REGIONAL AIRPORT AUTHORITY. A proposed House committee substitute changing the title to AN ACT TO REQUIRE COUNTIES TO CONDUCT AN ASSESSMENT OF THE PROVIDERS OF EMERGENCY MEDICAL SERVICES OPERATIONS WITHIN THE COUNTY WITHIN THE PREVIOUS EIGHTEEN MONTHS AND TO AUTHORIZE THE COUNTY TO CONTRACT WITH CERTAIN PROVIDERS was offered, and Representative McComas moved that it be adopted. Without objection, the chairman so ordered. Erika Churchill, staff attorney, was recognized to explain the proposed committee substitute. Representative Wright, sponsor, was recognized to speak on the bill. Representative Owens sent forth an amendment and moved for its adoption. The motion carried. Representative Hackney sent forth amendment #2 and moved for its adoption. Representative Brubaker sent forth amendment #3 and moved for its adoption. The motion carried. Representative Hackney moved that the amendments be incorporated into a new House committee substitute, and that the new committee substitute be given a favorable report, unfavorable to the original bill. The motion passed.

The meeting adjourned at 3:45 p.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

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SENATE BILL 577

Judiciary I Committee Substitute Adopted 4/28/03
Third Edition Engrossed 4/29/03

Short Title: Adjust Court Jurisdiction. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE MORE EFFICIENT USE OF ALL COURT PERSONNEL RESOURCES THROUGH CONCURRENT AND REVISED JURISDICTION AND PROCEDURES BY AUTHORIZING DISTRICT COURT JUDGES TO ACCEPT GUILTY PLEAS FOR CERTAIN CLASSES OF FELONY, BY PROVIDING FOR CONCURRENT JURISDICTION FOR DISTRICT AND SUPERIOR COURT JUDGES IN INFRACTIONS AND MISDEMEANOR CASES, BY RAISING THE JURISDICTIONAL AMOUNT FOR SMALL CLAIMS, BY AUTHORIZING THE USE OF EXPEDITED CHILD SUPPORT PROCESS UPON THE AGREEMENT OF THE CHIEF DISTRICT COURT JUDGE AND CLERK OF SUPERIOR COURT, AND BY CONFORMING CERTAIN PROCEDURAL REQUIREMENTS IN ACTIONS FOR ABSOLUTE DIVORCE TO THE REQUIREMENTS IN OTHER CIVIL CASES, AS RECOMMENDED BY THE STATE JUDICIAL COUNCIL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-272(c) reads as rewritten:

"(c) With the consent of the presiding district court judge, the prosecutor, and the defendant, the district court has jurisdiction to accept a defendant's plea of guilty or no contest to a Class ~~H or I felony~~ D, E, F, G, H, or I felony, regardless of the seriousness of the original charge, if:

(1) The defendant is charged with a felony in an information filed pursuant to G.S. 15A-644.1, the felony is pending in district court, and the defendant has not been indicted for the offense; or

(2) The defendant has been indicted for a criminal offense but the defendant's case is transferred from superior court to district court pursuant to G.S. 15A-1029.1."

SECTION 2. G.S. 15A-1029.1(a) reads as rewritten:

"(a) With the consent of both the prosecutor and the defendant, the presiding superior court judge may order a transfer of the defendant's case to the district court for the purpose of allowing the defendant to enter a plea of guilty or no contest to a Class ~~H or I felony.~~ D, E, F, G, H, or I felony, regardless of the seriousness of the original charge."

SECTION 3. G.S. 7A-271 reads as rewritten:

"**§ 7A-271. Jurisdiction of superior court.**

(a) The superior court has exclusive, original jurisdiction over all criminal actions not assigned to the district court division by this Article, except that the superior court has jurisdiction to try a misdemeanor:

(1) Which is a lesser included offense of a felony on which an indictment has been returned, or a felony information as to which an indictment has been properly waived; or

(2) When the charge is initiated by presentment; or

(3) Which may be properly consolidated for trial with a felony under G.S. 15A-926;

(4) To which a plea of guilty or nolo contendere is tendered in lieu of a felony charge; or

(5) When a misdemeanor conviction is appealed to the superior court for trial de novo, to accept a guilty plea to a lesser included or related charge.

(a1) With the consent of the presiding district court judge and the presiding superior court judge, a superior court judge may exercise the jurisdiction of the district court to hear and enter judgment in misdemeanors pending in the district court. Appeals from misdemeanor convictions before a superior court judge exercising the jurisdiction of the district court shall be to superior court for a trial de novo before a different superior court judge.

(b) ~~Appeals~~ Except as otherwise provided by law, appeals by the State or the defendant from the district court are to the superior court. The jurisdiction of the superior court over misdemeanors appealed from the district court to the superior court for trial de novo is the same as the district court had in the first instance, and when that conviction resulted from a plea arrangement between the defendant and the State pursuant to which misdemeanor charges were dismissed, reduced, or modified, to try those charges in the form and to the extent that they subsisted in the district court immediately prior to entry of the defendant and the State of the plea arrangement.

(c) When a district court is established in a district, any superior court judge presiding over a criminal session of court shall order transferred to the district court any pending misdemeanor which does not fall within the provisions of subsection (a), and which is not pending in the superior court on appeal from a lower court.

(d) The criminal jurisdiction of the superior court includes the jurisdiction to dispose of infractions only in the following circumstances:

(1) If the infraction is a lesser-included violation of a criminal action properly before the court, the court must submit the infraction for the jury's consideration in factually appropriate cases.

(2) If the infraction is a lesser-included violation of a criminal action properly before the court, or if it is a related charge, the court may accept admissions of responsibility for the infraction. A proper pleading for the criminal action is sufficient to support a finding of responsibility for the lesser-included infraction.

(e) With the consent of the presiding district court judge and the presiding superior court judge, a superior court judge may exercise the jurisdiction of the district court to hear and enter judgment in infractions pending in the district court. Appeals from infraction convictions before a superior court judge exercising the jurisdiction of the district court shall be to superior court for a trial de novo before a different superior court judge."

SECTION 4. G.S. 7A-210 reads as rewritten:

"**§ 7A-210. Small claim action defined.**

For purposes of this Article a small claim action is a civil action wherein:

(1) The amount in controversy, computed in accordance with G.S. 7A-243, does not exceed ~~four thousand dollars ($4,000);~~ five thousand dollars ($5,000); and

(2) The only principal relief prayed is monetary, or the recovery of specific personal property, or summary ejectment, or any combination of the foregoing in properly joined claims; and

(3) The plaintiff has requested assignment to a magistrate in the manner provided in this Article.

The seeking of the ancillary remedy of claim and delivery or an order from the clerk of superior court for the relinquishment of property subject to a lien pursuant to G.S 44A-4(a) does not prevent an action otherwise qualifying as a small claim under this Article from so qualifying."

SECTION 5. G.S. 50-34 is amended by adding a new subsection to read:

"(a1) Districts May Elect Expedited Process. – A chief district court judge in a district court district that is not required by G.S. 50-33(b) to implement the expedited process may elect to implement the expedited child support process provided for in this Article in any or all counties within a district court district. A chief district court judge may implement the expedited child support process only with the consent of the clerk of superior court of any county in which the process is implemented. Notwithstanding subsection (b) of this section, when a district court district elects to implement the expedited child support process, the chief district court judge and the clerk of superior court in an affected county shall determine by agreement whether the child support hearing officer or officers for that county shall be one or more clerks or assistant clerks or one or more magistrates. If it is decided that the hearing officer or officers for a county shall be magistrates, the chief district court judge shall designate the person or persons to serve as a hearing officer. If it is decided that the hearing officer or officers for a county shall be the clerk or assistant clerks, the clerk of superior court in the county shall designate the person or persons to serve as hearing officer. The chief district court judge, the clerk of superior court, and the Administrative Officer of the

Courts shall ensure the qualification of the persons designated as child support hearing officers."

SECTION 6. G.S. 50-10 is repealed.

SECTION 7. G.S. 1A-1, Rule 55(b)(1), reads as rewritten:

"(b) Judgment. – Judgment by default may be entered as follows:

(1) By the Clerk. –

a. When the plaintiff's claim against a defendant is for a sum certain or for a sum which can by computation be made certain, the clerk upon request of the plaintiff and upon affidavit of the amount due shall enter judgment for that amount and costs against the defendant, if the defendant has been defaulted for failure to appear and if the defendant is not an infant or incompetent person. A verified pleading may be used in lieu of an affidavit when the pleading contains information sufficient to determine or compute the sum certain.

In all cases wherein, pursuant to this rule, the clerk enters judgment by default upon a claim for debt which is secured by any pledge, mortgage, deed of trust or other contractual security in respect of which foreclosure may be had, or upon a claim to enforce a lien for unpaid taxes or assessments under G.S. 105-414, the clerk may likewise make all further orders required to consummate foreclosure in accordance with the procedure provided in Article 29A of Chapter 1 of the General Statutes, entitled "Judicial Sales".

b. The clerk of superior court, upon request of the plaintiff, may enter judgment in cases in which the plaintiff's only claim against the defendant is for absolute divorce, or absolute divorce and the resumption of a former name, and the defendant has been defaulted for failure to appear, or the defendant has answered admitting the allegations of the complaint and joining in the request for an absolute divorce, or the defendant has filed a waiver of the right to answer and joined in the request for an absolute divorce, and the defendant is not an infant or incompetent person."

SECTION 8. This act becomes effective October 1, 2003, and applies to cases pending or filed on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

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SENATE BILL 577
Judiciary I Committee Substitute Adopted 4/28/03
Third Edition Engrossed 4/29/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S577-CSRU-65 [v.5]

7/16/2004 2:25:43 PM

Short Title: Adjust Court Juris./Amend Magistrate Term. (Public)

Sponsors:

Referred to:

March 31, 2003

A BILL TO BE ENTITLED

AN ACT TO RAISE THE JURISDICTIONAL AMOUNT FOR SMALL CLAIMS ACTIONS TO FIVE THOUSAND DOLLARS, TO CLARIFY SUPERIOR COURT JURISDICTION FOR REVOCATION OF PROBATION WHEN PLEAS WERE ENTERED IN DISTRICT COURT, TO DEFINE DRUG TREATMENT COURT AS AN INTERMEDIATE PUNISHMENT, TO REQUIRE THE COURT TO GIVE NOTICE OF RIGHTS TO CONTEST MECHANIC LIEN STORAGE CHARGES OF VEHICLES SEIZED UNDER THE DWI FORFEITURE LAWS, TO PERMIT CLERKS OF COURT TO GRANT DIVORCES IN UNCONTESTED ABSOLUTE DIVORCE ACTIONS, TO TERMINATE AS A MATTER OF LAW CERTAIN PARENTAL RIGHTS OF A PERSON CONVICTED OF CERTAIN CRIMES THAT RESULT IN THE VICTIM BECOMING PREGNANT, AND TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO CHANGE THE TERM OF OFFICE OF MAGISTRATES FOR AN INITIAL TERM OF TWO YEARS AND SUBSEQUENT TERMS OF FOUR YEARS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 7A-210 reads as rewritten:

"**§ 7A-210. Small claim action defined.**

For purposes of this Article a small claim action is a civil action wherein:

(1) The amount in controversy, computed in accordance with G.S. 7A-243, does not exceed ~~four thousand dollars ($4,000);~~ five thousand dollars ($5,000); and

(2) The only principal relief prayed is monetary, or the recovery of specific personal property, or summary ejectment, or any combination of the foregoing in properly joined claims; and

(3) The plaintiff has requested assignment to a magistrate in the manner provided in this Article.

The seeking of the ancillary remedy of claim and delivery or an order from the clerk of superior court for the relinquishment of property subject to a lien pursuant to G.S 44A-4(a) does not prevent an action otherwise qualifying as a small claim under this Article from so qualifying."

SECTION 2. G.S. 7A-271 is amended by adding a new subsection to read:

"(e) The superior court has exclusive jurisdiction over all hearings held pursuant to G.S. 15A-1345(e) where the district court had accepted a defendant's plea of guilty or no contest to a felony under the provisions of G.S. 7A-272(c)."

SECTION 3. G.S. 15A-1340.11 reads as rewritten:

"**§ 15A-1340.11. Definitions.**

The following definitions apply in this Article:

(1) Active punishment. – A sentence in a criminal case that requires an offender to serve a sentence of imprisonment and is not suspended. Special probation, as defined in G.S. 15A-1351, is not an active punishment.

(2) Community punishment. – A sentence in a criminal case that does not include an active punishment, an intermediate punishment, or any of the conditions of probation listed in subdivision (6) of this section.

(3) Day-reporting center. – A facility to which offenders are required, as a condition of probation, to report on a daily or other regular basis at specified times for a specified length of time to participate in activities such as counseling, treatment, social skills training, or employment training.

(3a) Drug treatment court program. – Program to which offenders are required, as a condition of probation, to comply with the rules adopted for the program as provided for in Article 62 of Chapter 7A of the General Statutes and to report on a regular basis for a specified time to participate in:

a. Court supervision.

b. Drug screening or testing.

c. Drug or alcohol treatment programs.

(4) Repealed by Session Laws 1997-57, s. 2.

(4a) House arrest with electronic monitoring. – Probation in which the offender is required to remain at his or her residence unless the court or the probation officer authorizes the offender to leave for the purpose of employment, counseling, a course of study, or vocational training. The offender shall be required to wear a device which permits the supervising agency to monitor the offender's compliance with the condition electronically.

(5) Intensive probation. – Probation that requires the offender to submit to supervision by officers assigned to the Intensive Supervision Program established pursuant to G.S. 143B-262(c), and to comply with the rules

adopted for that Program. Unless otherwise ordered by the court, intensive supervision also requires multiple contacts by a probation officer per week, a specific period each day during which the offender must be at his or her residence, and that the offender remain gainfully and suitably employed or faithfully pursue a course of study or of vocational training that will equip the offender for suitable employment.

(6) Intermediate punishment. – A sentence in a criminal case that places an offender on supervised probation and includes at least one of the following conditions:

a. Special probation as defined in G.S. 15A-1351(a).
b. Assignment to a residential program.
c. House arrest with electronic monitoring.
d. Intensive probation.
e. Assignment to a day-reporting center.
f. Assignment to a drug treatment court program.

(7) Prior conviction. – A person has a prior conviction when, on the date a criminal judgment is entered, the person being sentenced has been previously convicted of a crime:

a. In the district court, and the person has not given notice of appeal and the time for appeal has expired; or
b. In the superior court, regardless of whether the conviction is on appeal to the appellate division; or
c. In the courts of the United States, another state, the armed services of the United States, or another country, regardless of whether the offense would be a crime if it occurred in North Carolina,

regardless of whether the crime was committed before or after the effective date of this Article.

(8) Residential program. – A program in which the offender, as a condition of probation, is required to reside in a facility for a specified period and to participate in activities such as counseling, treatment, social skills training, or employment training, conducted at the residential facility or at other specified locations."

SECTION 4. G.S. 20-28.4 reads as rewritten:

"**§ 20-28.4. Release of impounded motor vehicles by judge.**

(a) Release Upon Conclusion of Trial. – If the driver of a motor vehicle seized pursuant to G.S. 20-28.3:

(1) Is subsequently not convicted of an offense involving impaired driving due to dismissal or a finding of not guilty; or
(2) The judge at a forfeiture hearing conducted pursuant to G.S. 20-28.2(d) fails to find that the drivers license was revoked as a result of a prior impaired driving license revocation as defined in G.S. 20-28.2; and

(3) The vehicle has not previously been released to a lienholder pursuant to G.S. 20-28.3(e3),

the seized motor vehicle or insurance proceeds held by the clerk of court pursuant to G.S. 20-28.2(c1) or G.S. 20-28.3(h) shall be released to the motor vehicle owner conditioned upon payment of towing and storage costs. The court shall not waive the payment of towing and storage costs. The court shall include in its order notice to the owner of the seized motor vehicle still being held, that within 30 days of the date of the court's order, the owner must make payment of the outstanding towing and storage costs for the motor vehicle and retrieve the motor vehicle, or give notice to Division of Motor Vehicles requesting a judicial hearing on the validity of any mechanics lien on the motor vehicle for towing and storage costs.

(b) Notwithstanding G.S. 44A-2(d), if the owner of the seized motor vehicle does not obtain release of the vehicle within 30 days from the date of the court's order, the possessor of the seized motor vehicle has a mechanics' lien on the seized motor vehicle for the full amount of the towing and storage charges incurred since the motor vehicle was seized and may dispose of the seized motor vehicle pursuant to Article 1 of Chapter 44A of the General Statutes. Notice of the right to a judicial hearing on the validity of the mechanics lien given to the owner of the motor vehicle in open court in accordance with subsection (a) of this section or delivery to the owner of the vehicle of a copy of the court's order entered in accordance with subsection (a) of this section shall satisfy the notice requirement of G.S. 44A-4(b)."

SECTION 5. G.S. 44A-4(b) reads as rewritten:

"(b) Notice and Hearings. –

(1) If the property upon which the lien is claimed is a motor vehicle that is required to be registered, the lienor following the expiration of the relevant time period provided by subsection (a) shall give notice to the Division of Motor Vehicles that a lien is asserted and sale is proposed and shall remit to the Division a fee of ten dollars ($10.00). The Division of Motor Vehicles shall issue notice by registered or certified mail, return receipt requested, to the person having legal title to the property, if reasonably ascertainable, to the person with whom the lienor dealt if different, and to each secured party and other person claiming an interest in the property who is actually known to the Division or who can be reasonably ascertained. The notice shall state that a lien has been asserted against specific property and shall identify the lienor, the date that the lien arose, the general nature of the services performed and materials used or sold for which the lien is asserted, the amount of the lien, and that the lienor intends to sell the property in satisfaction of the lien. The notice shall inform the recipient that the recipient has the right to a judicial hearing at which time a determination will be made as to the validity of the lien prior to a sale taking place. The notice shall further state that the recipient has a period of 10 days from the date of receipt in which to notify the Division by registered or certified mail, return receipt requested, that a

hearing is desired and that if the recipient wishes to contest the sale of his property pursuant to such lien, the recipient should notify the Division that a hearing is desired. The notice shall state the required information in simplified terms and shall contain a form whereby the recipient may notify the Division that a hearing is desired by the return of such form to the Division. The Division shall notify the lienor whether such notice is timely received by the Division. In lieu of the notice by the lienor to the Division and the notices issued by the Division described above, the lienor may issue notice on a form approved by the Division pursuant to the notice requirements above. If notice is issued by the lienor, the recipient shall return the form requesting a hearing to the lienor, and not the Division, within 10 days from the date the recipient receives the notice if a judicial hearing is requested. If the registered or certified mail notice has been returned as undeliverable, and the notice of a right to a judicial hearing has been given to the owner of the motor vehicle in accordance with G.S. 20-28.4, no further notice is required. Failure of the recipient to notify the Division or lienor, as specified in the notice, within 10 days of the receipt of such notice that a hearing is desired shall be deemed a waiver of the right to a hearing prior to the sale of the property against which the lien is asserted, and the lienor may proceed to enforce the lien by public or private sale as provided in this section and the Division shall transfer title to the property pursuant to such sale. If the Division or lienor, as specified in the notice, is notified within the 10-day period provided above that a hearing is desired prior to sale, the lien may be enforced by sale as provided in this section and the Division will transfer title only pursuant to the order of a court of competent jurisdiction.

If the registered or certified mail notice has been returned as undeliverable, or if the name of the person having legal title to the vehicle cannot reasonably be ascertained and the fair market value of the vehicle is less than eight hundred dollars ($800.00), the lienor may institute a special proceeding in the county where the vehicle is being held, for authorization to sell that vehicle. Market value shall be determined by the schedule of values adopted by the Commissioner under G.S. 105-187.3.

In such a proceeding a lienor may include more than one vehicle, but the proceeds of the sale of each shall be subject only to valid claims against that vehicle, and any excess proceeds of the sale shall be paid immediately to the Treasurer for disposition pursuant to Chapter 116B of the General Statutes.

The application to the clerk in such a special proceeding shall contain the notice of sale information set out in subsection (f) hereof. If the application is in proper form the clerk shall enter an order

authorizing the sale on a date not less than 14 days therefrom, and the lienor shall cause the application and order to be sent immediately by first-class mail pursuant to G.S. 1A-1, Rule 5, to each person to whom notice was mailed pursuant to this subsection. Following the authorized sale the lienor shall file with the clerk a report in the form of an affidavit, stating that the lienor has complied with the public or private sale provisions of G.S. 44A-4, the name, address, and bid of the high bidder or person buying at a private sale, and a statement of the disposition of the sale proceeds. The clerk then shall enter an order directing the Division to transfer title accordingly.

If prior to the sale the owner or legal possessor contests the sale or lien in a writing filed with the clerk, the proceeding shall be handled in accordance with G.S. 1-301.2.

..."

SECTION 6. G.S. 50-10 reads as rewritten:

"**§ 50-10. Material facts found by judge or jury in divorce or annulment proceedings; when notice of trial not required; procedure same as ordinary civil actions.**

(a) ~~The~~ Except as provided for in subsection (e) of this section, the material facts in every complaint asking for a divorce or for an annulment shall be deemed to be denied by the defendant, whether the same shall be actually denied by pleading or not, and no judgment shall be given in favor of the plaintiff in any such complaint until such facts have been found by a judge or jury.

(b) Nothing herein shall require notice of trial to be given to a defendant who has not made an appearance in the action.

(c) The determination of whether there is to be a jury trial or a trial before the judge without a jury shall be made in accordance with G.S. 1A-1, Rules 38 and 39.

(d) The provisions of G.S. 1A-1, Rule 56, shall be applicable to actions for absolute divorce pursuant to G.S. 50-6, for the purpose of determining whether any genuine issue of material fact remains for trial by jury, but in the event the court determines that no genuine issue of material fact remains for trial by jury, the court must find the facts as provided herein. The court may enter a judgment of absolute divorce pursuant to the procedures set forth in G.S. 1A-1, Rule 56, finding all requisite facts from nontestimonial evidence presented by affidavit, verified motion or other verified pleading.

(e) The clerk of superior court, upon request of the plaintiff, may enter judgment in cases in which the plaintiff's only claim against the defendant is for absolute divorce, or absolute divorce and the resumption of a former name, and the defendant has been defaulted for failure to appear, or the defendant has answered admitting the allegations of the complaint and joining in the request for an absolute divorce, or the defendant has filed a waiver of the right to answer and joined in the request for an absolute divorce, and the defendant is not an infant or incompetent person."

SECTION 7. G.S. 14-27.2 reads as rewritten:

"**§ 14-27.2. First-degree rape.**

(a) A person is guilty of rape in the first degree if the person engages in vaginal intercourse:

(1) With a victim who is a child under the age of 13 years and the defendant is at least 12 years old and is at least four years older than the victim; or

(2) With another person by force and against the will of the other person, and:

a. Employs or displays a dangerous or deadly weapon or an article which the other person reasonably believes to be a dangerous or deadly weapon; or

b. Inflicts serious personal injury upon the victim or another person; or

c. The person commits the offense aided and abetted by one or more other persons.

(b) Any person who commits an offense defined in this section is guilty of a Class B1 felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child born as a result of the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes."

SECTION 8. G.S. 14-27.3 reads as rewritten:

"**§ 14-27.3. Second-degree rape.**

(a) A person is guilty of rape in the second degree if the person engages in vaginal intercourse with another person:

(1) By force and against the will of the other person; or

(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally disabled, mentally incapacitated, or physically helpless.

(b) Any person who commits the offense defined in this section is guilty of a Class C felony.

(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child conceived during the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes."

SECTION 9. G.S. 48-3-603(a) reads as rewritten:

"(a) Consent to an adoption of a minor is not required of a person or entity whose consent is not required under G.S. 48-3-601, or:

(1) An individual whose parental rights and duties have been terminated under Article 11 of Chapter 7B of the General Statutes or by a court of competent jurisdiction in another state;

(2) A man described in G.S. 48-3-601(2), other than an adoptive father, if (i) the man has been judicially determined not to be the father of the

minor to be adopted, or (ii) another man has been judicially determined to be the father of the minor to be adopted;

(3) Repealed by Session Laws 1997-215, s. 11(a).

(4) An individual who has relinquished parental rights or guardianship powers, including the right to consent to adoption, to an agency pursuant to Part 7 of this Article;

(5) A man who is not married to the minor's birth mother and who, after the conception of the minor, has executed a notarized statement denying paternity or disclaiming any interest in the minor;

(6) A deceased parent or the personal representative of a deceased parent's estate; or

(7) An individual listed in G.S. 48-3-601 who has not executed a consent or a relinquishment and who fails to respond to a notice of the adoption proceeding within 30 days after the service of the notice.

(8) An individual notified under G.S. 48-2-206 who does not respond in a timely manner or whose consent is not required as determined by the court.

(9) An individual whose actions resulted in a conviction under G.S. 14-27.2 or 14-27.3 and the conception of the minor to be adopted."

SECTION 10. G.S. 50-13.1(a) reads as rewritten:

"(a) Any parent, relative, or other person, agency, organization or institution claiming the right to custody of a minor child may institute an action or proceeding for the custody of such child, as hereinafter provided. Any person whose actions resulted in a conviction under G.S. 14-27.2 or 14-27.3 and the conception of the minor child may not claim the right to custody of that minor child. Unless a contrary intent is clear, the word "custody" shall be deemed to include custody or visitation or both."

SECTION 11. G.S. 7B-402 reads as rewritten:

"**§ 7B-402. Petition.**

The petition shall contain the name, date of birth, address of the juvenile, the name and last known address of the juvenile's parent, guardian, or custodian and shall allege the facts which invoke jurisdiction over the juvenile. A person whose actions resulted in a conviction under G.S. 14-27.2 or 14-27.3 and the conception of the juvenile need not be named in the petition. The petition may contain information on more than one juvenile when the juveniles are from the same home and are before the court for the same reason.

Sufficient copies of the petition shall be prepared so that copies will be available for each parent if living separate and apart, the guardian, custodian, or caretaker, the guardian ad litem, the social worker, and any person determined by the court to be a necessary party."

SECTION 12. G.S. 7B-406(a) reads as rewritten:

"(a) Immediately after a petition has been filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall issue a summons to the parent, guardian, custodian, or caretaker requiring them to appear for a hearing at the time and place

stated in the summons. No summons is required for any person whose actions resulted in a conviction under G.S. 14-27.2 or 14-27.3 and the conception of the juvenile. A copy of the petition shall be attached to each summons. Service of the summons shall be completed as provided in G.S. 7B-407, but the parent of the juvenile shall not be deemed to be under a disability even though the parent is a minor."

SECTION 13. G.S. 7B-1103 is amended by adding a new subsection to read:

"(c) No person whose actions resulted in a conviction under G.S. 14-27.2 or 14-27.3 and the conception of the juvenile may file a petition to terminate the parental rights of another with respect to that juvenile."

SECTION 14. G.S. 7B-1104 reads as rewritten:

"**§ 7B-1104. Petition or motion.**

The petition, or motion pursuant to G.S. 7B-1102, shall be verified by the petitioner or movant and shall be entitled "In Re (last name of juvenile), a minor juvenile"; and shall set forth such of the following facts as are known; and with respect to the facts which are unknown the petitioner or movant shall so state:

(1) The name of the juvenile as it appears on the juvenile's birth certificate, the date and place of birth, and the county where the juvenile is presently residing.

(2) The name and address of the petitioner or movant and facts sufficient to identify the petitioner or movant as one authorized by G.S. 7B-1103 to file a petition or motion.

(3) The name and address of the parents of the juvenile. If the name or address of one or both parents is unknown to the petitioner or movant, the petitioner or movant shall set forth with particularity the petitioner's or movant's efforts to ascertain the identity or whereabouts of the parent or parents. The information may be contained in an affidavit attached to the petition or motion and incorporated therein by reference. A person whose actions resulted in a conviction under G.S. 14-27.2 or 14-27.3 and the conception of the juvenile need not be named in the petition.

(4) The name and address of any person who has been judicially appointed as guardian of the person of the juvenile.

(5) The name and address of any person or agency to whom custody of the juvenile has been given by a court of this or any other state; and a copy of the custody order shall be attached to the petition or motion.

(6) Facts that are sufficient to warrant a determination that one or more of the grounds for terminating parental rights exist.

(7) That the petition or motion has not been filed to circumvent the provisions of Article 2 of Chapter 50A of the General Statutes, the Uniform Child-Custody Jurisdiction and Enforcement Act."

SECTION 15. G.S. 14-226 reads as rewritten:

"**§ 14-226. Intimidating or interfering with witnesses.**

(a) If any person shall by threats, menaces or in any other manner intimidate or attempt to intimidate any person who is summoned or acting as a witness in any of the courts of this State, or prevent or deter, or attempt to prevent or deter any person summoned or acting as such witness from attendance upon such court, he shall be guilty of a Class H felony.

(b) A defendant in a criminal proceeding who threatens a witness in the defendant's case with the assertion or denial of parental rights shall be a violation of this section."

SECTION 16. Section 10 of Article IV of the North Carolina Constitution reads as rewritten:

"**Sec. 10. District Courts.**

The General Assembly shall, from time to time, divide the State into a convenient number of local court districts and shall prescribe where the District Courts shall sit, but a District Court must sit in at least one place in each county. District Judges shall be elected for each district for a term of four years, in a manner prescribed by law. When more than one District Judge is authorized and elected for a district, the Chief Justice of the Supreme Court shall designate one of the judges as Chief District Judge. Every District Judge shall reside in the district for which he is elected. For each county, the senior regular resident Judge of the Superior Court serving the county shall appoint ~~for a term of two years,~~ from nominations submitted by the Clerk of the Superior Court of the county, one or more Magistrates who shall be officers of the District Court. The initial term of appointment for a magistrate shall be for two years and subsequent terms shall be for four years. The number of District Judges and Magistrates shall, from time to time, be determined by the General Assembly. Vacancies in the office of District Judge shall be filled for the unexpired term in a manner prescribed by law. Vacancies in the office of Magistrate shall be filled for the unexpired term in the manner provided for original appointment to the ~~office.~~ office, unless otherwise provided by the General Assembly."

SECTION 17. 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 2004, 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 to provide for the first term of office for magistrates of the General Court of Justice to be two years and for subsequent terms to be four years."

SECTION 18. If a majority of the 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, who shall enroll the amendment so certified among the permanent records of that office. The amendment becomes effective January 1, 2005.

SECTION 19. G.S. 7A-171 reads as rewritten:

"**§ 7A-171. Numbers; appointment and terms; vacancies.**

(a) The General Assembly shall establish a minimum and a maximum quota of magistrates for each county. In no county shall the minimum quota be less than one. The number of magistrates in a county, within the quota set by the General Assembly, is determined by the Administrative Office of the Courts, after consultation with the chief district court judge for the district in which the county is located.

(a1) The initial term of appointment for a magistrate is two years and subsequent terms shall be for a period of four years. The term of office begins on the first day of January of the odd-numbered year after appointment. The service of an individual as a magistrate filling a vacancy as provided in subsection (d) of this section does not constitute an initial term. For purposes of this section, any term of office for a magistrate who has served a two-year term is for four years even if the two-year term of appointment was before the effective date of this section, the term is after a break in service, or the term is for appointment in a different county from the county where the two-year term of office was served.

(b) Not earlier than the Tuesday after the first Monday nor later than the third Monday in December of each even-numbered year, the clerk of the superior court shall submit to the senior regular resident superior court judge of the district or set of districts as defined in G.S. 7A-41.1(a) in which ~~his~~ the clerk's county is located the names of two (or more, if requested by the judge) nominees for each magisterial office ~~in the minimum quota established~~ for the ~~county.~~ county for which the term of office of the magistrate holding that position shall expire on December 31 of that year. Not later than the fourth Monday in December, the senior regular resident superior court judge shall, from the nominations submitted by the clerk of the superior court, appoint magistrates to fill the ~~minimum quota established~~ positions for each county of ~~his~~ the judge's district or set of districts. ~~The term of a magistrate so appointed shall be two years, commencing on the first day in January of the calendar year next ensuing the calendar year of appointment.~~

(c) ~~After the biennial appointment of the minimum quota of magistrates, additional magistrates in a number not to exceed, in total, the maximum quota established for each county may be appointed in the following manner. The chief district judge for the district court district in which the county is located, with the approval of the Administrative Officer of the Courts, may certify to the clerk of superior court that the minimum quota is insufficient for the efficient administration of justice and that a specified additional number, not to exceed the maximum quota established for the county, is required. Within 15 days after the receipt of this certification the clerk of superior court shall submit to the senior regular resident superior court judge of the district or set of districts as defined in G.S. 7A-41.1(a) in which his county is located the names of two (or more, if requested by the judge) nominees for each additional magisterial office. Within 15 days after receipt of the nominations the senior regular resident superior court judge shall from the nominations submitted appoint magistrates in the number specified in the certification. A magistrate so appointed shall serve a term commencing immediately and expiring on the same day as the terms of office of magistrates appointed to fill the minimum quota for the county.~~ If an additional magisterial office for a county is approved to commence on January 1 of an

odd-numbered year, the new position shall be filled as provided in subsection (b) of this section. If the additional position takes effect at any other time, it is to be filled as provided in subsection (d) of this section.

(d) Within 30 days after a vacancy in the office of magistrate occurs the clerk of superior court shall submit to the senior regular resident superior court judge the names of two (or more, if so requested by the judge) nominees for the office vacated. Within 15 days after receipt of the nominations the senior regular resident superior court judge shall appoint from the nominations received a magistrate who shall take office immediately and shall serve ~~for the remainder of the unexpired term.~~ until December 31 of the even-numbered year, and thereafter the position shall be filled as provided in subsection (b) of this section."

SECTION 20. Sections 1 and 6 of this act become effective October 1, 2004, and apply to actions filed on or after that date. Sections 7 through 15 of this act become effective December 1, 2004, and apply to offenses committed on or after that date Sections 2, 3, 16, 17, 18 and 20 of this act are effective when they become law. Sections 4 and 5 of this act become effective October 1, 2004 and apply to orders entered on or after that date. Section 19 of this act becomes effective only upon approval by the voters of the constitutional amendment proposed in Section 16 of this act. If the constitutional amendment proposed in Section 16 is approved by the voters, Section 19 of this act becomes effective January 1, 2005, and applies to appointments that take effect after that date.

SENATE BILL 577: Adjust Court Jurisdiction/Amend Magistrate Term.

BILL ANALYSIS

Committee:	House Rules	**Introduced by:**	Senator Clodfelter
Date:	July 16, 2004	**Summary by:**	O. Walker Reagan, Staff Attorney
Version:	Proposed Committee Substitute S577-CSRU-65		

SUMMARY: ***The Proposed Committee Substitute for Senate Bill 577 raises the jurisdiction of small claims court to $5000, clarifies the jurisdiction of superior court to revoke probation of pleas entered in district court, defines drug treatment courts as an intermediate punishment, requires the court to give notice of mechanics liens in DWI forfeiture releases, permits the clerks of court to grant uncontested divorces, terminates certain parental rights of a person convicted of 1st or 2nd degree rape and the child is conceived as a result of the crime, and proposes a constitutional amendment to change the term of magistrates from two years to an initial term of two years and subsequent terms of four years.***

BILL ANALYSIS: Section 1 of the House proposed committee substitute raises the limit on civil claims that can be brought in Small Claims Court before a magistrate from $4,000 to $5,000. Appeals for trial de novo are to the district court.

Section 2 clarifies in statute that superior court has exclusive jurisdiction to hear matters concerning the revocation of probation in felony cases, even when the original plea and sentence was handled in district court. This change conforms to a recent Supreme Court case interpreting the current law this way.

Section 3 adds drug treatment court programs to the list of intermediate punishments that a court may utilize. The drug treatment court program may include court supervision, drug testing and drug or alcohol treatment programs.

Sections 4 and 5 amend the mechanics lien statutes as it relates to storage charges for vehicles held under the DWI forfeiture laws. This change would require a judge to include in any order releasing the vehicle from the seizure notice to the owner that the owner must notify DMV if they wish a hearing to contest the amount of the storage charges. If this notice is served on the owner and DMV is not otherwise able to serve notice on the owner by certified mail of the amount of the lien, and the owner does not request a hearing before DMV on the mechanics lien, the mechanic may proceed to sell the vehicle to satisfy the lien without having to serve notice by publication and without having a default hearing before the clerk.

Section 6 amends G.S. 50-10 to authorize the clerk of court to enter judgments by default in divorce actions when the only claim is for divorce or divorce and resumption of a former name, and the defendant fails to answer the complaint, or answers the complaint by admitting to the allegations and joining in the request for an absolute divorce.

Sections 7 through 14 take away certain parental rights of a person convicted of first or second-degree rape related to a child conceived as a result of the rape. These provisions take away the defendant's rights to custody and inheritance, and the right to notice in adoption proceedings for the child.

Section 15 makes clarifying changes that a defendant who threatens a witness in the defendant's case with the assertion or denial of parental rights is a violation of the intimidating a witness statute. A violation is a Class H felony.

Sections 16 through 19 propose a constitutional amendment to extent the term of magistrates from a two-year term, to an initial two-year term and subsequent four-year terms. The change would be effective if the voters approve the constitutional amendment in November, 2004.

EFFECTIVE DATE: The changes in small claims court jurisdiction, uncontested divorces by clerks and notice in DWI forfeitures matters become effective October 1, 2003. Changes to the criminal laws become effective December 1, 2004. The reminder of the act is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 7/16/04

S. B. No. 577 ✓ Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE ~~SUBSTITUTE~~ _____ PCSRV-65 [v.5]

(Rep.) Owens
Sen.)

1 moves to amend the bill on page 10, line 29
2 (~~) WHICH CHANGES THE TITLE~~ and on page 10, line 39
3 by deleting "Section 1" and substituting "Section 16".
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SIGNED _____

ADOPTED X FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 507 Amendment No. 2
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE CS RH-65(V.5)

Rep.)
) Hackney
Sen.)

1 moves to amend the bill on page 1, line 3-9

2 ( ) WHICH CHANGES THE TITLE

3 by deleting "SUPERIOR COURT"

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SIGNED _____

ADOPTED X FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 7/16/04

S. B. No. 577 Amendment No. 3
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓ CSRV-65 [v.5]

(Rep.) Sen.) Hackney

moves to amend the bill on page 6, line 3 40-41

( ) WHICH CHANGES THE TITLE

by rewriting the lines to read:

"of the complaint, or the defendant has filed a waiver of the right to answer,".

SIGNED _____

ADOPTED X FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 7/16/04

S. B. No. 517 Amendment No. 4
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.)
Sen.) Hackney

moves to amend the bill on page 2, line 10

( ) WHICH CHANGES THE TITLE

by rewriting the line to read:

" no contest to a felony under the provisions of G.S. 7A-272(c), except that the district court shall have ~~exclusive~~ jurisdiction to hear ~~these~~ matters with the consent of the State and the defendant." ",

SIGNED Hackney

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 577 A BILL TO BE ENTITLED AN ACT TO PERMIT THE MORE EFFICIENT USE OF ALL COURT PERSONNEL RESOURCES THROUGH CONCURRENT AND REVISED JURISDICTION AND PROCEDURES BY AUTHORIZING DISTRICT COURT JUDGES TO ACCEPT GUILTY PLEAS FOR CERTAIN CLASSES OF FELONY, BY PROVIDING FOR CONCURRENT JURISDICTION FOR DISTRICT AND SUPERIOR COURT JUDGES IN INFRACTIONS AND MISDEMEANOR CASES, BY RAISING THE JURISDICTIONAL AMOUNT FOR SMALL CLAIMS, BY AUTHORIZING THE USE OF EXPEDITED CHILD SUPPORT PROCESS UPON THE AGREEMENT OF THE CHIEF DISTRICT COURT JUDGE AND CLERK OF SUPERIOR COURT, AND BY CONFORMING CERTAIN PROCEDURAL REQUIREMENTS IN ACTIONS FOR ABSOLUTE DIVORCE TO THE REQUIREMENTS IN OTHER CIVIL CASES, AS RECOMMENDED BY THE STATE JUDICIAL COUNCIL.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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 2003

S 1

SENATE BILL 1044

Short Title:	Wilkes Visitor Center.	(Local)
Sponsors:	Senators Garwood; and Foxx.	
Referred to:	State Government, Local Government, and Veterans' Affairs.	

May 11, 2004

A BILL TO BE ENTITLED

AN ACT TO PERMIT THE COUNTY OF WILKES TO ACQUIRE PROPERTY AND CONVEY IT TO THE STATE FOR USE AS A VISITORS' CENTER/REST AREA.

The General Assembly of North Carolina enacts:

SECTION 1. The County of Wilkes has power under general law to acquire real and personal property and convey it to the State under G.S. 160A-274 or other applicable law for use as a Department of Transportation Visitors' Center/Rest Area.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1044
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1044-PCS55316-SWf-86

Short Title: Cornelius Streets/Sidewalks. (Local)

Sponsors:

Referred to:

May 11, 2004

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE TOWN OF CORNELIUS TO PROVIDE FOR STREET OR SIDEWALK IMPROVEMENTS WITHOUT PETITION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-217(a) and (c) do not apply to the Town of Cornelius. The remaining provisions of Article 10 of Chapter 160A of the General Statutes apply to the Town when making special assessments for street or sidewalk improvements.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.B. 1044 A BILL TO BE ENTITLED AN ACT TO PERMIT THE COUNTY OF WILKES TO ACQUIRE PROPERTY AND CONVEY IT TO THE STATE FOR USE AS A VISITORS' CENTER/REST AREA..

☐ 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 the House committee substitute bill ~~(#)~~, ☒ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 823*

House Committee Substitute Favorable 7/13/04

Short Title: Amend Environmental Laws-3. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENVIRONMENTAL HEALTH, AND NATURAL RESOURCES TO: (1) MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS; (2) MODIFY ENVIRONMENTAL REPORTING REQUIREMENTS; (3) ABOLISH OBSOLETE AND INACTIVE COUNCILS; (4) EXTEND BY ONE YEAR THE TIME FOR THE DEVELOPMENT OF PERMANENT RULES RELATED TO WATER CONSERVATION PURSUANT TO SECTION 3 OF S.L. 2002-167; (5) PROVIDE FOR STAGGERED TERMS OF THE MEMBERS OF THE AGRICULTURAL FINANCE AUTHORITY AND SPECIFY THE MAXIMUM NUMBER OF SUCCESSIVE TERMS THAT MEMBERS OF THE AUTHORITY MAY SERVE; AND (6) PROHIBIT THE SALE OR DISPENSING OF RAW MILK.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CORRECTIONS

SECTION 1.1. G.S. 113-301.1 reads as rewritten:

"**§ 113-301.1. Wildlife Resources Commission obligated to make efforts to notify members of the public who may be affected by operative provisions of statutes and ~~regulations.~~rules.**

(a) The Wildlife Resources Commission must prepare and distribute to license agents informational materials relating to hunting, fishing, trapping, and boating laws and ~~regulations~~ rules administered by the Wildlife Resources Commission. The materials furnished an agent should be appropriate to the types of licenses ~~he~~ the agent customarily handles, and in a quantity reasonably anticipated to be sufficient to meet the needs of licensees obtaining licenses from the agent.

(b) In issuing new licenses and permits from the Raleigh office by mail, the Wildlife Resources Commission must generally inform the licensee or permittee of governing provisions of law and ~~regulations~~ rules applicable to the type of license or permit secured. In issuing renewal licenses and permits by mail, the Wildlife Resources

Commission must inform the licensee or permittee of any substantial changes in the law or ~~regulations which~~ rules that may affect the activities of the licensee or permittee.

(c) After adopting ~~regulations which~~ rules that impose new restrictions upon the activities of members of the public who do not normally hold licenses or permits to engage in the activity in question, the Wildlife Resources Commission must take appropriate steps to publicize the new restrictions. These steps may include press releases to the media, informing local authorities, and other forms of communication that give promise of reaching the segment of the public affected.

(d) After adopting new restrictions on hunting, fishing, trapping, or boating at a time other than when usual annual changes in the ~~regulations~~ rules affecting those activities are adopted, the Wildlife Resources Commission must take appropriate steps to publicize the new restrictions in a manner designed to reach persons who may be affected.

(e) Repealed by Session Laws 1987, c. 827, s. 9."

SECTION 1.2. G.S. 113A-115.1(b) reads as rewritten:

"(b) No person shall construct a permanent erosion control structure in an ocean shoreline. The Commission shall not permit the construction of a temporary erosion control structure that consists of anything other than sandbags in an ocean shoreline. This section shall not apply to (i) any permanent erosion control structure that is approved pursuant to an exception set out in a rule adopted by the Commission prior to 1 July 2003 or (ii) any permanent erosion control structure that was originally constructed prior to 1 July 1974 and that has since been in continuous use to protect an inlet that is maintained for navigation. This section shall not be construed to limit the authority of the Commission to adopt rules to designate or protect areas of environmental concern, to govern the use of sandbags, or to govern the use of erosion ~~coastal~~ control structures in estuarine shorelines."

SECTION 1.3. G.S. 121-34 reads as rewritten:

"**§ 121-34. Short title.**

The title of this Article shall be known as the ~~"Historic~~'Conservation and Historic Preservation ~~and Conservation~~ Agreements Act.' "

SECTION 1.4. G.S. 121-42 reads as rewritten:

"**§ 121-42. Citation of Article.**

This Article shall be known and may be cited as ~~"Uniform Conservation~~the 'Conservation and Historic Preservation ~~Agreement~~ Agreements Act.' "

SECTION 1.5. G.S. 143-215.1 reads as rewritten:

"**§ 143-215.1. Control of sources of water pollution; permits required.**

...

(c2) Any person who is required to obtain an individual wastewater permit under this section for a facility discharging to the surface waters of the State that have been classified as nutrient sensitive waters (NSW) under rules adopted by the Commission where ~~phosphorous~~phosphorus is designated by the Commission as a nutrient of concern shall not discharge more than an average annual mass load of total ~~phosphorous~~phosphorus than would result from a discharge of the permitted flow, determined at the time the Commission makes a finding that those waters are

experiencing or are subject to excessive growth of microscopic or macroscopic vegetation, having a total ~~phosphorous~~phosphorus concentration of two milligrams of ~~phosphorous~~phosphorus per liter (2.0 mg/l). The total ~~phosphorous~~phosphorus concentration of 2.0 mg/l for nutrient sensitive waters required by this subsection applies only to:

(1) Facilities that were placed into operation prior to 1 July 1997 or for which an authorization to construct was issued prior to 1 July 1997 and that have a design capacity to discharge 500,000 gallons per day or more.

(2) Facilities for which an authorization to construct is issued on or after 1 July 1997.

(c3) A person to whom subsection (c1) or (c2) of this section applies may meet the limits established under those subsections either individually or on the basis of a cooperative agreement with other persons who hold individual wastewater permits if the cooperative agreement is approved by the Commission. A person to whom subsection (c1) or (c2) of this section applies whose agreement to accept wastewater from another wastewater treatment facility that discharges into the same water body and that results in the elimination of the discharge from that wastewater treatment facility shall be allowed to increase the average annual mass load of total nitrogen and total ~~phosphorous~~phosphorus that person discharges by the average annual mass load of total nitrogen and total ~~phosphorous~~phosphorus of the wastewater treatment facility that is eliminated. If the wastewater treatment facility that is eliminated has a permitted flow of less than 500,000 gallons per day, the average annual mass load of total nitrogen or ~~phosphorous~~phosphorus shall be calculated from the most recent available data. A person to whom this subsection applies shall comply with nitrogen and ~~phosphorous~~phosphorus discharge monitoring requirements established by the Commission. This average annual load of nitrogen or ~~phosphorous~~phosphorus shall be assigned to the wastewater discharge allocation of the wastewater treatment facility that accepts the wastewater.

(c4) A person to whom subsection (c1) of this section applies may request the Commission to approve a total nitrogen concentration greater than that set out in subsection (c1) of this section at a decreased permitted flow so long as the average annual mass load of total nitrogen is equal to or is less than that required under subsection (c1) of this section. A person to whom subsection (c2) of this section applies may request the Commission to approve a total ~~phosphorous~~phosphorus concentration greater than that set out in subsection (c2) of this section at a decreased permitted flow so long as the average annual mass load of total ~~phosphorous~~phosphorus is equal to or is less than that required under subsection (c2) of this section. If, after any 12-month period following approval of a greater concentration at a decreased permitted flow, the Commission finds that the greater concentration at a decreased permitted flow does not result in an average annual mass load of total nitrogen or total ~~phosphorous~~phosphorus equal to or less than those that would be achieved under subsections (c1) and (c2) of this section, the Commission shall rescind its approval of the greater concentration at a

decreased permitted flow and the requirements of subsections (c1) and (c2) of this section shall apply.

(c5) For surface waters to which the limits set out in subsection (c1) or (c2) of this section apply and for which a calibrated nutrient response model that meets the requirements of this subsection has been approved by the Commission, mass load limits for total nitrogen or total ~~phosphorous~~phosphorus shall be based on the results of the nutrient response model. A calibrated nutrient response model shall be developed and maintained with current data, be capable of predicting the impact of nitrogen or ~~phosphorous~~phosphorus in the surface waters, and incorporated into nutrient management plans by the Commission. The maximum mass load for total nitrogen or total ~~phosphorous~~phosphorus established by the Commission shall be substantiated by the model and may require individual discharges to be limited at concentrations that are different than those set out in subsection (c1) or (c2) of this section. A calibrated nutrient response model shall be developed by the Department in conjunction with the affected parties and is subject to approval by the Commission.

...."

SECTION 1.6. G.S. 143-215.1B reads as rewritten:

"**§ 143-215.1B. Extension of date for compliance with nitrogen and ~~phosphorous~~phosphorus discharge limits.**

...

(d) A permit holder who is granted an extended compliance date under this section shall:

(1) Develop a calibrated nutrient response model in conjunction with other affected parties and in accordance with a timetable for the development of the model that has been approved by the Commission. The model shall be based on current data, capable of predicting the impact of nitrogen and ~~phosphorous~~phosphorus in the surface waters, capable of being incorporated into any nutrient management plan developed by the Commission, and approved by the Commission.

...."

SECTION 1.7. G.S. 159G-3(18) reads as rewritten:

"(18) 'Wastewater treatment works' means the various facilities and devices used in the treatment of sewage, industrial waste or other wastes of a liquid nature, including the necessary interceptor sewers, outfall sewers, ~~phosphorous~~phosphorus removal equipment, pumping, power and other equipment and their appurtenances."

SECTION 1.8. G.S. 159G-10(b)(5) reads as rewritten:

"(5) Wastewater Treatment Works Improvements to Meet Nitrogen and ~~Phosphorous~~ Phosphorus Limits. – The Environmental Management Commission shall adopt a rule specifying priority criteria for modifications to existing permitted wastewater treatment facilities that are owned or operated by local government units and that are subject to G.S. 143-215.1(c1) or G.S. 143-215.1(c2) to enable local

government units to comply with G.S. 143-215.1(c1) and G.S. 143-215.1(c2)."

PART II. MODIFY REPORTING REQUIREMENTS

SECTION 2.1. Article 4 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-67. Annual report.**

The Department shall report to the Environmental Review Commission on the implementation of this Article on or before 1 October of each year. The Department shall include in the report an analysis of how the implementation of the Sedimentation Pollution Control Act of 1973 is affecting activities that contribute to the sedimentation of streams, rivers, lakes, and other waters of the State. The report shall also include a review of the effectiveness of local erosion and sedimentation control programs."

SECTION 2.2. G.S. 113A-235(c) reads as rewritten:

"(c) Report. – The Department shall report on the implementation of this Article to the Environmental Review Commission no later than 1 ~~November~~ October of each year. The Department shall maintain an inventory of all conservation easements held by the Department. The inventory shall be included in the report required by this subsection."

SECTION 2.3. G.S. 113A-241(c) reads as rewritten:

"(c) The Secretary of Environment and Natural Resources shall report to the Governor and the Environmental Review Commission on or before 1 ~~September~~ October of each year on the State's progress towards attaining the goal established in this section."

SECTION 2.4. G.S. 143-215.107C(b) reads as rewritten:

"(b) It shall be the goal of the State that on and after 1 January 2004 at least seventy-five percent (75%) of the new or replacement light duty cars and trucks purchased by the State will be alternative-fueled vehicles or low emission vehicles. The Department of Administration, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop a plan to achieve this goal and to fuel and maintain these vehicles. ~~The Department of Administration shall report on progress in developing and implementing this plan and achieving this goal to the Environmental Review Commission on 1 September of each year beginning 1 September 2000.~~ For purposes of this section, a light duty car or truck is one that is rated at 8,500 pounds or less Gross Vehicle Weight Rating (GVWR)."

SECTION 2.5. G.S. 143-355.1 is amended by adding a new subsection to read:

"(g) The Council shall report on the implementation of this section to the Secretary, the Governor, and the Environmental Review Commission no later than 1 October of each year. The report shall include a review of drought advisories issued by the Council and any recommendations to improve coordination among local, State, and federal agencies; public water systems; and water users to improve the management and mitigation of the harmful effects of drought."

SECTION 2.6. The Department of Environment and Natural Resources shall submit the first report required by G.S. 113A-67, as enacted by Section 2.1 of this act,

to the Environmental Review Commission on or before 1 October 2005. The Drought Management Advisory Council shall submit the first report required by G.S. 143-355.1, as enacted by Section 2.5 of this act, to the Secretary of Environment and Natural Resources, the Governor, and the Environmental Review Commission on or before 1 October 2005.

PART III. ABOLISH INACTIVE COUNCILS

SECTION 3.1. G.S. 143-214.6 (Watershed Protection Advisory Council), G.S. 143-215.22J (Scientific Advisory Council on Water Resources and Coastal Fisheries Management established; membership, compensation), and G.S. 143-215.22K (Scientific Advisory Council on Water Resources and Coastal Fisheries Management; functions and responsibilities) are repealed.

SECTION 3.2. G.S. 143-215.8C reads as rewritten:

"**§ 143-215.8C. Neuse River Modeling and Monitoring Project reports.**

The Primary Investigator or Researcher receiving funding pursuant to Subsection 14.14(a) of S.L. 1998-212 shall provide progress reports to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, ~~the Scientific Advisory Council on Water Resources and Coastal Fisheries Management,~~ and the Fiscal Research Division on 1 January and 1 July of each year until the project or study is complete. Upon completion of the project or study, the Primary Investigator or Researcher shall provide a final report to the entities listed above."

SECTION 3.3. G.S. 143-215.8D(a) reads as rewritten:

"(a) The Department of Environment and Natural Resources and North Carolina State University shall jointly establish the North Carolina Water Quality Workgroup. The Workgroup shall work collaboratively with the appropriate divisions of the Department of Environment and Natural Resources and North Carolina State University, ~~the Scientific Advisory Council on Water Resources and Coastal Fisheries Management,~~ the Environmental Management Commission, and the Environmental Review Commission to identify the scientific and State agency databases that can be used to formulate public policy regarding the State's water quality, evaluate those databases to determine the information gaps in those databases, and establish the priorities for obtaining the information lacking in those databases. The Workgroup shall have the following duties:

(1) To address specifically the ongoing need of evaluation, synthesis, and presentation of current scientific knowledge that can be used to formulate public policy on water quality issues.
(2) To identify knowledge gaps in the current understanding of water quality problems and fill these gaps with appropriate research projects.
(3) To maintain a web-based water quality data distribution site.
(4) To organize and evaluate existing scientific and State agency water quality databases.
(5) To prioritize recognized knowledge gaps in water quality issues for immediate funding."

SECTION 3.4. G.S. 143-215.8D(e) reads as rewritten:

"(e) The Chair of the North Carolina Water Quality Workgroup shall report each year by January 30 to the ~~Scientific Advisory Council on Water Resources and Coastal Fisheries Management, to the~~ Environmental Review Commission, to the Cochairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and to the Chancellor of North Carolina State University or the Chancellor's designee on the previous year's activities, findings, and recommendations of the North Carolina Water Quality Workgroup."

PART IV. EXTEND THE TIME FOR DEVELOPMENT OF RULES RELATED TO WATER CONSERVATION

SECTION 4. Section 3(c) of S.L. 2002-167 reads as rewritten:

"**SECTION 3.(c)** Rules adopted pursuant to subsection (a) of this section shall not supercede or modify existing rules governing water used in the generation of electricity. This section shall not be construed to authorize the Commission to adopt temporary rules. The Commission shall adopt permanent rules so that the rules will become effective following legislative review pursuant to G.S. 150B-21.3(b) by the ~~2005~~ 2006 Regular Session of the 2005 General Assembly."

PART V. STAGGER TERMS OF AGRICULTURAL FINANCE AUTHORITY

SECTION 5.1. G.S. 122D-4 reads as rewritten:

"**§ 122D-4. North Carolina Agricultural Finance Authority.**

(a) The North Carolina Agricultural Finance Authority, a body politic and corporate, is hereby created within the Department of Agriculture and Consumer Services. The Authority shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions.

(b) The Authority shall be composed of 10 ~~members.~~ members appointed to three-year terms as follows:

(1) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.

(2) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by three.

(3) One member appointed by the Governor to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.

(4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.

(5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that are evenly divisible by three.

(6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.

(7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.

(8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by three.

(9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.

(10) The Commissioner or the Commissioner's designee shall serve ex officio, with the same rights and privileges, including voting rights, as other members. ~~The other nine members shall be appointed in the following manner:~~

~~(1) Three members appointed by the General Assembly upon the recommendation of the Speaker of the House under G.S. 120-121;~~

~~(2) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate under G.S. 120-121; and~~

~~(3) Three members appointed by the Governor.~~

(c) ~~Members shall serve for three-year terms. Initial terms shall commence July 1, 1986. Appointed members shall serve until their successors are appointed and qualify.~~ A member appointed under subdivisions (1) through (9) of subsection (b) of this section may be reappointed to no more than two successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7.

(d) Vacancies in the offices of any appointed members of the Authority shall be filled in accordance with G.S. 120-122 for the remainder of the unexpired term. No vacant office shall be included in the determination of a quorum. No vacancy in office shall impair the rights of the members to exercise all rights and to conduct official business of the Authority.

(e) The domicile of the Authority shall be the City of Raleigh.

(f) A majority of the members shall constitute a quorum for the transaction of official business. All official actions of the Authority shall require an affirmative vote of a majority of the members present and voting at any meeting.

(g) Members of the Authority shall not receive any salary for the performance of their duties as members. Appointed members may ~~be reimbursed for such actual expenses as may be incurred for travel and subsistence in the performance of official duties and such per diem as is allowed by law for members of other State boards, commissions and committees.~~ receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(h) The Authority shall meet quarterly and may meet more frequently upon call.

(i) The Authority may delegate to one or more of its members, officers, employees or agents such powers and duties as it may deem proper."

SECTION 5.2. In order to alter the schedule of staggered terms of three years for the North Carolina Agricultural Finance Authority so that the same number of terms will expire each year and to provide for an orderly transition in membership of the Authority to the terms specified in G.S. 122D-4(b), as amended by Section 5.1 of this act, the following provisions shall apply:

(1) The Governor shall appoint a member to serve in the position established by G.S. 122D-4(b)(1) through 1 July 2006.

(2) The Governor shall appoint a member to serve in the position established by G.S. 122D-4(b)(2) through 1 July 2007.

(3) The Governor shall appoint a member to serve in the position established by G.S. 122D-4(b)(3) through 1 July 2008.

(4) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint a member to serve in the position established by G.S. 122D-4(b)(4) through 1 July 2006.

(5) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint a member to serve in the position established by G.S. 122D-4(b)(5) through 1 July 2007.

(6) The General Assembly, upon the recommendation of the President Pro Tempore of the Senate, shall appoint a member to serve in the position established by 122D-4(b)(6) through 1 July 2008.

(7) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint a member to serve in the position established by 122D-4(b)(7) through 1 July 2006.

(8) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint a member to serve in the position established by 122D-4(b)(8) to serve through 1 July 2007.

(9) The General Assembly, upon the recommendation of the Speaker of the House of Representatives, shall appoint a member to serve in the position established by G.S. 122D-4(b)(9) through 1 July 2008.

PART VI. PROHIBIT SALE OR DISPENSING OF RAW MILK

SECTION 6.1. G.S. 130A-274(2) reads as rewritten:

"(2) 'Milk' means the lacteal secretion practically free from colostrum obtained by the ~~complete~~ milking of one or more ~~cows or goats.~~cows, goats, or other lactating animals."

SECTION 6.2. G.S. 130A-279 reads as rewritten:

"**§ 130A-279. Sale or dispensing of milk.**

Only milk which is Grade 'A' pasteurized milk may be sold or dispensed directly to consumers for human consumption. Raw milk and raw milk products shall be sold or dispensed only to a permitted milk hauler or to a processing facility at which the processing of milk is permitted, graded, or regulated by a local, State, or federal agency. The Commission may adopt rules to provide exceptions for dispensing raw milk and raw milk products for nonhuman consumption. 'Sale' or 'sold' shall mean any transaction

that involves the transfer or dispensing of milk and milk products or the right to acquire milk and milk products through barter or contractual arrangement or in exchange for any other form of compensation including, but not limited to, the sale of shares or interest in a cow, goat, or other lactating animal or herd."

PART VII. EFFECTIVE DATE

SECTION 7. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 823*

House Committee Substitute Favorable 7/13/04

PROPOSED HOUSE COMMITTEE SUBSTITUTE S823-PCS75360-RT-93

Short Title: Amend Environmental Laws-3/Appointments. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENVIRONMENTAL HEALTH, AND NATURAL RESOURCES TO: (1) MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS; (2) MODIFY ENVIRONMENTAL REPORTING REQUIREMENTS; (3) ABOLISH OBSOLETE AND INACTIVE COUNCILS; (4) EXTEND BY ONE YEAR THE TIME FOR THE DEVELOPMENT OF PERMANENT RULES RELATED TO WATER CONSERVATION PURSUANT TO SECTION 3 OF S.L. 2002-167; (5) PROVIDE FOR STAGGERED TERMS FOR THE MEMBERS OF THE AGRICULTURAL FINANCE AUTHORITY, TO MAKE APPOINTMENTS TO THE AUTHORITY, AND SPECIFY THE MAXIMUM NUMBER OF SUCCESSIVE TERMS THAT MEMBERS OF THE AUTHORITY MAY SERVE; AND (6) PROHIBIT THE SALE OR DISPENSING OF RAW MILK, AND TO PROVIDE FOR FILLING VACANCIES IN LEGISLATIVE APPOINTMENTS IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CORRECTIONS

SECTION 1.1. G.S. 113-301.1 reads as rewritten:

"**§ 113-301.1. Wildlife Resources Commission obligated to make efforts to notify members of the public who may be affected by operative provisions of statutes and ~~regulations.~~rules.**

(a) The Wildlife Resources Commission must prepare and distribute to license agents informational materials relating to hunting, fishing, trapping, and boating laws and ~~regulations~~ rules administered by the Wildlife Resources Commission. The materials furnished an agent should be appropriate to the types of licenses ~~he~~ the agent customarily handles, and in a quantity reasonably anticipated to be sufficient to meet the needs of licensees obtaining licenses from the agent.

(b) In issuing new licenses and permits from the Raleigh office by mail, the Wildlife Resources Commission must generally inform the licensee or permittee of governing provisions of law and ~~regulations~~ rules applicable to the type of license or permit secured. In issuing renewal licenses and permits by mail, the Wildlife Resources Commission must inform the licensee or permittee of any substantial changes in the law or ~~regulations which~~ rules that may affect the activities of the licensee or permittee.

(c) After adopting ~~regulations which~~ rules that impose new restrictions upon the activities of members of the public who do not normally hold licenses or permits to engage in the activity in question, the Wildlife Resources Commission must take appropriate steps to publicize the new restrictions. These steps may include press releases to the media, informing local authorities, and other forms of communication that give promise of reaching the segment of the public affected.

(d) After adopting new restrictions on hunting, fishing, trapping, or boating at a time other than when usual annual changes in the ~~regulations~~ rules affecting those activities are adopted, the Wildlife Resources Commission must take appropriate steps to publicize the new restrictions in a manner designed to reach persons who may be affected.

(e) Repealed by Session Laws 1987, c. 827, s. 9."

SECTION 1.2. G.S. 113A-115.1(b) reads as rewritten:

"(b) No person shall construct a permanent erosion control structure in an ocean shoreline. The Commission shall not permit the construction of a temporary erosion control structure that consists of anything other than sandbags in an ocean shoreline. This section shall not apply to (i) any permanent erosion control structure that is approved pursuant to an exception set out in a rule adopted by the Commission prior to 1 July 2003 or (ii) any permanent erosion control structure that was originally constructed prior to 1 July 1974 and that has since been in continuous use to protect an inlet that is maintained for navigation. This section shall not be construed to limit the authority of the Commission to adopt rules to designate or protect areas of environmental concern, to govern the use of sandbags, or to govern the use of erosion ~~coastal~~ control structures in estuarine shorelines."

SECTION 1.3. G.S. 121-34 reads as rewritten:

"**§ 121-34. Short title.**

The title of this Article shall be known as the ~~"Historic~~'Conservation and Historic Preservation ~~and Conservation~~ Agreements Act.' "

SECTION 1.4. G.S. 121-42 reads as rewritten:

"**§ 121-42. Citation of Article.**

This Article shall be known and may be cited as ~~"Uniform Conservation~~the 'Conservation and Historic Preservation ~~Agreement~~ Agreements Act.' "

SECTION 1.5. G.S. 143-215.1 reads as rewritten:

"**§ 143-215.1. Control of sources of water pollution; permits required.**

...

(c2) Any person who is required to obtain an individual wastewater permit under this section for a facility discharging to the surface waters of the State that have been classified as nutrient sensitive waters (NSW) under rules adopted by the Commission

where ~~phosphorous~~phosphorus is designated by the Commission as a nutrient of concern shall not discharge more than an average annual mass load of total ~~phosphorous~~phosphorus than would result from a discharge of the permitted flow, determined at the time the Commission makes a finding that those waters are experiencing or are subject to excessive growth of microscopic or macroscopic vegetation, having a total ~~phosphorous~~phosphorus concentration of two milligrams of ~~phosphorous~~phosphorus per liter (2.0 mg/l). The total ~~phosphorous~~phosphorus concentration of 2.0 mg/l for nutrient sensitive waters required by this subsection applies only to:

(1) Facilities that were placed into operation prior to 1 July 1997 or for which an authorization to construct was issued prior to 1 July 1997 and that have a design capacity to discharge 500,000 gallons per day or more.

(2) Facilities for which an authorization to construct is issued on or after 1 July 1997.

(c3) A person to whom subsection (c1) or (c2) of this section applies may meet the limits established under those subsections either individually or on the basis of a cooperative agreement with other persons who hold individual wastewater permits if the cooperative agreement is approved by the Commission. A person to whom subsection (c1) or (c2) of this section applies whose agreement to accept wastewater from another wastewater treatment facility that discharges into the same water body and that results in the elimination of the discharge from that wastewater treatment facility shall be allowed to increase the average annual mass load of total nitrogen and total ~~phosphorous~~phosphorus that person discharges by the average annual mass load of total nitrogen and total ~~phosphorous~~phosphorus of the wastewater treatment facility that is eliminated. If the wastewater treatment facility that is eliminated has a permitted flow of less than 500,000 gallons per day, the average annual mass load of total nitrogen or ~~phosphorous~~phosphorus shall be calculated from the most recent available data. A person to whom this subsection applies shall comply with nitrogen and ~~phosphorous~~phosphorus discharge monitoring requirements established by the Commission. This average annual load of nitrogen or ~~phosphorous~~phosphorus shall be assigned to the wastewater discharge allocation of the wastewater treatment facility that accepts the wastewater.

(c4) A person to whom subsection (c1) of this section applies may request the Commission to approve a total nitrogen concentration greater than that set out in subsection (c1) of this section at a decreased permitted flow so long as the average annual mass load of total nitrogen is equal to or is less than that required under subsection (c1) of this section. A person to whom subsection (c2) of this section applies may request the Commission to approve a total ~~phosphorous~~phosphorus concentration greater than that set out in subsection (c2) of this section at a decreased permitted flow so long as the average annual mass load of total ~~phosphorous~~phosphorus is equal to or is less than that required under subsection (c2) of this section. If, after any 12-month period following approval of a greater concentration at a decreased permitted flow, the Commission finds that the greater concentration at a decreased permitted flow does not

result in an average annual mass load of total nitrogen or total ~~phosphorous~~phosphorus equal to or less than those that would be achieved under subsections (c1) and (c2) of this section, the Commission shall rescind its approval of the greater concentration at a decreased permitted flow and the requirements of subsections (c1) and (c2) of this section shall apply.

(c5) For surface waters to which the limits set out in subsection (c1) or (c2) of this section apply and for which a calibrated nutrient response model that meets the requirements of this subsection has been approved by the Commission, mass load limits for total nitrogen or total ~~phosphorous~~phosphorus shall be based on the results of the nutrient response model. A calibrated nutrient response model shall be developed and maintained with current data, be capable of predicting the impact of nitrogen or ~~phosphorous~~phosphorus in the surface waters, and incorporated into nutrient management plans by the Commission. The maximum mass load for total nitrogen or total ~~phosphorous~~phosphorus established by the Commission shall be substantiated by the model and may require individual discharges to be limited at concentrations that are different than those set out in subsection (c1) or (c2) of this section. A calibrated nutrient response model shall be developed by the Department in conjunction with the affected parties and is subject to approval by the Commission.

...."

SECTION 1.6. G.S. 143-215.1B reads as rewritten:

"**§ 143-215.1B. Extension of date for compliance with nitrogen and ~~phosphorous~~phosphorus discharge limits.**

...

(d) A permit holder who is granted an extended compliance date under this section shall:

(1) Develop a calibrated nutrient response model in conjunction with other affected parties and in accordance with a timetable for the development of the model that has been approved by the Commission. The model shall be based on current data, capable of predicting the impact of nitrogen and ~~phosphorous~~phosphorus in the surface waters, capable of being incorporated into any nutrient management plan developed by the Commission, and approved by the Commission.

...."

SECTION 1.7. G.S. 159G-3(18) reads as rewritten:

"(18) 'Wastewater treatment works' means the various facilities and devices used in the treatment of sewage, industrial waste or other wastes of a liquid nature, including the necessary interceptor sewers, outfall sewers, ~~phosphorous~~phosphorus removal equipment, pumping, power and other equipment and their appurtenances."

SECTION 1.8. G.S. 159G-10(b)(5) reads as rewritten:

"(5) Wastewater Treatment Works Improvements to Meet Nitrogen and ~~Phosphorous~~ Phosphorus Limits. – The Environmental Management Commission shall adopt a rule specifying priority criteria for modifications to existing permitted wastewater treatment facilities that

are owned or operated by local government units and that are subject to G.S. 143-215.1(c1) or G.S. 143-215.1(c2) to enable local government units to comply with G.S. 143-215.1(c1) and G.S. 143-215.1(c2)."

SECTION 1.9. If House Bill 1112, 2003 Regular Session, becomes law, then Section 8 of House Bill 1112 is rewritten to read:

"**SECTION 8.** Sections 1 through 6 of this act become effective 1 January 2005. Sections 7 and 8 of this act are effective when this act becomes law."

PART II. MODIFY REPORTING REQUIREMENTS

SECTION 2.1. Article 4 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"**§ 113A-67. Annual report.**

The Department shall report to the Environmental Review Commission on the implementation of this Article on or before 1 October of each year. The Department shall include in the report an analysis of how the implementation of the Sedimentation Pollution Control Act of 1973 is affecting activities that contribute to the sedimentation of streams, rivers, lakes, and other waters of the State. The report shall also include a review of the effectiveness of local erosion and sedimentation control programs."

SECTION 2.2. G.S. 113A-235(c) reads as rewritten:

"(c) Report. – The Department shall report on the implementation of this Article to the Environmental Review Commission no later than 1 ~~November~~ October of each year. The Department shall maintain an inventory of all conservation easements held by the Department. The inventory shall be included in the report required by this subsection."

SECTION 2.3. G.S. 113A-241(c) reads as rewritten:

"(c) The Secretary of Environment and Natural Resources shall report to the Governor and the Environmental Review Commission on or before 1 ~~September~~ October of each year on the State's progress towards attaining the goal established in this section."

SECTION 2.4. G.S. 143-215.107C(b) reads as rewritten:

"(b) It shall be the goal of the State that on and after 1 January 2004 at least seventy-five percent (75%) of the new or replacement light duty cars and trucks purchased by the State will be alternative-fueled vehicles or low emission vehicles. The Department of Administration, the Department of Transportation, and the Department of Environment and Natural Resources shall jointly develop a plan to achieve this goal and to fuel and maintain these vehicles. ~~The Department of Administration shall report on progress in developing and implementing this plan and achieving this goal to the Environmental Review Commission on 1 September of each year beginning 1 September 2000.~~ For purposes of this section, a light duty car or truck is one that is rated at 8,500 pounds or less Gross Vehicle Weight Rating (GVWR)."

SECTION 2.5. G.S. 143-355.1 is amended by adding a new subsection to read:

"(g) The Council shall report on the implementation of this section to the Secretary, the Governor, and the Environmental Review Commission no later than 1

October of each year. The report shall include a review of drought advisories issued by the Council and any recommendations to improve coordination among local, State, and federal agencies; public water systems; and water users to improve the management and mitigation of the harmful effects of drought."

SECTION 2.6. The Department of Environment and Natural Resources shall submit the first report required by G.S. 113A-67, as enacted by Section 2.1 of this act, to the Environmental Review Commission on or before 1 October 2005. The Drought Management Advisory Council shall submit the first report required by G.S. 143-355.1, as enacted by Section 2.5 of this act, to the Secretary of Environment and Natural Resources, the Governor, and the Environmental Review Commission on or before 1 October 2005.

PART III. ABOLISH INACTIVE COUNCILS

SECTION 3.1. G.S. 143-214.6 (Watershed Protection Advisory Council), G.S. 143-215.22J (Scientific Advisory Council on Water Resources and Coastal Fisheries Management established; membership, compensation), and G.S. 143-215.22K (Scientific Advisory Council on Water Resources and Coastal Fisheries Management; functions and responsibilities) are repealed.

SECTION 3.2. G.S. 143-215.8C reads as rewritten:

"**§ 143-215.8C. Neuse River Modeling and Monitoring Project reports.**

The Primary Investigator or Researcher receiving funding pursuant to Subsection 14.14(a) of S.L. 1998-212 shall provide progress reports to the Environmental Review Commission, the Joint Legislative Commission on Governmental Operations, ~~the Scientific Advisory Council on Water Resources and Coastal Fisheries Management,~~ and the Fiscal Research Division on 1 January and 1 July of each year until the project or study is complete. Upon completion of the project or study, the Primary Investigator or Researcher shall provide a final report to the entities listed above."

SECTION 3.3. G.S. 143-215.8D(a) reads as rewritten:

"(a) The Department of Environment and Natural Resources and North Carolina State University shall jointly establish the North Carolina Water Quality Workgroup. The Workgroup shall work collaboratively with the appropriate divisions of the Department of Environment and Natural Resources and North Carolina State University, ~~the Scientific Advisory Council on Water Resources and Coastal Fisheries Management,~~ the Environmental Management Commission, and the Environmental Review Commission to identify the scientific and State agency databases that can be used to formulate public policy regarding the State's water quality, evaluate those databases to determine the information gaps in those databases, and establish the priorities for obtaining the information lacking in those databases. The Workgroup shall have the following duties:

(1) To address specifically the ongoing need of evaluation, synthesis, and presentation of current scientific knowledge that can be used to formulate public policy on water quality issues.

(2) To identify knowledge gaps in the current understanding of water quality problems and fill these gaps with appropriate research projects.

(3) To maintain a web-based water quality data distribution site.

(4) To organize and evaluate existing scientific and State agency water quality databases.

(5) To prioritize recognized knowledge gaps in water quality issues for immediate funding."

SECTION 3.4. G.S. 143-215.8D(e) reads as rewritten:

"(e) The Chair of the North Carolina Water Quality Workgroup shall report each year by January 30 to the ~~Scientific Advisory Council on Water Resources and Coastal Fisheries Management, to the~~ Environmental Review Commission, to the Cochairs of the House of Representatives and Senate Appropriations Subcommittees on Natural and Economic Resources, and to the Chancellor of North Carolina State University or the Chancellor's designee on the previous year's activities, findings, and recommendations of the North Carolina Water Quality Workgroup."

PART IV. EXTEND THE TIME FOR DEVELOPMENT OF RULES RELATED TO WATER CONSERVATION

SECTION 4. Section 3(c) of S.L. 2002-167 reads as rewritten:

"**SECTION 3.(c)** Rules adopted pursuant to subsection (a) of this section shall not supercede or modify existing rules governing water used in the generation of electricity. This section shall not be construed to authorize the Commission to adopt temporary rules. The Commission shall adopt permanent rules so that the rules will become effective following legislative review pursuant to G.S. 150B-21.3(b) by the ~~2005~~ 2006 Regular Session of the 2005 General Assembly."

PART V. STAGGER TERMS OF AGRICULTURAL FINANCE AUTHORITY

SECTION 5.1. G.S. 122D-4 reads as rewritten:

"**§ 122D-4. North Carolina Agricultural Finance Authority.**

(a) The North Carolina Agricultural Finance Authority, a body politic and corporate, is hereby created within the Department of Agriculture and Consumer Services. The Authority shall be constituted a public agency and an instrumentality of the State for the performance of essential public functions.

(b) The Authority shall be composed of 10 ~~members.~~ members appointed to three-year terms as follows:

(1) One member appointed by the Governor to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.

(2) One member appointed by the Governor to a term that expires on 1 July of years that are evenly divisible by three.

(3) One member appointed by the Governor to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.

(4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.

(5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that are evenly divisible by three.

(6) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.

(7) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that precede by one year those years that are evenly divisible by three.

(8) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that are evenly divisible by three.

(9) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives to a term that expires on 1 July of years that follow by one year those years that are evenly divisible by three.

(10) The Commissioner or the Commissioner's designee shall serve ex officio, with the same rights and privileges, including voting rights, as other members. ~~The other nine members shall be appointed in the following manner:~~

~~(1) Three members appointed by the General Assembly upon the recommendation of the Speaker of the House under G.S. 120-121;~~

~~(2) Three members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate under G.S. 120-121; and~~

~~(3) Three members appointed by the Governor.~~

(c) ~~Members shall serve for three-year terms. Initial terms shall commence July 1, 1986. Appointed members shall serve until their successors are appointed and qualify.~~ A member appointed under subdivisions (1) through (9) of subsection (b) of this section may be reappointed to no more than two successive three-year terms. Upon the expiration of a three-year term, a member shall continue to serve until a successor is appointed and duly qualified as provided by G.S. 128-7.

(d) Vacancies in the offices of any appointed members of the Authority shall be filled in accordance with G.S. 120-122 for the remainder of the unexpired term. No vacant office shall be included in the determination of a quorum. No vacancy in office shall impair the rights of the members to exercise all rights and to conduct official business of the Authority.

(e) The domicile of the Authority shall be the City of Raleigh.

(f) A majority of the members shall constitute a quorum for the transaction of official business. All official actions of the Authority shall require an affirmative vote of a majority of the members present and voting at any meeting.

(g) Members of the Authority shall not receive any salary for the performance of their duties as members. Appointed members may ~~be reimbursed for such actual expenses as may be incurred for travel and subsistence in the performance of official duties and such per diem as is allowed by law for members of other State boards, commissions and committees.~~receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(h) The Authority shall meet quarterly and may meet more frequently upon call.

(i) The Authority may delegate to one or more of its members, officers, employees or agents such powers and duties as it may deem proper."

SECTION 5.2. In order to alter the schedule of staggered terms of three years for the North Carolina Agricultural Finance Authority so that the same number of terms will expire each year and to provide for an orderly transition in membership of the Authority to the terms specified in G.S. 122D-4(b), as amended by Section 5.1 of this act, the following provisions shall apply:

(1) The Governor shall appoint a member to serve in the position established by G.S. 122D-4(b)(1) through 1 July 2006.

(2) The Governor shall appoint a member to serve in the position established by G.S. 122D-4(b)(2) through 1 July 2007.

(3) The Governor shall appoint a member to serve in the position established by G.S. 122D-4(b)(3) through 1 July 2008.

(4) George Graham of Lenoir County is appointed to serve in the position established by G.S. 122D-4(b)(4) through 1 July 2006.

(5) James R. Britt of Duplin County is appointed to serve in the position established by G.S. 122D-4(b)(5) through 1 July 2007.

(6) Deborah Mae Johnson of Sampson County is appointed to serve in the position established by G.S. 122D-4(b)(6) through 1 July 2008.

(7) Ira S. Cline of Catawba County is appointed to serve in the position established by G.S. 122D-4(b)(7) through 1 July 2006.

(8) Stan Crowe of Martin County is appointed to serve in the position established by G.S. 122D-4(b)(8) to serve through 1 July 2007.

(9) David Hall of Rowan County is appointed to serve in the position established by G.S. 122D-4(b)(9) through 1 July 2008.

SECTION 5.3. The limitation on the number of successive three-year terms that a member of the North Carolina Agricultural Finance Authority may serve as provided in G.S. 122D-4(c), as amended by Section 5.1 of this act, shall not apply to any person who is a member of the Authority at the time this act becomes effective.

PART VI. PROHIBIT SALE OR DISPENSING OF RAW MILK

SECTION 6.1. G.S. 130A-274(2) reads as rewritten:

"(2) 'Milk' means the lacteal secretion practically free from colostrum obtained by the ~~complete~~ milking of one or more ~~cows or goats.~~cows, goats, or other lactating animals."

SECTION 6.2. G.S. 130A-279 reads as rewritten:

"**§ 130A-279. Sale or dispensing of milk.**

Only milk ~~which~~ that is Grade 'A' pasteurized milk may be sold or dispensed directly to consumers for human consumption. Raw milk and raw milk products shall be sold or dispensed only to a permitted milk hauler or to a processing facility at which the processing of milk is permitted, graded, or regulated by a local, State, or federal agency. The Commission may adopt rules to provide exceptions for dispensing raw milk and raw milk products for nonhuman consumption. 'Sale' or 'sold' shall mean any transaction that involves the transfer or dispensing of milk and milk products or the right to acquire milk and milk products through barter or contractual arrangement or in exchange for any other form of compensation including, but not limited to, the sale of shares or interest in a cow, goat, or other lactating animal or herd."

PART VII. VACANCIES IN LEGISLATIVE APPOINTMENTS/EXPIRATION OF TERM

SECTION 7. G.S. 120-122 reads as rewritten:

"**§ 120-122. Vacancies in legislative appointments.**

When a vacancy ~~occurs, other than by the expiration of term,~~ occurs in any office subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives, upon the recommendation of the President Pro Tempore of the Senate, or upon the recommendation of the President of the Senate, and the vacancy occurs either: (i) after election of the General Assembly but before convening of the regular session; (ii) when the General Assembly has adjourned to a date certain, which date is more than 20 days after the date of adjournment; ~~or~~ (iii) after sine die adjournment of the regular ~~session,~~ session; or (iv) when the term of office expires and a successor has not been appointed, then the Governor may appoint a person to serve until the expiration of the term or until the General Assembly fills the vacancy, whichever occurs first. The General Assembly may fill the vacancy in accordance with G.S. 120-121 during a regular or extra session. When a person is holding over in office after the expiration of the term, for the purpose of this section that office may be filled as if it were vacant. Before making an appointment, the Governor shall consult the officer who recommended the original appointment to the General Assembly (the Speaker of the House of Representatives, the President Pro Tempore of the Senate, or the President of the Senate), and ask for a written recommendation. After receiving the written recommendation, the Governor must within 30 days either appoint the person recommended or inform the officer who made the recommendation that he is rejecting the recommendation. Failure to act within 30 days as required under the provisions of the preceding sentence shall be deemed to be approval of the candidate, and the candidate shall be eligible to enter the office in as full and ample extent as if the Governor had executed the appointment. The Governor shall not appoint a person other than the person so recommended. Any position subject to initial appointment by the General Assembly but not filled prior to sine die adjournment of the Session at which the position was created or adjournment to a date certain which date is more than 20 days after the date of adjournment of the session at which the position was created may be filled by the Governor under this section as if it were a vacancy occurring after the General Assembly had made an appointment."

PART VIII. EFFECTIVE DATE

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

SENATE BILL 823:
Amend Environmental Laws-3/Appointments.

BILL ANALYSIS

Committee:	House Rules, Calendar, and Operations of the House	**Introduced by:**	Senator Albertson
Date:	16 July 2004	**Summary by:**	Tim Dodge, Research Assistant for Environmental Issues
Version:	Proposed Committee Substitute (S823-PCS75360-RT-93)		

SUMMARY: ***The proposed committee substitute for Senate Bill 823 (PCS) would:***

- ***Make technical corrections to various laws related to the environment and natural resources.***
- ***Modify environmental reporting requirements.***
- ***Abolish the Watershed Protection Advisory Council and the Scientific Advisory Council on Water Resources and Coastal Fisheries Management.***
- ***Extend by one year the time for the development of permanent rules related to water conservation pursuant to Section 3 of S.L. 2002-167.***
- ***Provide for staggered terms of the members of the Agricultural Finance Authority, appoint members to the Authority, and limit future members of the Authority from serving more than three successive three-year terms.***
- ***Prohibit the sale or dispensing of raw milk and raw milk products.***
- ***Provide that vacancies may be filled in certain offices during a holdover period.***

The PCS would become effective when it becomes law.

BILL ANALYSIS: *(Portions in italics refer to changes made in PCS):*

Section 1.1 replaces the word "regulations" with the word "rules" when referring to administrative actions taken by the Wildlife Resources Commission. In general, federal agencies adopt regulations and State agencies adopt rules.

Section 1.2 replaces the word "coastal" with the word "control" in G.S. 113A-115.1(b). The words were inadvertently switched in the statute (enacted last year as S.L. 2003-427) that prohibits the construction of a permanent erosion control structure in an ocean shoreline.

Sections 1.3 and 1.4 make conforming changes to the title of the "Conservation and Historic Preservation Agreements Act" to make all statutory references consistent.

Sections 1.5 through 1.8 replace the word "phosphorous" where it is used as a noun with the word "phosphorus."

Section 1.9 *changes the effective date of House Bill 1112 (Phosphorus Nutrient Mgt./Animal Feedlots) to allow the study provision contained in the bill to become effective when the bill becomes law. The bill has been ratified and sent to the Governor.*

Section 2.1 adds an annual reporting requirement to the Sedimentation Pollution Control Act of 1973. The Department of Environment and Natural Resources (DENR) would report to the Environmental Review Commission (ERC) on the implementation of the Act, including an analysis of how the

implementation of the Act is affecting activities that contribute to the sedimentation of streams, rivers, lakes, and other waters of the State. The report would also include a review of the effectiveness of local erosion and sedimentation control programs.

Sections 2.2 and 2.3 change the reporting date of the annual report on the Conservation Easements Program from 1 November to 1 October and the reporting date of the annual report on the progress towards attaining the State's goal of protecting one million acres of farmland, open space, and conservation lands from 1 September to 1 October. These changes would make the report submission dates conform with the majority of the reports related to parks and open space conservation that are scheduled to be received by the ERC.

Section 2.4 deletes the requirement that the Department of Administration report annually to the ERC on progress in developing and implementing a plan that on and after 1 January 2004 at least 75 percent of the new or replacement light duty cars and trucks purchased by the State will be alternative-fueled vehicles or low emission vehicles. According to reports submitted by the Department of Administration, the plan was developed in 2000, implemented in 2001, and the State met the goal starting in 2002.

Section 2.5 directs the Drought Management Advisory Council to report to the Secretary of Environment and Natural Resources, the Governor, and the ERC no later than 1 October of each year. The report would include a review of drought advisories issued by the Council and any recommendations to improve coordination among various groups to improve the management and mitigation of the harmful effects of drought.

Section 2.6 makes the first report on the implementation of the Sedimentation Pollution Control Act of 1973 and the first report on the activities of the Drought Management Advisory Council due on or before 1 October 2005.

Section 3.1 abolishes the Watershed Protection Advisory Council and the Scientific Advisory Council on Water Resources and Coastal Fisheries Management. The Watershed Protection Advisory Council was established in 1989, but has not met in over 10 years. The Scientific Advisory Council on Water Resources and Coastal Fisheries Management was established in 1996, but members were never appointed and the Council has never met.

Sections 3.2 through 3.4 delete references to the Scientific Advisory Council on Water Resources and Coastal Fisheries Management in the General Statutes.

Section 4 extends by one year the time available to the Environmental Management Commission (EMC) to develop and adopt permanent rules governing water conservation and water reuse during drought and emergency water situations. The Division of Water Resources has been working with stakeholder groups to develop draft rules for consideration by the EMC, but the Division feels that the process may not be complete in time to make the rules eligible for legislative review by the 2005 Regular Session of the General Assembly. Section 4 would allow the rules to become effective following legislative review by the 2006 Regular Session of the 2005 General Assembly.

Sections 5.1 and 5.2 stagger the terms of the members of the Agricultural Finance Authority (Authority) and make other clarifying changes to the statutes governing the Authority. This provision does not alter the number of members of the Authority (ten) or alter the length of the terms (three years). Under current law, the terms of nine of the ten members of the Authority expired on 1 July 2004. *Section 5.2 makes the six legislative appointments to the Authority.*

***Section 5.3** exempts the current members of the Authority from the limitation on the number of successive three-year terms that a member of the Authority may serve. The House Committee on Environment and Natural Resources amended the bill on 13 July 2004 to limit a member of the Authority to serve no more than three successive three-year terms.*

Sections 6.1 and 6.2 amend the definition of milk and prohibit the sale or dispensation of raw milk to anyone other than a permitted milk hauler or a processing facility at which the processing of milk is permitted, graded, and regulated by a local, State, or federal agency. Section 6.2 defines the terms "sale" or "sold" when used in context with the sale of milk to mean any transaction that involves the transfer or dispensing of milk and milk products or the right to acquire milk and milk products through barter or contractual arrangement or in exchange for any other form of compensation including, but not limited to, the sale of shares or interest in a cow, goat, or other lactating animal or herd. Section 6.2 also authorizes the Commission for Health Services to adopt rules to provide exceptions for dispensing raw milk and raw milk products for non-human consumption.

***Section** 7 provides that vacancies may be filled in certain offices during a holdover period.*

Section 8 makes the bill effective when it becomes law.

S823-SMSY-003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ House Committee Substitute for
S.B. 823 A BILL TO BE ENTITLED AN ACT TO AMEND VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENVIRONMENTAL HEALTH, AND NATURAL RESOURCES TO: (1) MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS; (2) MODIFY ENVIRONMENTAL REPORTING REQUIREMENTS; (3) ABOLISH OBSOLETE AND INACTIVE COUNCILS; (4) EXTEND BY ONE YEAR THE TIME FOR THE DEVELOPMENT OF PERMANENT RULES RELATED TO WATER CONSERVATION PURSUANT TO SECTION 3 OF S.L. 2002-167; (5) PROVIDE FOR STAGGERED TERMS OF THE MEMBERS OF THE AGRICULTURAL FINANCE AUTHORITY AND SPECIFY THE MAXIMUM NUMBER OF SUCCESSIVE TERMS THAT MEMBERS OF THE AUTHORITY MAY SERVE; AND (6) PROHIBIT THE SALE OR DISPENSING OF RAW MILK.

☐ 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 the House committee substitute bill (# 2), ☒ which changes the title, unfavorable as to ~~(the original bill)~~ (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.

☐ 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 2003

S 1

SENATE BILL 243

Short Title:	Name Halifax-Northampton Airport Authority.	(Local)
Sponsors:	Senator Holloman.	
Referred to:	State Government, Local Government and Veterans' Affairs.	

February 27, 2003

A BILL TO BE ENTITLED

AN ACT TO NAME THE HALIFAX-NORTHAMPTON REGIONAL AIRPORT AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Section 1 of S.L. 1997-275, as rewritten by Section 1 of S.L. 1998-130, reads as rewritten:

"**Section 1.** There is hereby created the '~~Halifax~~Halifax-Northampton 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 15 of S.L. 1997-275, as rewritten by Section 8 of S.L. 1998-130, 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, 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~~ Halifax-Northampton Regional Airport Authority."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 243
PROPOSED HOUSE COMMITTEE SUBSTITUTE S243-CSST-118 [v.2]

7/16/2004 2:19:54 PM

Short Title: Ambulance Services Assessment. (Public)

Sponsors:

Referred to:

February 27, 2003

A BILL TO BE ENTITLED

AN ACT TO REQUIRE COUNTIES TO CONDUCT AN ASSESSMENT OF THE PROVIDERS OF EMERGENCY MEDICAL SERVICES OPERATING WITHIN THE COUNTY WITHIN THE PREVIOUS EIGHTEEN MONTHS AND TO AUTHORIZE THE COUNTY TO CONTRACT WITH CERTAIN PROVIDERS.

The General Assembly of North Carolina enacts:

SECTION 1. Every county shall conduct an assessment of all providers of ambulance services serving the citizens of that county within the previous 18 months and collect the following data:

(1) The number of persons served in the county by the provider.

(2) The response time of the provider.

(3) The debt collection ratio of the provider.

(4) The financial stability of the provider.

(5) The organizational structure of the provider.

(6) The liability ratio of the provider.

(7) Any other relevant information.

SECTION 2. The North Carolina Office of Emergency Medical Services, Department of Health and Human Services, shall collect the assessments from the counties by January 1, 2005. The Department shall compile the information and report that information to the North Carolina Emergency Medical Services Advisory Council by March 1, 2005.

SECTION 3. Any of the providers included in the assessment conducted under Section 1 of this act may make a written request of the county to contract with the county to provide ambulance services. Failure to contract with any provider making such a request must be by resolution of the Board and such resolution must state the reasons for the failure to contract.

SECTION 4. This act is effective when it becomes law and expires July 1, 2005.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 7/16/04

S. B. No. S243-CSST-118 v. 2 Amendment No. 1

(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

(Rep.) Sen.) Bucker Owens

moves to amend the bill on page 1, line 21

( ) WHICH CHANGES THE TITLE

by _____

rewriting that line to read:

"by JUNE 1, 2005".

SIGNED WC Owens Jr

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 7/16/04

S. B. No. 243 Amendment No. 2 (to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE S243-CSST-118[v.2]

(Rep.) Sen.) Hackney

moves to amend the bill on page 1, line 3

(✓) WHICH CHANGES THE TITLE

by deleting "EMERGENCY MEDICAL" and substituting "AMBULANCE";

and on page 1, lines 4-5, by deleting "AND TO AUTHORIZE THE COUNTY TO CONTRACT WITH CERTAIN PROVIDERS";

and on page 1, lines 22-26, by deleting the lines and renumbering the remaining section accordingly.

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 7/16/04

S. B. No. S243-CSST-118 v. 2 Amendment No. 3
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE ✓

Rep.) Brubaker
Sen.)

moves to amend the bill on page 1, line 7

( ) WHICH CHANGES THE TITLE

by

inserting the phrase "If funds are available,"

between "Section 1." and "Every".

SIGNED

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☐ Committee Substitute for
S.B. 243 A BILL TO BE ENTITLED AN ACT TO NAME THE HALIFAX-NORTHAMPTON REGIONAL 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 the HOUSE committee substitute bill ~~(# ——)~~, ~~☐ which changes the title,~~ unfavorable as to ~~the 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.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July ~~15~~ 16, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Carole Lauer	EGHS
Julie Woodson	NCCBI
Mike Lamm	NCMD
Ben Ligon	NCJCA
Chuck Robertson	NC Justice Ctr
Steve Woodson	NC Farm Bureau
Jim Stephenson	NC Coastal Federation
Suzanne Lewis	NCCC's
Paul Pulley	Pulley, Watts, Kv L
Michael Hamer	NCAE
Lutz & Fuchs II	

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July ~~15~~ 16, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Mark Binkley	Capitol Group
Rev. Mark A. Creech	CAL
Michelle Frazier	NC Bar Assoc.
Katie Myers	NC Bar Assoc.
Estherine Davis	Electricities
Fran Piercy	Duke Energy
Kevin Leonard	WCSL
Steve Keene	NCMS
Jay Kaplan	NCLHW
Susan Grayson	DENR
Joe Dole	Gov. Office

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July ~~15~~ 16, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Gardner Payne	Edmisten & Webb
Chad Essick	Edmisten + Webb
Bill Scoggin	KCCH
DAVID BARNES	Poyner Spruill
Marvin Musselwhite	Poyner + Spruill
Johanna Reese	DENR
David Vogel	DENR
Donna Rosefield	DCR
Stacy Flaudery	NCHCFA
Angie Harris	MT
Ellie Caldwell	Hoffa & Caldwell

VISITOR REGISTRATION SHEET

7-16-04

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Rob Lawing	HHLS
Bill Brooks	NCFPC
Guelda Blackstone	F HOR.
John Goodman	Alley Associates
Barbara Canada	BSCGR
Susan Valaitis	Nationwide
Ann Wall	OWNS
Kenneth Dalton	Bass Assoc.
Tim Minton	NC Home Builders

MINUTES OF THE COMMITTEE ON RULES, CALENDAR \
AND OPERATIONS OF THE HOUSE

July 17, 2004

The Committee on Rules, Calendar and Operations of the House met on July 17, 2004 at 3:05 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representative Culpepper, Chairman; Hackney, Vice Chairman; Brubaker, Church, Crawford, Gorman, Howard, Howard, Justus, Luebke, McComas, Miller, and Yongue.

The following bills were considered:

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 657 – AN ACT TO IMPOSE RESTRICTIONS ON THE USE AND OPERATION OF TANNING FACILITIES AND EQUIPMENT, INCLUDING NOT ALLOWING PERSONS THIRTEEN YEARS AND YOUNGER TO USE TANNING EQUIPMENT WITHOUT A WRITTEN PRESCRIPTION FROM THE PERSON'S MEDICAL PHYSICIAN SPECIFYING THE NATURE OF THE MEDICAL CONDITION REQUIRING THE TREATMENT, THE NUMBER OF VISITS, AND THE TIME OF EXPOSURE FOR EACH VISIT. A proposed House committee substitute #2 changing the title to AN ACT TO PROVIDE THAT OPERATORS OF TANNING EQUIPMENT SHALL PROVIDE WARNING STATEMENTS TO CONSUMERS REGARDING THE HAZARDS OF EXPOSURE TO ULTRAVIOLET RADIATION AND SHALL OBTAIN A CONSUMER'S ACKNOWLEDGMENT OF THE WANING BEFORE THE CONSUMER'S INITIAL USE; TO PROVIDE THAT OPERATORS SHALL NOT ALLOW A PERSON 13 YEARS AND YOUNGER TO USE TANNING EQUIPMENT WITHOUT A WRITTEN PRESCRIPTION; TO PROHIBIT OPERATORS AND OWNERS FROM CLAIMING THAT USING TANNING EQUIPMENT IS SAFE; TO PERMIT THE RADIATION PROTECTION COMMISSION TO ADOPT RULES IMPLEMENTING THIS ACT THAT SHALL BE ENFORCED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; TO DEFINE THE TERMS "CONSUMER", "TANNING FACILITY" AND "TANNING EQUIPMENT"; AND TO MAKE THIS ACT EFFECTIVE OCTOBER 1, 2004 was offered, and Representative Hackney moved for its adoption. Without objection, the chairman so ordered. Senator Forrester, sponsor, was recognized to speak on the bill. Representative Justus moved for a favorable report for House committee substitute #2, unfavorable to House committee substitute #1. The motion carried.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1008 – AN ACT TO REESTABLISH AND EXTEND THE VIRGINIA-NORTH CAROLINA INTERSTATE HIGH-SPEED RAIL COMMISSION, DIRECT THE COMMISSION TO STUDY ESTABLISHMENT OF AN INTERSTATE HIGH-SPEED RAIL COMPACT, AND AUTHORIZE THE COMMISSION TO HOLD REGULARLY SCHEDULED MEETINGS IN BOTH NORTH CAROLINA AND VIRGINIA. A proposed House committee substitute changing the title to AN ACT TO CLARIFY AND STRENGTHEN THE REPORTING REQUIREMENTS OF NON-STATE ENTITIES RECEIVING STATE FUNDS was offered, and Representative Gorman moved for its adoption. Senator Kerr, sponsor, was recognized to speak on the bill. Sandra Alley, staff attorney, was then recognized to explain the on the proposed House committee substitute. Hugh Tilson, attorney for the North Carolina Hospital Association, answered questions of the committee. Representative

Hackney sent forth an amendment and moved for its adoption. The motion carried. Representative Hackney then sent forth amendment #2 and moved for its adoption. The motion carried. Kevin E Fitzgerald spoke in favor of the bill on behalf of the University of North Carolina. Representative Luebke moved that the amendments be incorporated into a new House committee substitute and that the new House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion carried.

The meeting adjourned at 3:45 p.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Committee Assistant

MINUTES OF THE COMMITTEE ON RULES, CALENDAR
AND OPERATIONS OF THE HOUSE

July 17, 2004

The Committee on Rules, Calendar and Operations of the House met on July 17, 2004 at 5:40 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representatives Culpepper, Chairman; Hackney, Vice Chairman; Church Crawford, Gorman, Justus, Luebke, McComas, Miller, Owens, Setzer, Sherrill and Yongue.

The following bills were considered:

SENATE BILL 805-AN ACT TO PROVIDE FOR THE CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS WITHIN STATE GOVERNMENT, AS RECOMMENDED BY THE GOVERNOR'S COMMISSION TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS ON STATE SPENDING. A proposed House committee substitute changing the title to AN ACT TO BEAUTIFY THE STATE GOVERNMENT MALL was offered, and Representative Crawford moved for its adoption. Without objection, the chairman so ordered. Senator Rand, sponsor, was recognized to explain the proposed committee substitute. Representative Sherrill moved that the proposed House committee substitute be given a favorable report, unfavorable to the original bill. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1058-AN ACT TO PROVIDE THAT A MEMBER OF THE MILITARY OR A DEPENDENT RELATIVE OF A MEMBER OF THE MILITARY WHO ATTENDS A CONSTITUENT UNIVERSITY OR A COMMUNITY COLLEGE SHALL BE CHARGED ONLY THE IN-STATE TUITION RATE. A proposed House committee substitute changing the title to AN ACT TO PROVIDE THAT A MEMBER OF THE MILITARY OR A DEPENDENT RELATIVE OF A MEMBER OF THE MILITARY WHO ATTENDS A CONSTITUENT UNIVERSITY OR A COMMUNITY COLLEGE SHALL BE CHARGED ONLY THE IN-STATE TUITION RATE AND TO AUTHORIZE IN-STATE TUITION FOR NONRESIDENT MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD AND TO CLARIFY LAWS PROHIBITING DISCRIMINATION AGAINST PERSONS WHO SERVE IN THE NORTH CAROLINA NATIONAL GUARD was offered, and Representative Gorman moved for its adoption. Without objection, the chairman so ordered. Senator Rand, sponsor, was recognized to speak on the proposed committee substitute. Representative Sutton was also recognized to speak on the proposed committee substitute. Representative Owens moved that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion carried.

The meeting adjourned at 5:55 p.m.

Representative Bill Culpepper, Chairman

Dorothy C. Crocker, Committee Assistant

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 17, 2004
3:05 P.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

HOUSE COMMITTEE SUBSTITUTE FOR SENATE BILL 657-AN ACT TO IMPOSE RESTRICTIONS ON THE USE AND OPERATION OF TANNING FACILITIES AND EQUIPMENT, INCLUDING NOT ALLOWING PERSONS THIRTEEN YEARS AND YOUNGER TO USE TANNING EQUIPMENT WITHOUT A WRITTEN PRESCRIPTION FROM THE PERSON'S MEDICAL PHYSICIAN SPECIFYING THE NATURE OF THE MEDICAL CONDITION REQUIRING THE TREATMENT, THE NUMBER OF VISITS, AND THE TIME OF EXPOSURE FOR EACH VISIT.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1008-AN ACT TO REESTABLISH AND EXTEND THE VIRGINIA-NORTH CAROLINA INTERSTATE HIGH-SPEED RAIL COMMISSION, DIRECT THE COMMISSION TO STUDY ESTABLISHMENT OF AN INTERSTATE HIGH-SPEED RAIL COMPACT, AND AUTHORIZE THE COMMISSION TO HOLD REGULARLY SCHEDULED MEETINGS IN BOTH NORTH CAROLINA AND VIRGINIA.

ADJOURNMENT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 657

Health & Human Resources Committee Substitute Adopted 4/10/03
House Committee Substitute Favorable 7/15/04

Short Title: Tanning Salons/Restrictions on Use. (Public)

Sponsors:

Referred to:

April 1, 2003

A BILL TO BE ENTITLED

AN ACT TO IMPOSE RESTRICTIONS ON THE USE AND OPERATION OF TANNING FACILITIES AND EQUIPMENT, INCLUDING NOT ALLOWING PERSONS THIRTEEN YEARS AND YOUNGER TO USE TANNING EQUIPMENT WITHOUT A WRITTEN PRESCRIPTION FROM THE PERSON'S MEDICAL PHYSICIAN SPECIFYING THE NATURE OF THE MEDICAL CONDITION REQUIRING THE TREATMENT, THE NUMBER OF VISITS, AND THE TIME OF EXPOSURE FOR EACH VISIT.

Whereas, on an average day in the United States, more than one million people visit indoor tanning salons for the purpose of tanning the skin; and

Whereas, studies have found that indoor tanning may be just as harmful to the skin as outdoor sun exposure; and

Whereas, most indoor tanning salon bulbs provide a significant amount of UVA and UVB radiation, both types of which are found in the outdoor sun and cause various types of damage to the skin that may lead to skin cancer; and

Whereas, past studies have suggested that tanning beds contribute to the incidence of melanoma, and a recent study in the Journal of the National Cancer Institute indicates that the use of tanning devices may also contribute to the incidence of nonmelanoma skin cancers; and

Whereas, dermatologists across the country are alarmed with the number of teenagers and young adults who continue to patronize tanning salons regardless of studies reporting the link between sun exposure and a wide array of skin cancers; and

Whereas, the Centers for Disease Control and Prevention reports an estimated 700 emergency department visits per year related to tanning salon exposure; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 104E of the General Statutes is amended by adding the following new section to read:

"§ 104E-9.1. Restrictions on use and operation of tanning equipment.

(a) Operators of tanning equipment and owners of tanning facilities subject to rules adopted pursuant to this Chapter shall comply with or ensure compliance with the following:

(1) The operator shall provide to each consumer a warning statement that defines the potential hazards and consequences of exposure to ultraviolet radiation. Before allowing the consumer's initial use of the tanning equipment, the operator shall obtain the signature of the consumer on the warning statement acknowledging receipt of the warning.

(2) The operator shall not allow a person 13 years and younger to use tanning equipment without a written prescription from the person's medical physician specifying the nature of the medical condition requiring the treatment, the number of visits, and the time of exposure for each visit.

(3) Neither an operator nor an owner shall claim or distribute promotional materials that claim that using tanning equipment is safe or free from risk or that using tanning equipment will result in medical or health benefits.

(4) The operator shall not allow a person to use tanning equipment longer than the recommended exposure time provided by the manufacturer of the tanning equipment as shown on the label of the tanning equipment.

(b) The Commission may adopt, and the Department shall enforce, rules to implement this section. The requirements of this section are in addition to other rules adopted pursuant to this Chapter that are applicable to tanning facilities and do not conflict with this section.

(c) As used in this section, unless the context requires otherwise, the term:

(1) 'Consumer' means any individual who is provided access to a tanning facility that is subject to registration and regulation under this Chapter.

(2) 'Tanning facility' means any location, place, area, structure, or business that provides consumers access to tanning equipment. For the purpose of this definition, tanning equipment registered to different persons at the same location and tanning equipment registered to the same person, but at separate locations, shall constitute separate tanning facilities.

(3) 'Tanning equipment' means ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the irradiation of any part of the living human body with ultraviolet radiation."

SECTION 2. This act becomes effective October 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 657

Health & Human Resources Committee Substitute Adopted 4/10/03
House Committee Substitute Favorable 7/15/04
PROPOSED HOUSE COMMITTEE SUBSTITUTE S657-PCS35510-ST-119

Short Title: Tanning Salons/Restrictions on Use. (Public)

Sponsors:

Referred to:

April 1, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT OPERATORS OF TANNING EQUIPMENT SHALL PROVIDE WARNING STATEMENTS TO CONSUMERS REGARDING THE HAZARDS OF EXPOSURE TO ULTRAVIOLET RADIATION AND SHALL OBTAIN A CONSUMER'S ACKNOWLEDGMENT OF THE WARNING BEFORE THE CONSUMER'S INITIAL USE; TO PROVIDE THAT OPERATORS SHALL NOT ALLOW A PERSON 13 YEARS AND YOUNGER TO USE TANNING EQUIPMENT WITHOUT A WRITTEN PRESCRIPTION; TO PROHIBIT OPERATORS AND OWNERS FROM CLAIMING THAT USING TANNING EQUIPMENT IS SAFE; TO PERMIT THE RADIATION PROTECTION COMMISSION TO ADOPT RULES IMPLEMENTING THIS ACT THAT SHALL BE ENFORCED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; TO DEFINE THE TERMS "CONSUMER", "TANNING FACILITY", AND "TANNING EQUIPMENT"; AND TO MAKE THIS ACT EFFECTIVE OCTOBER 1, 2004.

Whereas, on an average day in the United States, more than one million people visit indoor tanning salons for the purpose of tanning the skin; and

Whereas, studies have found that indoor tanning may be just as harmful to the skin as outdoor sun exposure; and

Whereas, most indoor tanning salon bulbs provide a significant amount of UVA and UVB radiation, both types of which are found in the outdoor sun and cause various types of damage to the skin that may lead to skin cancer; and

Whereas, past studies have suggested that tanning beds contribute to the incidence of melanoma, and a recent study in the Journal of the National Cancer Institute indicates that the use of tanning devices may also contribute to the incidence of nonmelanoma skin cancers; and

Whereas, dermatologists across the country are alarmed with the number of teenagers and young adults who continue to patronize tanning salons regardless of studies reporting the link between sun exposure and a wide array of skin cancers; and

Whereas, the Centers for Disease Control and Prevention reports an estimated 700 emergency department visits per year related to tanning salon exposure; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 104E of the General Statutes is amended by adding the following new section to read:

"**§ 104E-9.1. Restrictions on use and operation of tanning equipment.**

(a) Operators of tanning equipment and owners of tanning facilities subject to rules adopted pursuant to this Chapter shall comply with or ensure compliance with the following:

(1) The operator shall provide to each consumer a warning statement that defines the potential hazards and consequences of exposure to ultraviolet radiation. Before allowing the consumer's initial use of the tanning equipment, the operator shall obtain the signature of the consumer on the warning statement acknowledging receipt of the warning.

(2) The operator shall not allow a person 13 years and younger to use tanning equipment without a written prescription from the person's medical physician specifying the nature of the medical condition requiring the treatment, the number of visits, and the time of exposure for each visit.

(3) Neither an operator nor an owner shall claim or distribute promotional materials that claim that using tanning equipment is safe or free from risk or that using tanning equipment will result in medical or health benefits.

(b) The Commission may adopt, and the Department shall enforce, rules to implement this section. The requirements of this section are in addition to other rules adopted pursuant to this Chapter that are applicable to tanning facilities and do not conflict with this section.

(c) As used in this section, unless the context requires otherwise, the term:

(1) 'Consumer' means any individual who is provided access to a tanning facility that is subject to registration and regulation under this Chapter.

(2) 'Tanning facility' means any location, place, area, structure, or business that provides consumers access to tanning equipment. For the purpose of this definition, tanning equipment registered to different persons at the same location and tanning equipment registered to the same person, but at separate locations, shall constitute separate tanning facilities.

(3) 'Tanning equipment' means ultraviolet or other lamps and equipment containing such lamps intended to induce skin tanning through the

irradiation of any part of the living human body with ultraviolet radiation."

SECTION 2. This act becomes effective October 1, 2004.

SENATE BILL 657:
Tanning Salons/Restrictions on Use

BILL ANALYSIS

Committee:	Rules, Calendar and Operations of the House	**Introduced by:**	Sen. Forrester
		Summary by:	Dianna Jessup Committee Counsel
Date:	July 17, 2004		
Version:	PCS S657-CSST-119		

SUMMARY: ***Senate Bill 657 would require operators of tanning equipment to provide warning statements to consumers warning of the consequences of exposure to radiation, impose restrictions on the use of tanning equipment by persons younger than 13, and prohibit operators in tanning facilities from claiming that tanning equipment is safe. Violations could result in administrative penalties. The act would become effective October 1, 2004.***

The PCS deletes a provision in the second edition that would have prohibited operators from using tanning equipment longer than the recommended exposure time.

CURRENT LAW: The Radiation Protection Commission is a statutorily-created commission within the Department of Environment and Natural Resources (Department) charged with adopting rules providing for a program to regulate and inspect sources of nonionizing radiation, which includes tanning equipment. Current rules require tanning facilities to register with the Department and renew their registration annually and also address the posting of warning signs, equipment requirements, the wearing of protective eyewear, what records must be maintained, registration of persons who service tanning equipment, and fees for registration. Operators of tanning equipment must be trained and certified.

Specific to this bill, the rules require operators to provide consumers the opportunity to read a copy of the warning concerning exposure to radiation and to request that the consumer sign the statement, prohibit registrants from allowing a person under age 18 to use tanning equipment unless the person provides a consent form signed by that person's parent, and require remote timers on tanning equipment with a maximum timer interval that does not exceed the manufacturer's maximum recommended exposure time.

The Department may impose an administrative penalty on any person who fails to comply with the rules. Each day of a continuing violation constitutes a separate violation. An administrative penalty may not exceed $10,000 per day. Penalties may be contested.

BILL ANALYSIS: In addition to the rules prescribed for tanning facilities, operators must comply with the following:

- Provide a warning statement to the consumer and obtain the consumer's signature acknowledging receipt of the statement before allowing the consumer to use the tanning equipment for the first time. Current rules require operators to provide the consumer the "opportunity" to read the warning and to "request" the consumer to sign the statement.
- Operators would be prohibited from claiming or distributing promotional materials that claim that using tanning equipment is safe or free from risk or that using tanning equipment will result in medical or health benefits. Current rules do not address this issue.
- Operators could only allow persons 13 years and younger to use tanning equipment if the person has a written prescription specifying the nature of the medical condition requiring the treatment, the number of visits, and the time of exposure for each visit.

The current rule that requires parental consent for persons under 18 would still remain in effect.

The Commission would be permitted to adopt rules to implement the requirements described above. The Department, as in other matters relating to tanning equipment, would enforce the rules.

Finally, the bill defines the terms "consumer", "tanning facility", and "tanning equipment". These definitions are consistent with the definitions for these terms currently in the rules.

S657-SMSW-003

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **Rules, Calendar and Operations of the House.**

☒ House Committee Substitute for #1

S.B. 657 A BILL TO BE ENTITLED AN ACT TO IMPOSE RESTRICTIONS ON THE USE AND OPERATION OF TANNING FACILITIES AND EQUIPMENT, INCLUDING NOT ALLOWING PERSONS THIRTEEN YEARS AND YOUNGER TO USE TANNING EQUIPMENT WITHOUT A WRITTEN PRESCRIPTION FROM THE PERSON'S MEDICAL PHYSICIAN SPECIFYING THE NATURE OF THE MEDICAL CONDITION REQUIRING THE TREATMENT, THE NUMBER OF VISITS, AND THE TIME OF EXPOSURE FOR EACH VISIT.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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 (# 1), ☒ which changes the title, unfavorable as to ~~Senate~~ House committee substitute bill.#1

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 1008

Rules and Operations of the Senate Committee Substitute Adopted 4/30/03

Short Title: VA-NC High-Speed Rail Commission. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO REESTABLISH AND EXTEND THE VIRGINIA-NORTH CAROLINA INTERSTATE HIGH-SPEED RAIL COMMISSION, DIRECT THE COMMISSION TO STUDY ESTABLISHMENT OF AN INTERSTATE HIGH-SPEED RAIL COMPACT, AND AUTHORIZE THE COMMISSION TO HOLD REGULARLY SCHEDULED MEETINGS IN BOTH NORTH CAROLINA AND VIRGINIA.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2001-266, as amended by Section 2.22 of S.L. 2001-486, reads as rewritten:

"**SECTION 2.** In conducting its study, the Commission shall hold regularly scheduled meetings in this State and in Virginia, tours of inspection, and public hearings as appropriate to determine the desirability and feasibility of establishing high-speed passenger rail service between Virginia and North Carolina. The Commission shall also study the establishment of an interstate high-speed rail compact between North Carolina, Virginia, and other states. If it appears to the Commission that establishment of such service or compact is desirable and feasible, the Commission shall consider and recommend to the Governor and General Assembly those legislative actions necessary to do so, including the identification of the necessary levels of funding and the sources of those funds."

SECTION 2. Section 4 of S.L. 2001-266, as amended by Section 2.22 of S.L. 2001-486, reads as rewritten:

"**SECTION 4.** The Commission shall report its findings and any recommendations to the Governor and the General Assembly by ~~October 20, 2002,~~ November 30, 2004, and may make an interim report to the Governor and General Assembly upon the convening of the ~~2002~~ 2004 Regular Session of the ~~2001~~ 2003 General Assembly. The Commission shall terminate on November 30, 2004."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1008

Rules and Operations of the Senate Committee Substitute Adopted 4/30/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1008-PCS35511-RW-97

Short Title: Non-State Entities Reporting Requirements. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND STRENGTHEN THE REPORTING REQUIREMENTS OF NON-STATE ENTITIES RECEIVING STATE FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-6.1 is repealed.

SECTION 2. Article 1 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-6.2. Use of State funds by non-State entities.**

(a) Disbursement and Use of State Funds. – Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly. State funds include federal funds that flow through the State. For the purposes of this section, the term "non-State entity" means a firm, corporation, partnership, association, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution. For the purposes of this section, "unit of local government" has the meaning set out in G.S. 159-7(15) and "public authority" has the meaning set out in G.S. 159.7(10).

(b) For the purposes of this section, the term "grantee" means a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. The term "subgrantee" means a non-State entity that receives a grant of State funds from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(c) Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, the Director shall take appropriate administrative action to ensure that no further

irregularities occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds.

(d) The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The rules shall establish policies and procedures for disbursements of grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. Such policies and procedures shall:

(1) Ensure that the purpose and reporting requirements of each grant are specified to the grantee.

(2) Ensure that grantees specify the purpose and reporting requirements for grants made to subgrantees.

(3) Ensure that funds are spent in accordance with the purposes for which they were granted.

(4) Hold the grantees and subgrantees accountable for the legal and appropriate expenditure of State grant funds.

(5) Provide for adequate oversight and monitoring to prevent the misuse of State funds.

(6) Establish mandatory periodic reporting requirements for grantees and subgrantees, including methods of reporting, to provide financial and program performance information. The mandatory periodic reporting requirements shall require grantees and subgrantees to file with the State Auditor copies of reports and statements that are filed with State agencies pursuant to this subsection.

(7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all State grant funds and to make such reports, records, and other information available to the grantor State agency for oversight, monitoring, and evaluation purposes.

(8) Require grantees and subgrantees to ensure that work papers in the possession of their auditors are available to the State Auditor for the purposes set out in subsection (h) of this section.

(9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by State grant funds and each subgrantee project, program, or activity supported by State grant funds.

(10) Provide procedures for the suspension of further disbursements or use of State grant funds for noncompliance with these rules or other inappropriate use of the funds.

(11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for noncompliance with these rules or other inappropriate use of State grant funds.

(12) Provide procedures for the recovery and return to the grantor State agency of unexpended State grant funds from a grantee or subgrantee if the grantee or subgrantee is unable to fulfill the purposes of the grant.

(e) Notwithstanding the provisions of G.S. 150B-2(8a)b, rules adopted pursuant to subsection (d) of this section are subject to the provisions of Chapter 150B of the General Statutes.

(f) The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by subsection (d) of this section.

(g) The Office of State Budget and Management shall have the power to suspend disbursement of State grant funds to grantees or subgrantees, to prevent further use of State grant funds already disbursed, and to recover State grant funds already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this section or for other inappropriate use of State funds. If the grant funds are a pass-through of funds granted by an agency of the United States, then the Office of State Budget and Management must consult with the granting agency of the United States prior to taking the actions authorized by this subsection.

(h) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends State funds. A grantee or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of State funds. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee.

(i) Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section during the prior fiscal year, including the amount of State funds that were disbursed to each of those grantees or subgrantees during that fiscal year and the amount of State funds that were withheld.

(j) Grantor State agencies shall submit a list to the State Auditor, in the format prescribed by the State Auditor, by October 31 each year of every grantee to which the agency disbursed State funds in the prior fiscal year, the amount disbursed, the amount disbursed to each grantee, and other such information as required by the State Auditor to comply with the requirements set forth in this section.

(k) Civil Actions. – Civil actions to recover State funds or to obtain other mandatory orders in the name of the State on relation of the Attorney General, or in the name of the Office of State Budget and Management, shall be filed in the General Court of Justice in Wake County."

SECTION 3. G.S. 147-86.35(b) reads as rewritten:

"(b) Any non-State ~~corporation, organization, or institution~~ entity as that term is defined in G.S. 143-6.2 that receives, uses, or expends any funds from the Commission is subject to the applicable reporting requirements of ~~G.S. 143-6.1.~~G.S. 143-6.2."

SECTION 4. G.S. 143-722(b) reads as rewritten:

"(b) Any non-State ~~corporation, organization, or institution~~ entity as that term is defined in G.S. 143-6.2 that receives, uses, or expends any funds from the Commission is subject to the applicable reporting requirements of ~~G.S 143-6.1.~~G.S. 143-6.2."

SECTION 5. G.S. 143-6.2(d), (e), and (f), as enacted by this act, are effective when they become law. The remainder of this act becomes effective July 1, 2005, and applies to appropriations and grants made for fiscal years beginning on or after that date.

SENATE BILL 1008:
Non-State Entities Reporting

BILL ANALYSIS

Committee:	House Rules	**Introduced by:**	Sen. Kerr
Date:	July 17, 2004	**Summary by:**	Sandra Alley
Version:	PCS		Staff Attorney

SUMMARY: ***The act repeals and replaces the statute that establishes the procedures for the oversight of State grants to non-profit entities. G.S. 143-6.2(d), (e), and (f) are effective when they become law, the remainder of the bill becomes effective July 1, 2005.***

BILL ANALYSIS:

Section One:
Repeals the current reporting statute, G.S. 143-6.1.

Section Two:
Enacts a new reporting and oversight statute, G.S. 143-6.2:

Subsection (a) requires non-State entities receiving State funds to use them only for the purposes for which the General Assembly appropriated them. Defines "non-State entity."

Subsection (b) defines "grantee" as a non-State entity receiving a grant of State funds, and "subgrantee" as a non-State entity receiving a grant of State funds from a grantee or another subgrantee.

Subsection (c) requires the Director of the Budget to take appropriate administrative action upon a finding of inappropriate use of State funds by a non-State entity, and requires the director to report unlawful or improper actions by a non-State entity to the Attorney General.

Subsection (d) requires the Office of State Budget and Management to adopt rules ensuring uniform administration of grants to non-State entities by grantor State agencies. This includes disbursements, oversight, monitoring, and evaluation of grantees and subgrantees. The rules must carry out and enforce specific policies and procedures that:

(1) Ensure that the purpose and reporting requirements of each grant are specified.
(2) Ensure that grantees specify the purpose and reporting requirements of grants made to subgrantees.
(3) Ensure funds are spent in accordance with the purposes for which they were granted.
(4)Hold grantees and subgrantees accountable for the legal and appropriate use of the funds.
(5) Provide adequate oversight and monitoring to prevent misuse by grantees and subgrantees.
(6) Establish mandatory periodic reporting requirements with specific reporting methods for grantees and subgrantees, and requires them to file copies of reports with the State Auditor in addition to filing with State agencies.
(7) Require documentation to account for all expenditures by grantees and subgrantees.
(8) Require grantees and subgrantees to ensure that all work papers of their auditors are available for inspection by grantor State agencies and the Auditor.

(9) Require grantees to be responsible to monitor all programs supported by State grants, whether executed by them or by subgrantees..
(10) Provide procedures for suspension of funds for non-compliance with the rules or other inappropriate use of grant funds.
(11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for noncompliance with these rules or other inappropriate use of State grant funds.
(12) Provide procedures for the recovery and return to the grantor State agency of unexpended State grant funds from a grantee or subgrantee if the grantee or subgrantee is unable to fulfill the purposes of the grant.

Subsection (e) specifies that the rules are adopted pursuant to the APA.

Subsection (f) requires Budget and Management to consult with the Auditor and the Attorney General in establishing the rules.

Subsection (g) gives Budget and Management the power to suspend disbursement of funds to grantees and subgrantees and prevent use of already disbursed funds for non-compliance with the rules or other inappropriate use of funds.

Subsection (h) gives the State Auditor specific audit oversight of every grantee or subgrantee that receives State funds and includes a requirement to produce work papers in possession of an auditor upon request of the State Auditor.

Subsection (i) requires the Office of State Budget and Management to report annually to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees and subgrantees that failed to comply with this act during the prior fiscal year, the amount of State funds disbursed to those entities and the amount withheld.

Subsection (j) requires that granting agencies submit, on an annual basis, a list of every grantee receiving State funds during the prior fiscal year, to include the amount and any other information required by the State Auditor.

Subsection (k) gives enforcement authority to the Attorney General to bring a civil action in the Superior Court of Wake County, to include recovery of funds expended in violation of the rules adopted under the act.

Sections Three and Four make conforming changes to the reporting requirements of non-State entities receiving funds from the Health and Wellness Trust Fund and the Tobacco Trust Fund, respectively.

Section Five makes the subsections of new G.S. 143-6.2 that apply to the adoption of the new rules effective when they become law. The rest of the act is effective July 1, 2005 and applies to appropriations and grants made on or after that date.

Summary Contribution by Steve Rose, Staff Attorney.

S1327-SMSP-01

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. 1008 Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Hackney
) _____
Sen.)

moves to amend the bill on page 3, line 19

( ) WHICH CHANGES THE TITLE

by adding after the word "oversight," the phrase "with respect to State funds received by the grantee or subgrantee,"

and on page 3 line 23 after the word "funds" the phrase:

"received by the grantee or subgrantee".

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE 7-16-04

S. B. No. 1008 Amendment No. 2
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) HACKNEY
)
Sen.)

moves to amend the bill on page 3, line 14-15

( ) WHICH CHANGES THE TITLE

by

deleting the phrase

"or for other inappropriate use of ~~Fees~~ State funds".

SIGNED

ADOPTED ✓ FAILED TABLED

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 1008 A BILL TO BE ENTITLED AN ACT TO RESTABLISH AND EXTEND THE VIRGINIA-NORTH CAROLINA INTERSTATE HIGH-SPEED RAIL COMMISSION, DIRECT THE COMMISSION TO STUDY ESTABLISHMENT OF AN INTERSTATE HIGH-SPEED RAIL COMPACT, AND AUTHORIZE THE COMMISSION TO HOLD REGULARLY SCHEDULED MEETINGS IN BOTH NORTH CAROLINA AND VIRGINIA.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July 17, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Alicia Keys	singer/songwriter/pianist
Andy Romanoff	NCLM, friend of Alicia
[illegible] Tilson	NCHFA
Donna Rosefield	DCR
[illegible] Holtorn	NCMS
Stacy Flannery	NCHCFA
Angie Hamm	MT
Henry Jones	Attorney - Raleigh
Jim Blackburn	Manager, Alicia Keys' Productions
DAVID BARNES	Poyner + Spruill LLP
[illegible]	WCSR
[illegible]	WCSR

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July 17, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Chad W. Essick	Edmisten + Webb
Dan McArthur	Governor's Ofc.
Amy Fullbright	Hunton & Wms.
John Palumbo	AT&T
Bill Scoggin	KCLH
M. K. Sams	NMPA
Andy Ellen	NCRMA
Anita Baker	Detroit, MI
Dean Ross	APPCNC/ELTC
John Goodman	Aller Associates
Ray Russ	

VISITOR REGISTRATION SHEET

Rules

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Dana Simpson	Smith Anderson
[illegible]	WWTD
C Carter	BPMAL
Smarkham	NCSPA
Johanna Reese	DENR
Rick Zechini	NC Assoc. of REALTORS
Kevin Fitzgerald	DNC CA
Michael Flowers	NCAE
Michael Thompson	Dominion NC Power
David Crawford	AIA
[illegible]	SBE/DPI
Karen [illegible]	NC ACDSS
[illegible]	NCAPA
[illegible]	NCMBA

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 17, 2004
5:40 P.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

SENATE BILL 805-AN ACT TO PROVIDE FOR THE CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS WITHIN STATE GOVERNMENT, AS RECOMMENDED BY THE GOVERNOR'S COMMISSION TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS ON STATE SPENDING.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1058-AN ACT TO PROVIDE THAT A MEMBER OF THE MILITARY OR A DEPENDENT RELATIVE OF A MEMBER OF THE MILITARY WHO ATTENDS A CONSTITUENT UNIVERSITY OR A COMMUNITY COLLEGE SHALL BE CHARGED ONLY THE IN-STATE TUITION RATE

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR
AND OPERATIONS OF THE HOUSE

July 17, 2004

The Committee on Rules, Calendar and Operations of the House met on July 17, 2004 at 5:40 p.m. in Room 421 of the Legislative Office Building. The following members were present: Representatives Culpepper, Chairman; Hackney, Vice Chairman; Church Crawford, Gorman, Justus, Luebke, McComas, Miller, Owens, Setzer, Sherrill and Yongue.

The following bills were considered:

SENATE BILL 805-AN ACT TO PROVIDE FOR THE CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS WITHIN STATE GOVERNMENT, AS RECOMMENDED BY THE GOVERNOR'S COMMISSION TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS ON STATE SPENDING. A proposed House committee substitute changing the title to AN ACT TO BEAUTIFY THE STATE GOVERNMENT MALL was offered, and Representative Crawford moved for its adoption. Without objection, the chairman so ordered. Senator Rand, sponsor, was recognized to explain the proposed committee substitute. Representative Sherrill moved that the proposed House committee substitute be given a favorable report, unfavorable to the original bill. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1058-AN ACT TO PROVIDE THAT A MEMBER OF THE MILITARY OR A DEPENDENT RELATIVE OF A MEMBER OF THE MILITARY WHO ATTENDS A CONSTITUENT UNIVERSITY OR A COMMUNITY COLLEGE SHALL BE CHARGED ONLY THE IN-STATE TUITION RATE. A proposed House committee substitute changing the title to AN ACT TO PROVIDE THAT A MEMBER OF THE MILITARY OR A DEPENDENT RELATIVE OF A MEMBER OF THE MILITARY WHO ATTENDS A CONSTITUENT UNIVERSITY OR A COMMUNITY COLLEGE SHALL BE CHARGED ONLY THE IN-STATE TUITION RATE AND TO AUTHORIZE IN-STATE TUITION FOR NONRESIDENT MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD AND TO CLARIFY LAWS PROHIBITING DISCRIMINATION AGAINST PERSONS WHO SERVE IN THE NORTH CAROLINA NATIONAL GUARD was offered, and Representative Gorman moved for its adoption. Without objection, the chairman so ordered. Senator Rand, sponsor, was recognized to speak on the proposed committee substitute. Representative Sutton was also recognized to speak on the proposed committee substitute. Representative Owens moved that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion carried.

The meeting adjourned at 5:55 p.m.

Representative Bill Culpepper, Chairman

Dorothy C. Crocker, Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 1

SENATE BILL 805

Short Title:	Consolidate Administrative Functions.	(Public)
Sponsors:	Senator Rand.	
Referred to:	State Government, Local Government, and Veterans' Affairs.	

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS WITHIN STATE GOVERNMENT, AS RECOMMENDED BY THE GOVERNOR'S COMMISSION TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS ON STATE SPENDING.

The General Assembly of North Carolina enacts:

SECTION 1. The Governor's Commission to Promote Government Efficiency and Savings on State Spending has recommended that administrative and support functions of State government be consolidated in areas of high concentration of State facilities, modeled after similar measures taken recently for State facilities in the Morganton area. To that end, The University of North Carolina (through the Office of the President), the Judicial Branch (through the Administrative Office of the Courts), the Executive Branch (through the Department of Administration), the Legislative Branch (through the Legislative Services Office), the Community College System (through the President's Office), and the Department of Public Instruction shall develop a plan to consolidate administrative functions in areas of high concentrations of State facilities. That plan shall be presented to the General Assembly no later than May 1, 2004.

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 805
PROPOSED HOUSE COMMITTEE SUBSTITUTE S805-CSSW-88 [v.2]

7/17/2004 4:51:46 PM

Short Title: Beautify Mall. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO BEAUTIFY THE STATE GOVERNMENT MALL.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Administration shall use funds within its budget for the 2003-2005 fiscal biennium to remove the water fountain located on the State Government Mall just north of the bridge between the State Legislative building and the Mall and to beautify the site.

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

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☐ Committee Substitute for

S.B. 805 A BILL TO BE ENTITLED AN ACT TO PROVIDE FOR THE CONSOLIDATION OF ADMINISTRATIVE FUNCTIONS WITHIN STATE GOVERNMENT, AS RECOMMENDED BY THE GOVERNOR'S COMMISSION TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS ON STATE SPENDING.

☐ 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 the House committee substitute bill (#~~———~~), ☒ which changes the title, unfavorable as to the original bill.

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

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 1058

Education/Higher Education Committee Substitute Adopted 7/7/04

Short Title: UNC & Comm. Coll. Tuition/Military Students. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MEMBER OF THE MILITARY OR A DEPENDENT RELATIVE OF A MEMBER OF THE MILITARY WHO ATTENDS A CONSTITUENT UNIVERSITY OR A COMMUNITY COLLEGE SHALL BE CHARGED ONLY THE IN-STATE TUITION RATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-143.3 reads as rewritten:

"**§ 116-143.3. Tuition of active duty personnel in the armed services.**

(a) Definitions. – The following definitions apply in this section:

(1) The term "abode" shall mean the place where a person actually lives, whether temporarily or permanently; the term "abide" shall mean to live in a given place.

(2) The term "armed services" shall mean the United States Air Force, Army, Coast Guard, Marine Corps, and Navy; the North Carolina National Guard; and any Reserve Component of the foregoing.

(3) The term "tuition assistance" shall be used as defined in the United States Department of Defense Directive 1322.8, implementing 10 U.S.C. § 2007.

(b) Any active duty member of the armed services qualifying for admission to ~~a community college under the jurisdiction of the State Board of Community Colleges~~ an institution of higher education as defined in G.S. 116-143.1(a)(3) but not qualifying as a resident for tuition purposes under G.S. 116-143.1 shall be charged the ~~out-of-State tuition rate; provided, that the out-of-State tuition shall be forgiven to the extent that the out-of-State tuition rate exceeds any amounts payable to the institution or the service member by the service member's employer by reason of enrollment pursuant to such admission while the member is abiding in this State incident to active military duty, plus the amount that represents the percentage of the out-of-State tuition rate paid to the institution or the service member by the service member's employer multiplied by the in-State tuition rate and then subtracted from the in-State tuition rate.~~ in-State tuition rate

and applicable mandatory fees for enrollments while the member of the armed services is abiding in this State incident to active military duty in this State. In the event the active duty member of the armed services is reassigned outside of North Carolina, the member shall continue to be eligible for the in-State tuition rate and applicable mandatory fees so long as the member is continuously enrolled in the degree or other program in which the member was enrolled at the time the member is reassigned.

~~(b1) Any active duty member of the armed services qualifying for admission to a constituent institution of The University of North Carolina but not qualifying as a resident for tuition purposes under G.S. 116-143.1 shall be charged the maximum available tuition assistance as the required payment for tuition and mandatory fees not to exceed the established out-of-state tuition and mandatory fee rates. The Board of Governors of The University of North Carolina shall determine which mandatory fees apply to active duty members of the armed services attending The University of North Carolina.~~

~~(b2) Any active duty member of the armed services who does not qualify for any payment by the member's employer pursuant to subsections (b) or (b1) of this section shall be eligible to be charged the in-State tuition rate and shall pay the full amount of the in-State tuition rate and applicable mandatory fees.~~

(c) Any dependent relative of a member of the armed services who is abiding in this State incident to active military duty, as defined by the Board of Governors of The University of North Carolina and by the State Board of Community Colleges while sharing the abode of that member shall be eligible to be charged the in-State tuition rate, if the dependent relative qualifies for admission to an institution of higher education as defined in G.S. 116-143.1(a)(3). The dependent relatives shall comply with the requirements of the Selective Service System, if applicable, in order to be accorded this benefit. ~~In the event the member of the armed services removes his abode from North Carolina during an academic year, the dependent relative shall continue to be eligible for the in-State tuition rate during the remainder of that academic year.~~ In the event the member of the armed services is reassigned outside of North Carolina, the dependent relative shall continue to be eligible for the in-State tuition rate and applicable mandatory fees so long as the dependent relative is continuously enrolled in the degree or other program in which the dependent relative was enrolled at the time the member is reassigned.

(d) The burden of proving entitlement to the benefit of this section shall lie with the applicant therefor.

(e) A person charged less than the out-of-state tuition rate solely by reason of this section shall not, during the period of receiving that benefit, qualify for or be the basis of conferring the benefit of G.S. 116-143.1(g), (h), (i), (j), (k), or (l)."

SECTION 2. This act becomes effective July 1, 2004.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1058

Education/Higher Education Committee Substitute Adopted 7/7/04
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1058-CSRW-98 [v.2]

7/17/2004 5:22:08 PM

Short Title: UNC & Comm. Coll. Tuition/Military Students. (Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A MEMBER OF THE MILITARY OR A DEPENDENT RELATIVE OF A MEMBER OF THE MILITARY WHO ATTENDS A CONSTITUENT UNIVERSITY OR A COMMUNITY COLLEGE SHALL BE CHARGED ONLY THE IN-STATE TUITION RATE AND TO AUTHORIZE IN-STATE TUITION FOR NONRESIDENT MEMBERS OF THE NORTH CAROLINA NATIONAL GUARD AND TO CLARIFY LAWS PROHIBITING DISCRIMINATION AGAINST PERSONS WHO SERVE IN THE NORTH CAROLINA NATIONAL GUARD.

.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-143.3 reads as rewritten:

"**§ 116-143.3. Tuition of active duty personnel in the armed services.**

(a) Definitions. – The following definitions apply in this section:

(1) The term "abode" shall mean the place where a person actually lives, whether temporarily or permanently; the term "abide" shall mean to live in a given place.

(2) The term "armed services" shall mean the United States Air Force, Army, Coast Guard, Marine Corps, and Navy; the North Carolina National Guard; and any Reserve Component of the foregoing.

(3) The term "tuition assistance" shall be used as defined in the United States Department of Defense Directive 1322.8, implementing 10 U.S.C. § 2007.

(b) Any active duty member of the armed services qualifying for admission to ~~a community college under the jurisdiction of the State Board of Community Colleges~~ an institution of higher education as defined in G.S. 116-143.1(a)(3) but not qualifying as a resident for tuition purposes under G.S. 116-143.1 shall be charged the ~~out-of-State~~

~~tuition rate; provided, that the out-of-State tuition shall be forgiven to the extent that the out-of-State tuition rate exceeds any amounts payable to the institution or the service member by the service member's employer by reason of enrollment pursuant to such admission while the member is abiding in this State incident to active military duty, plus the amount that represents the percentage of the out-of-State tuition rate paid to the institution or the service member by the service member's employer multiplied by the in-State tuition rate and then subtracted from the in-State tuition rate.~~in-State tuition rate and applicable mandatory fees for enrollments while the member of the armed services is abiding in this State incident to active military duty in this State. In the event the active duty member of the armed services is reassigned outside of North Carolina, the member shall continue to be eligible for the in-State tuition rate and applicable mandatory fees so long as the member is continuously enrolled in the degree or other program in which the member was enrolled at the time the member is reassigned.

~~(b1) Any active duty member of the armed services qualifying for admission to a constituent institution of The University of North Carolina but not qualifying as a resident for tuition purposes under G.S. 116-143.1 shall be charged the maximum available tuition assistance as the required payment for tuition and mandatory fees not to exceed the established out-of-state tuition and mandatory fee rates. The Board of Governors of The University of North Carolina shall determine which mandatory fees apply to active duty members of the armed services attending The University of North Carolina.~~

~~(b2) Any active duty member of the armed services who does not qualify for any payment by the member's employer pursuant to subsections (b) or (b1) of this section shall be eligible to be charged the in-State tuition rate and shall pay the full amount of the in-State tuition rate and applicable mandatory fees.~~

(c) Any dependent relative of a member of the armed services who is abiding in this State incident to active military duty, as defined by the Board of Governors of The University of North Carolina and by the State Board of Community Colleges while sharing the abode of that member shall be eligible to be charged the in-State tuition rate, if the dependent relative qualifies for admission to an institution of higher education as defined in G.S. 116-143.1(a)(3). The dependent relatives shall comply with the requirements of the Selective Service System, if applicable, in order to be accorded this benefit. ~~In the event the member of the armed services removes his abode from North Carolina during an academic year, the dependent relative shall continue to be eligible for the in-State tuition rate during the remainder of that academic year.~~ In the event the member of the armed services is reassigned outside of North Carolina, the dependent relative shall continue to be eligible for the in-State tuition rate and applicable mandatory fees so long as the dependent relative is continuously enrolled in the degree or other program in which the dependent relative was enrolled at the time the member is reassigned.

(d) The burden of proving entitlement to the benefit of this section shall lie with the applicant therefor.

(e) A person charged less than the out-of-state tuition rate solely by reason of this section shall not, during the period of receiving that benefit, qualify for or be the basis of conferring the benefit of G.S. 116-143.1(g), (h), (i), (j), (k), or (l)."

SECTION 2. G.S. 116-143.1 reads as rewritten:

"**§ 116-143.1. Provisions for determining resident status for tuition purposes.**

(a) As defined under this section:

(1) A "legal resident" or "resident" is a person who qualifies as a domiciliary of North Carolina; a "nonresident" is a person who does not qualify as a domiciliary of North Carolina.

(2) A "resident for tuition purposes" is a person who qualifies for the in-State tuition rate; a "nonresident for tuition purposes" is a person who does not qualify for the in-State tuition rate.

(3) "Institution of higher education" means any of the constituent institutions of the University of North Carolina and the community colleges under the jurisdiction of the State Board of Community Colleges.

(b) To qualify as a resident for tuition purposes, a person must have established legal residence (domicile) in North Carolina and maintained that legal residence for at least 12 months immediately prior to his or her classification as a resident for tuition purposes. Every applicant for admission shall be required to make a statement as to his length of residence in the State.

(c) To be eligible for classification as a resident for tuition purposes, a person must establish that his or her presence in the State currently is, and during the requisite 12-month qualifying period was, for purposes of maintaining a bona fide domicile rather than of maintaining a mere temporary residence or abode incident to enrollment in an institution of higher education.

(d) An individual shall not be classified as a resident for tuition purposes and, thus, not rendered eligible to receive the in-State tuition rate, until he or she has provided such evidence related to legal residence and its duration as may be required by officials of the institution of higher education from which the individual seeks the in-State tuition rate.

(e) When an individual presents evidence that the individual has living parent(s) or court-appointed guardian of the person, the legal residence of such parent(s) or guardian shall be prima facie evidence of the individual's legal residence, which may be reinforced or rebutted relative to the age and general circumstances of the individual by the other evidence of legal residence required of or presented by the individual; provided, that the legal residence of an individual whose parents are domiciled outside this State shall not be prima facie evidence of the individual's legal residence if the individual has lived in this State the five consecutive years prior to enrolling or reregistering at the institution of higher education at which resident status for tuition purposes is sought.

(f) In making domiciliary determinations related to the classification of persons as residents or nonresidents for tuition purposes, the domicile of a married person,

irrespective of sex, shall be determined, as in the case of an unmarried person, by reference to all relevant evidence of domiciliary intent. For purposes of this section:

(1) No person shall be precluded solely by reason of marriage to a person domiciled outside North Carolina from establishing or maintaining legal residence in North Carolina and subsequently qualifying or continuing to qualify as a resident for tuition purposes;

(2) No persons shall be deemed solely by reason of marriage to a person domiciled in North Carolina to have established or maintained a legal residence in North Carolina and subsequently to have qualified or continued to qualify as a resident for tuition purposes;

(3) In determining the domicile of a married person, irrespective of sex, the fact of marriage and the place of domicile of his or her spouse shall be deemed relevant evidence to be considered in ascertaining domiciliary intent.

(g) Any nonresident person, irrespective of sex, who marries a legal resident of this State or marries one who later becomes a legal resident, may, upon becoming a legal resident of this State, accede to the benefit of the spouse's immediately precedent duration as a legal resident for purposes of satisfying the 12-month durational requirement of this section.

(h) No person shall lose his or her resident status for tuition purposes solely by reason of serving in the armed forces outside this State.

(h1) Any member of a North Carolina National Guard unit who is a nonresident shall be eligible to be charged the in-State tuition rate and shall pay the full amount of the in-State tuition rate and applicable mandatory fees. This subsection applies to members in a reserve or active duty status.

(i) A person who, having acquired bona fide legal residence in North Carolina, has been classified as a resident for tuition purposes but who, while enrolled in a State institution of higher education, loses North Carolina legal residence, shall continue to enjoy the in-State tuition rate for a statutory grace period. This grace period shall be measured from the date on which the culminating circumstances arose that caused loss of legal residence and shall continue for 12 months; provided, that a resident's marriage to a person domiciled outside of North Carolina shall not be deemed a culminating circumstance even when said resident's spouse continues to be domiciled outside of North Carolina; and provided, further, that if the 12-month period ends during a semester or academic term in which such a former resident is enrolled at a State institution of higher education, such grace period shall extend, in addition, to the end of that semester or academic term.

(j) Notwithstanding the prima facie evidence of legal residence of an individual derived pursuant to subsection (e), notwithstanding the presumptions of the legal residence of a minor established by common law, and notwithstanding the authority of a judicially determined custody award of a minor, for purposes of this section, the legal residence of a minor whose parents are divorced, separated, or otherwise living apart shall be deemed to be North Carolina for the time period relative to which either parent is entitled to claim and does in fact claim the minor as a dependent for North Carolina

individual income tax purposes. The provisions of this subsection shall pertain only to a minor who is claimed as a dependent by a North Carolina legal resident.

Any person who immediately prior to his or her eighteenth birthday would have been deemed under this subsection a North Carolina legal resident but who achieves majority before enrolling at an institution of higher education shall not lose the benefit of this subsection if that person:

(1) Upon achieving majority, acts, to the extent that the person's degree of actual emancipation permits, in a manner consistent with bona fide legal residence in North Carolina; and

(2) Begins enrollment at an institution of higher education not later than the fall academic term next following completion of education prerequisite to admission at such institution.

(k) Notwithstanding other provisions of this section, a minor who satisfies the following conditions immediately prior to commencement of an enrolled term at an institution of higher education, shall be accorded resident tuition status for that term:

(1) The minor has lived for five or more consecutive years continuing to such term in North Carolina in the home of an adult relative other than a parent, domiciled in this State; and

(2) The adult relative has functioned during those years as a de facto guardian of the minor and exercised day-to-day care, supervision, and control of the minor.

A person who immediately prior to his or her eighteenth birthday qualified for or was accorded resident status for tuition purposes pursuant to this subsection shall be deemed upon achieving majority to be a legal resident of North Carolina of at least 12 months' duration; provided, that the legal residence of such an adult person shall be deemed to continue in North Carolina only so long as the person does not abandon legal residence in this State.

(l) Any person who ceases to be enrolled at or graduates from an institution of higher education while classified as a resident for tuition purposes and subsequently abandons North Carolina domicile shall be permitted to reenroll at an institution of higher education as a resident for tuition purposes without necessity of meeting the 12-month durational requirement of this section if the person reestablishes North Carolina domicile within 12 months of abandonment of North Carolina domicile and continuously maintains the reestablished North Carolina domicile at least through the beginning of the academic term(s) for which in-State tuition status is sought. The benefit of this subsection shall be accorded not more than once to any one person."

SECTION 3. G.S. 127A-202.1 is amended by adding a new subsection to read:

"(f) This section shall also apply when a member of the North Carolina National Guard is called into active duty at the direction of the President, the Governor, or by any other competent authority."

SECTION 4. This act becomes effective August 1, 2004.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 1058 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT A MEMBER OF THE MILITARY OR A DEPENDENT RELATIVE OF A MEMBER OF THE MILITARY WHO ATTENDS A CONSTITUENT UNIVERSITY OR A COMMUNITY COLLEGE SHALL BE CHARGED ONLY THE IN-STATE TUITION RATE.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July 17, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Butch Gunnells	NCSDA
Patrick Henry	APPCNC / FRLTC / ACLU
Kathy Hawkins	Progress Energy
Pricey Harrison	—
Marie Smith	NCSEPS
Eddie Caldwell	Hafer + Caldwell, P.A.
Thom Mansfield	NC Medical Board
Andy Ellen	NCPMA
Mike James	NCRMT
Mark Fleming	University System
Jim Gregson	Capitol Group

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July 17, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
JOE MOORE	RESEARCH - STAFF
Andy Fomcent	NCLM
Jim Blackburn	NC Association of County Commissioners
Henry Jones	Attorney - Raleigh
Terry [illegible]	NCPC / Fort Bragg
Donna Rosfield	DCR
Tom Boren	NC Environ Defense
C Porter	Smith Anderson
S Markham	NCSPA
Michelle Frazier	NC Bar Ass'n
Tim Miller	NC Home Builders

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July 17, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Patrick	AT&T
BILL SCOGGIN	KCCH
Pam Wescott	Sprint
Dana Simpson	Smith Anderson
Harry Taylor	NCLM
DAVID BARNES	Poyner Spruill LLP
Karen Geor[illegible]	NCACDS
Chad Essick	Edmisten & Webb
Stan Keene	NCMS
Sophie Paine	Edmisten & Webb
[illegible] Horne	NCMS

VISITOR REGISTRATION SHEET

Name of Committee | Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
[signature]	NCRA
[signature]	CCPS
[signature]	Duke Energy
[signature]	SBE/DPI
[signature]	[illegible]
Charles Williams	Sgt. At. Arms Staff
JOHN GOODMAN	ALLEY ASSOCIATES

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

ROOM 421
LEGISLATIVE OFFICE BUILDING
JULY 18, 2004
12:01 A.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

COMMITTEE SUBSTITUTE FOR SENATE BILL 1008-AN ACT TO REESTABLISH AND EXTEND THE VIRGINIA-NORTH CAROLINA INTERSTATE HIGH-SPEED RAIL COMMISSION, DIRECT THE COMMISSION TO STUDY ESTABLISHMENT OF AN INTERSTATE HIGH-SPEED RAIL COMPACT, AND AUTHORIZE THE COMMISSION TO HOLD REGULARLY SCHEDULED MEETINGS IN BOTH NORTH CAROLINA AND VIRGINIA

COMMITTEE SUBSTITUTE FOR SENATE BILL 1152- AN ACT CONCERNING STUDIES

COMMITTEE SUBSTITUTE FOR SENATE BILL 3-AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS AND TO PROVIDE FOR AN EARLIER CONVENING OF THE GENERAL ASSEMBLY FOR ORGANIZATION
SENATE COMMITTEE SUBSTITUTE FOR SENATE BILL 75 – AN ACT TO CREATE A LIFE SCIENCES REVENUE BOND AUTHORITY

COMMITTEE SUBSTITUTE FOR SENATE BILL 1225- AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

July 18, 2004

The Committee on Rules, Calendar and Operations of the House met on July 2004 at 12:01 a.m. in Room 421 of the Legislative Office Building. The following members attended: Representatives Culpepper, Chairman; Hackney, Vice Chairman; Brubaker, Howard, Justus, Luebke, Miller, Owen, Setzer, Sherrill and Yongue.

The following bills were considered:

COMMITTEE SUBSTITUTE FOR SENATE BILL 1008-AN ACT TO REESTABLISH AND EXTEND THE VIRGINIA-NORTH CAROLINA INTERSTATE HIGH-SPEED RAIL COMMISSION, DIRECT THE COMMISSION TO STUDY ESTABLISHMENT OF AN INTERSTATE HIGH-SPEED RAIL COMPACT, AND AUTHORIZE THE COMMISSION TO HOLD REGULARLY SCHEDULED MEETINGS IN BOTH NORTH CAROLINA AND VIRGINIA. A proposed House committee substitute changing the title to AN ACT TO CLARIFY AND STRENGTHEN THE REPORTING REQUIREMENTS OF NON-STATE ENTITIES RECEIVING STATE FUNDS was offered, and Representative Yongue moved for its adoption. Without objection, the chairman so ordered. Senator Kerr was recognized to speak on the proposed committee substitute. Representative Hackney sent forth an amendment and moved for its adoption. The motion carried. Representative Gorman moved that the amendment be incorporated into a new House committee substitute and that the new House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion passed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1152-AN ACT CONCERNING STUDIES. A proposed House committee substitute was offered, and Representative Owens moved for its adoption. The motion carried. Representative Owens sent forth an amendment and moved for its adoption, which motion carried. Dianna Jessup, staff attorney, was recognized to explain the proposed committee substitute. Representative Luebke moved that the amendment be incorporated into a new House committee substitute and that the new House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion carried.

COMMITTEE SUBSTITUTE FOR SENATE BILL –3-AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS AND TO PROVIDE FOR AN EARLIER CONVENING OF THE GENERAL ASSEMBLY FOR ORGANIZATION. A proposed House committee substitute chainging the title to AN ACT TO PROVIDE FUNDING FOR THE NC MOTORSPORTS TESTING AND RESEARCH COMPLEX AND TO ADJUST THE US 17 INTRASTATE SYSTEM PROJECT was offered, and the chairman requested the committee to accept the proposed committee substitute for discussion. Mona Moon, staff

attorney, was recognized to explain the proposed committee substitute.. Representative Sherrill moved that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion carried.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1225-AN-ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS. A proposed House committee substitute changing the title to AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS, AS APPROVED BY THE HOUSE RULES, CALENDAR, AND OPERATIONS OF THE HOUSE COMMITTEE was offered. Representative Owens moved that the proposed House committee substitute be adopted. Without objection, the chairman so ordered. Representative Sherrill sent forth an amendment and moved for its adoption. The motion carried. Representative Owens sent forth an amendment and moved for its adoption. The motion carried. Representative Sherrill sent forth an amendment and moved for its adoption, which motion carried. Representative Owens made a motion that the amendments be incorporated into a new proposed House committee substitute and that the new committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion passed.

The meeting adjourned at 12:55 a.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker

Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 1008

Rules and Operations of the Senate Committee Substitute Adopted 4/30/03

Short Title: VA-NC High-Speed Rail Commission. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO REESTABLISH AND EXTEND THE VIRGINIA-NORTH CAROLINA INTERSTATE HIGH-SPEED RAIL COMMISSION, DIRECT THE COMMISSION TO STUDY ESTABLISHMENT OF AN INTERSTATE HIGH-SPEED RAIL COMPACT, AND AUTHORIZE THE COMMISSION TO HOLD REGULARLY SCHEDULED MEETINGS IN BOTH NORTH CAROLINA AND VIRGINIA.

The General Assembly of North Carolina enacts:

SECTION 1. Section 2 of S.L. 2001-266, as amended by Section 2.22 of S.L. 2001-486, reads as rewritten:

"**SECTION 2.** In conducting its study, the Commission shall hold regularly scheduled meetings in this State and in Virginia, tours of inspection, and public hearings as appropriate to determine the desirability and feasibility of establishing high-speed passenger rail service between Virginia and North Carolina. The Commission shall also study the establishment of an interstate high-speed rail compact between North Carolina, Virginia, and other states. If it appears to the Commission that establishment of such service or compact is desirable and feasible, the Commission shall consider and recommend to the Governor and General Assembly those legislative actions necessary to do so, including the identification of the necessary levels of funding and the sources of those funds."

SECTION 2. Section 4 of S.L. 2001-266, as amended by Section 2.22 of S.L. 2001-486, reads as rewritten:

"**SECTION 4.** The Commission shall report its findings and any recommendations to the Governor and the General Assembly by ~~October 20, 2002,~~ November 30, 2004, and may make an interim report to the Governor and General Assembly upon the convening of the ~~2002~~ 2004 Regular Session of the ~~2001~~ 2003 General Assembly. The Commission shall terminate on November 30, 2004."

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

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1008

Rules and Operations of the Senate Committee Substitute Adopted 4/30/03
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1008-PCS35511-RW-97

Short Title: Non-State Entities Reporting Requirements. (Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND STRENGTHEN THE REPORTING REQUIREMENTS OF NON-STATE ENTITIES RECEIVING STATE FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-6.1 is repealed.

SECTION 2. Article 1 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"**§ 143-6.2. Use of State funds by non-State entities.**

(a) Disbursement and Use of State Funds. – Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly. State funds include federal funds that flow through the State. For the purposes of this section, the term "non-State entity" means a firm, corporation, partnership, association, unit of local government, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution. For the purposes of this section, "unit of local government" has the meaning set out in G.S. 159-7(15) and "public authority" has the meaning set out in G.S. 159-7(10).

(b) For the purposes of this section, the term "grantee" means a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. The term "subgrantee" means a non-State entity that receives a grant of State funds from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. The terms "State grant funds" and "State grants" do not include any payment made by the Medicaid program, the Teachers' and State Employees' Comprehensive Major Medical Plan or other similar medical programs.

(c) Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, the Director shall take appropriate administrative action to ensure that no further irregularities occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds.

(d) The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The rules shall establish policies and procedures for disbursements of grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. Such policies and procedures shall:

(1) Ensure that the purpose and reporting requirements of each grant are specified to the grantee.

(2) Ensure that grantees specify the purpose and reporting requirements for grants made to subgrantees.

(3) Ensure that funds are spent in accordance with the purposes for which they were granted.

(4) Hold the grantees and subgrantees accountable for the legal and appropriate expenditure of State grant funds.

(5) Provide for adequate oversight and monitoring to prevent the misuse of State funds.

(6) Establish mandatory periodic reporting requirements for grantees and subgrantees, including methods of reporting, to provide financial and program performance information. The mandatory periodic reporting requirements shall require grantees and subgrantees to file with the State Auditor copies of reports and statements that are filed with State agencies pursuant to this subsection.

(7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all State grant funds and to make such reports, records, and other information available to the grantor State agency for oversight, monitoring, and evaluation purposes.

(8) Require grantees and subgrantees to ensure that work papers in the possession of their auditors are available to the State Auditor for the purposes set out in subsection (h) of this section.

(9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by State grant funds and each subgrantee project, program, or activity supported by State grant funds.

(10) Provide procedures for the suspension of further disbursements or use of State grant funds for noncompliance with these rules or other inappropriate use of the funds.

(11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for

noncompliance with these rules or other inappropriate use of State grant funds.

(12) Provide procedures for the recovery and return to the grantor State agency of unexpended State grant funds from a grantee or subgrantee if the grantee or subgrantee is unable to fulfill the purposes of the grant.

(e) Notwithstanding the provisions of G.S. 150B-2(8a)b, rules adopted pursuant to subsection (d) of this section are subject to the provisions of Chapter 150B of the General Statutes.

(f) The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by subsection (d) of this section.

(g) The Office of State Budget and Management shall have the power to suspend disbursement of State grant funds to grantees or subgrantees, to prevent further use of State grant funds already disbursed, and to recover State grant funds already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this section. If the grant funds are a pass-through of funds granted by an agency of the United States, then the Office of State Budget and Management must consult with the granting agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking the actions authorized by this subsection.

(h) Audit Oversight. – The State Auditor has audit oversight, with respect to State grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends State grant funds. A grantee or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of State grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of State grant funds.

(i) Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section during the prior fiscal year, including the amount of State funds that were disbursed to each of those grantees or subgrantees during that fiscal year and the amount of State funds that were withheld.

(j) Grantor State agencies shall submit a list to the State Auditor, in the format prescribed by the State Auditor, by October 31 each year of every grantee to which the agency disbursed State funds in the prior fiscal year, the amount disbursed, the amount disbursed to each grantee, and other such information as required by the State Auditor to comply with the requirements set forth in this section.

(k) Civil Actions. – Civil actions to recover State funds or to obtain other mandatory orders in the name of the State on relation of the Attorney General, or in the

name of the Office of State Budget and Management, shall be filed in the General Court of Justice in Wake County."

SECTION 3. G.S. 147-86.35(b) reads as rewritten:

"(b) Any non-State ~~corporation, organization, or institution~~ entity as that term is defined in G.S. 143-6.2 that receives, uses, or expends any funds from the Commission is subject to the applicable reporting requirements of ~~G.S. 143-6.1.~~G.S. 143-6.2."

SECTION 4. G.S. 143-722(b) reads as rewritten:

"(b) Any non-State ~~corporation, organization, or institution~~ entity as that term is defined in G.S. 143-6.2 that receives, uses, or expends any funds from the Commission is subject to the applicable reporting requirements of ~~G.S 143-6.1.~~G.S. 143-6.2."

SECTION 5. G.S. 143-6.2(d), (e), and (f), as enacted by this act, are effective when they become law. The remainder of this act becomes effective July 1, 2005, and applies to appropriations and grants made for fiscal years beginning on or after that date.

SENATE BILL 1008:
Non-State Entities Reporting

BILL ANALYSIS

Committee:	House Rules	**Introduced by:**	Sen. Kerr
Date:	July 17, 2004	**Summary by:**	Sandra Alley
Version:	PCS		Staff Attorney

SUMMARY: ***The act repeals and replaces the statute that establishes the procedures for the oversight of State grants to non-profit entities. G.S. 143-6.2(d), (e), and (f) are effective when they become law, the remainder of the bill becomes effective July 1, 2005.***

BILL ANALYSIS:

Section One:
Repeals the current reporting statute, G.S. 143-6.1.

Section Two:
Enacts a new reporting and oversight statute, G.S. 143-6.2:

Subsection (a) requires non-State entities receiving State funds to use them only for the purposes for which the General Assembly appropriated them. Defines "non-State entity."

Subsection (b) defines "grantee" as a non-State entity receiving a grant of State funds, and "subgrantee" as a non-State entity receiving a grant of State funds from a grantee or another subgrantee. Excludes payments made by Medicaid, the Teachers' and State Employees' Comprehensive Major Medical Plan or similar medical program payments from the terms "State grant funds" and "State grants"

Subsection (c) requires the Director of the Budget to take appropriate administrative action upon a finding of inappropriate use of State funds by a non-State entity, and requires the director to report unlawful or improper actions by a non-State entity to the Attorney General.

Subsection (d) requires the Office of State Budget and Management to adopt rules ensuring uniform administration of grants to non-State entities by grantor State agencies. This includes disbursements, oversight, monitoring, and evaluation of grantees and subgrantees. The rules must carry out and enforce specific policies and procedures that:

(1) Ensure that the purpose and reporting requirements of each grant are specified.
(2) Ensure that grantees specify the purpose and reporting requirements of grants made to subgrantees.
(3) Ensure funds are spent in accordance with the purposes for which they were granted.
(4)Hold grantees and subgrantees accountable for the legal and appropriate use of the funds.
(5) Provide adequate oversight and monitoring to prevent misuse by grantees and subgrantees.
(6) Establish mandatory periodic reporting requirements with specific reporting methods for grantees and subgrantees, and requires them to file copies of reports with the State Auditor in addition to filing with State agencies.
(7) Require documentation to account for all expenditures by grantees and subgrantees.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. 1
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page 3, line 13

( ) WHICH CHANGES THE TITLE

by Rewriting such line to read:

(g) the Office of State Budget and Management, after consultation with the administering agency, shall have the power to suspend

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. 2
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)
) _____
Sen.)

moves to amend the bill on page 3, line 13

( ) WHICH CHANGES THE TITLE

by Rewriting such line to read:

(g) the Office of State Budget and Management, after consultation with the administering agency, shall have the power to suspend

SIGNED _____

ADOPTED ✓ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

The following report(s) from standing committee(s) is/are presented:

By Representative **Culpepper** (Chair) for the Committee on **RULES, CALENDAR, AND OPERATIONS OF THE HOUSE.**

☒ Committee Substitute for

S.B. 1008 A BILL TO BE ENTITLED AN ACT TO REESTABLISH AND EXTEND THE VIRGINIA-NORTH CAROLINA INTERSTATE HIGH-SPEED RAIL COMMISSION, DIRECT THE COMMISSION TO STUDY ESTABLISHMENT OF AN INTERSTATE HIGH-SPEED RAIL COMPACT, AND AUTHORIZE THE COMMISSION TO HOLD REGULARLY SCHEDULED MEETINGS IN BOTH NORTH CAROLINA AND VIRGINIA.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 1152*

Rules and Operations of the Senate Committee Substitute Adopted 7/16/04
Third Edition Engrossed 7/16/04

Short Title: Studies Act of 2004. (Public)

Sponsors:

Referred to:

May 18, 2004

A BILL TO BE ENTITLED

AN ACT CONCERNING STUDIES.

The General Assembly of North Carolina enacts:

PART I. TITLE

SECTION 1. This act shall be known as "The Studies Act of 2004".

PART II. LEGISLATIVE RESEARCH COMMISSION

SECTION 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 2003 or 2004 Regular Session of the 2003 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The following groupings are for reference only:

(1) Government Regulatory Issues:
  a. Fire safety in local confinement facilities
  b. Regulating ticket brokers
  c. Light pollution (Queen)
  d. Urban cores (Queen)
  e. Legislative and Executive branch lobbying (Kinnaird)
  f. Alcoholic beverage control
  g. State fire protection (S.B. 1377 – Kinnaird)

(2) Transportation Issues:
  a. Purchasing alternative-fuel or low-emission school buses (S.J.R. 768 – Bingham)

b. Commercial drivers license requirements and emergency situations (Sloan)

(3) Consumer Issues:

a. Debt collection practices (Rand)

(4) Insurance Issues:

a. Workers' compensation/agricultural employment (S.B. 632 – Clodfelter)

(b) Workers comp./trucking companies (H.B. 1370)

(5) Criminal Law Issues:

a. Review of sentencing guidelines

b. Judicial approval for pleas in certain cases (Clodfelter)

(6) State Employee Issues:

a. Pay equity (S.B. 747 – Lucas)

b. Job sharing

c. Reemployment of retirees (S.B. 10 – Garwood)

d. Postretirement Earnings (S.B. 1313 – Dorsett)

(7) Other:

a. Guardianship (S.B. 1152 – Swindell, Purcell)

b. Immigration (S.J.R. 553 – Albertson)

c. Marine fisheries (S.B. 838 – Albertson)

d. Casino nights for nonprofit organizations

e. Soil and water conservation issues

f. Trafficking of persons (S.B. 1197 – Kinnaird)

g. Regulation of sellers of timeshares (Rand)

h. Attorney solicitation regulation (S.B. 1317 – Rand)

SECTION 2.1.(a) Size/Scope of Boards and Commissions (S.J.R. 924 – Rand) – The Commission may study boards and commissions. If this study is undertaken, the Commission shall establish a schedule for reviewing boards and commissions so that approximately twenty-five percent (25%) of the total number of State boards and commissions are reviewed each year for the next four years. In reviewing boards and commissions, the Commission shall consider the following:

(1) The consolidation of boards and commissions, where appropriate.

(2) Reducing the number of members serving on boards and commissions.

(3) Reducing the number of meetings of boards and commissions.

(4) The scope and authority of boards and commissions.

(5) The elimination of boards and commissions, where appropriate.

SECTION 2.1.(b) Availability of Health Insurance for Small Businesses and Trade Associations (S.B. 758 – Rand, Clodfelter, Soles) – The Commission may study the availability of health insurance for small employers. The Commission shall examine the Small Employer Group Health Insurance Reform Act to determine whether its provisions should be revised to increase the availability of health insurance offered to small employers in North Carolina. The Commission shall also examine whether North Carolina laws conflict with federal law regarding the ability of a trade association to obtain health insurance through a commercial carrier.

SECTION 2.1.(c) Availability of Health Insurance for Uninsurable Individuals (Rand) – The Commission may study ways to make insurance available to individuals who have difficulty obtaining health insurance coverage. In conducting the study, the Commission shall consider methods employed by other states to meet this need, and possible administrative structures, funding mechanisms, and coverages.

SECTION 2.1.(d) Pawnbrokers – The Commission may study the laws regulating pawnbrokers and those nonregulated retail outlets engaging in similar business and acting as pawnbrokers. If undertaken by the Commission, the study shall include an examination of the advisability, viability, and cost of all of the following modifications to existing law with the goal of more efficiently monitoring pawnshop businesses that are engaging in similar business and to more effectively aid in the speedy recovery of stolen property:

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

SECTION 2.1.(e) Medicaid Funding – The Commission may study the feasibility of eliminating county financial participation in the Medicaid program. In conducting the study, the Commission may consider alternative funding methods to ensure that the short- and long-term impact on State funds of eliminating county financial participation in Medicaid is revenue neutral when calculated on a statewide basis. The Commission may also consider retaining the county contribution to administrative costs of the Medicaid program. In making its recommendations to the General Assembly, the Commission shall include a fiscal analysis of the impact on State revenue and Medicaid expenses estimated to result from eliminating county participation in the Medicaid program.

SECTION 2.1.(f) Study VoCATS – The Commission may study the VoCATS program, which is the accountability system for vocational education courses. If it undertakes this study, the Commission shall consider the following:

(1) Whether the State-developed tests are the appropriate means to measure student mastery of the knowledge and skills taught in vocational education courses, with specific focus on the agriculture curriculum.
(2) The system for development of appropriate tests and methods of measuring student achievement and program performance in vocational and technical education.

(3) The public school system of measuring student performance in the vocational and technical area as compared to the community college system of measuring student performance in the vocational and technical area.

(4) Alternatives to the current tests, methods, and techniques provided through VoCATS.

SECTION 2.1.(g) Availability and Delivery of Government Services to Hispanics (Reeves, Malone) – The Commission may study the current State and local policies regarding the availability and delivery of government services to the State's increasing Hispanic population, the issues confronted by governmental agencies in effectively delivering those services, and the issues confronted by members of the Hispanic community in obtaining those services. If it undertakes this study, the Commission shall focus particularly on services in the areas of education, health, and public safety. As part of its study, the Commission may consider how all of the following complicate the delivery and receipt of government services within the State's Hispanic community:

(1) Cultural differences.

(2) Language barriers.

(3) Difficulties encountered by members of the Hispanic community in obtaining the personal identification documents that are often required to obtain government services.

(4) Difficulties encountered by members of the Hispanic community in obtaining drivers licenses, occupational licenses, professional licenses, and other types of licenses required to qualify for governmental services or to do business in the State.

(5) Federal immigration laws, the failure to comply with those laws, and how the fear of discovery of noncompliance with federal immigration laws affects the delivery and receipt of services, and in some instance even the willingness to apply for those services.

(6) The increasing economic, personnel, and time demands placed on State and local government agencies in responding to the growing needs for governmental services.

(7) Any other issue relevant to this study.

If it undertakes this study, the Commission shall also identify those issues that are best addressed at the local level, those that are best addressed at the State level, and those best addressed at the federal level.

SECTION 2.1.(h) Office of State Energy – The Commission may study the functions, duties, and responsibilities of the Office of State Energy and may make a determination of whether those functions, duties, and responsibilities support the legislative purpose for the Office or whether the purpose should be modified.

SECTION 2.1.(i) Comprehensive Statewide Emergency Communications Planning (Clodfelter) – The Commission may study and recommend legislation, funding needs, interoperability, and policy to:

(1) Enact a comprehensive first and second responder statewide communications goals list and plan that includes, at a minimum, law enforcement, fire, medical, utilities, and emergency management agencies.

(2) Coordinate and assist grant applications from State and local organizations for federal communications funding.

SECTION 2.1.(j) School Calendar/Later First Instructional Day/Workdays – The Commission may study whether the first instructional day of the school year should be later than the current practice. The Commission may also study the number of teacher workdays. If the Commission undertakes this study, the Speaker of the House of Representatives shall appoint six members of the House of Representatives, and the President Pro Tempore of the Senate shall appoint six members of the Senate to conduct the study, with one chair designated from among the appointees of each appointing officer. In the course of the study, the Commission shall consult with representatives of North Carolina's public schools, including the North Carolina School Boards Association, North Carolina Association of Educators, North Carolina Association of School Administrators, and parent organizations, as well as representatives of the tourism and hospitality industries. The Commission shall consider the following:

(1) The economic impact of setting the first instructional day of the school year later than the current practice.

(2) The impact on elementary school students.

(3) The impact of the school calendar on the quality of education.

(4) The performance of students on block schedules as compared to students on traditional schedules.

(5) The performance of students who take examinations before Christmas as compared to those who take exams after Christmas.

(6) The impact on the schedule for high school and middle school athletic events.

(7) The impact on school personnel, particularly those who must coordinate their schedules with institutions of higher education to maintain their certification.

(8) The school calendars of other states.

(9) The impact of weather on lost school days.

(10) The impact of an early August school start on family economics and culture.

(11) The impact on teacher workdays.

The Commission may also study the value of the teacher workdays now included in the school calendar and whether North Carolina students could benefit by converting a number of those workdays to additional days of instruction.

SECTION 2.1.(k) Naturopathy (S.B.1268 – Kinnaird) – The Commission may study the practice of naturopathy in North Carolina and make recommendations as to whether it would be in the public interest for practitioners to be licensed or otherwise appropriately regulated.

In conducting the study, the Commission may consider the following:

(1) The definition and components of naturopathy and naturopathic therapies.
(2) The health, cultural, and social significance of naturopathy in North Carolina and nationally.
(3) The distinctions and similarities between naturopathic therapies and conventional medical treatments.
(4) The education and training of practitioners and the quality of that education and training, the extent to which the practice of naturopathy requires specialized skills or training, and the standards for determining the level of education and qualifications that should be required for licensure.
(5) The extent to which there is, and can be, integration and coordination of natural therapies and conventional medical treatments.
(6) The regulation and enforcement related to naturopathy in North Carolina and nationally, the need for regulation, and the extent and impact of previous regulatory efforts.
(7) Whether, without licensure, the general public possesses the ability to determine whether a practitioner is competent.
(8) Whether substantial harm to the public health, safety, and welfare exists if the practice of naturopathy is unregulated.
(9) The appropriate structure, composition, and responsibilities of a regulatory board pertaining to the practice of naturopathy, the extent to which the responsibilities of a board can be fulfilled, and whether board operations can reasonably be financed through licensing fees.
(10) The extent to which naturopathy is regulated in other states, and the impact of that regulation.
(11) The scope of practice applicable to practitioners of naturopathy.
(12) Whether practitioners of naturopathy in North Carolina have, or propose to have, a code of ethics, a voluntary certification program, or other measures to ensure minimum quality of service.
(13) The kinds of regulatory provisions that exist in other states.
(14) How the practice of naturopathy will be regulated, including the qualifications and disciplinary proceedings to be applied to practitioners.
(15) How the public will benefit from licensure or other regulation.
(16) The fiscal impact of licensure or other regulation upon the State.
(17) Any other information the Commission considers relevant.

SECTION 2.1.(l) Equity-Building Homes (S.B. 894 – Queen) – The Commission may study methods to substantially increase the number of North Carolinians who own equity-building homes. As part of the study, the Commission may:

(1) Determine the extent to which the public is knowledgeable about housing products that are likely to build equity over time.

(2) Identify State, federal, and local barriers to constructing equity-building homes in both high-demand locations and rural areas.

(3) Investigate the adequacy and funding of programs and counseling services that are available to educate consumers about home financing products, credit remediation, home maintenance, and foreclosure prevention strategies.

As used in this section, the term "equity-building home" means a residential structure that will be the purchaser's primary residence and that meets the State and local building code standards in place at the time of construction, or if there were no building codes in effect at the time of construction, that was constructed on-site. An equity-building home will also have characteristics that are likely to cause it to appreciate in value over time.

SECTION 2.1.(m) Funding/Budgeting of Occupational Licensing Boards (Hagan) – The Commission may study the funding mechanisms of all of the occupational licensing boards and commissions in the State and shall consider options for funding and budgeting those boards and commissions more effectively and efficiently, including funding and budgeting those board and commissions through the General Fund.

SECTION 2.1.(n) State-Local Relationships (S.B. 1336 – Hoyle, Foxx) – The Commission may study the relationship between the State and local governments with respect to the provision of services. The study shall address the following issues:

(1) Mandates that the State has placed on local governments regarding the provision of services to State residents. This study shall include a review of which mandates are a result of State law, which mandates are a result of federal law, and which mandates are a result of a combination of State and federal law.

(2) Funding sources for local governments. The study shall include a review of all appropriations made from the State to local governments, all revenues shared between the State and local governments, and all methods of raising revenue allowed by the State to local governments.

(3) A comparison of the State-local relationship in North Carolina with the state-local relationships in other states. In particular, the study shall compare the percentage of the costs of services borne by the State in comparison to the percentage of similar costborne by other states.

(4) A comparison of local governments with regard to the burden on local budgets of mandated programs. This study shall look at the property tax rates in different jurisdictions and the percentage of local budgets that support various programs.

(5) A comparison of the combined State-local tax burden on individuals and businesses in comparison with those in other states.

In considering appointees to the committee to study this matter, the appointing authorities shall consider inclusion of local government representatives.

SECTION 2.2. For each Legislative Research Commission committee created during the 2003-2005 biennium, the cochairs of the Legislative Research Commission shall appoint the committee membership.

SECTION 2.3. For each of the topics the Legislative Research Commission decides to study under this part or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 2.4. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

PART III. JOINT LEGISLATIVE GROWTH STRATEGIES OVERSIGHT COMMITTEE

SECTION 3.1. The Joint Legislative Growth Strategies Oversight Committee may study the issues of:

(1) Delegation of authority to cities and counties (S.B. 160 – Clodfelter).

(2) Modernizing city and county planning (S.B. 914 – Clodfelter).

(3) Transferable development rights.

SECTION 3.2. Section 3.3 of S.L. 2001-491 reads as rewritten:

"**SECTION 3.3.** This Part becomes effective January 15, 2002, and expires January 16, ~~2005.~~ 2007. Prior to its expiration on January 16, ~~2005,~~ 2007, the Committee shall report to the General Assembly on its activities conducted pursuant to this Part."

PART IV. STUDY COMMISSION ON RESIDENTIAL AND URBAN DEVELOPMENT ENCROACHMENT ON MILITARY BASES AND TRAINING AREAS (Rand)

SECTION 4.1. There is created the Study Commission on Residential and Urban Development Encroachment on Military Bases and Training Areas. The Commission shall consist of 17 members as follows:

(1) Two county commissioners appointed by the President Pro Tempore of the Senate.

(2) Two county commissioners appointed by the Speaker of the House of Representatives.

(3) The commanding generals of Fort Bragg, Pope Air Force Base, Seymour Johnson Air Force Base, Camp Lejeune, and Cherry Point Air Station, or the general's designee.

(4) Three Senators appointed by the President Pro Tempore of the Senate.

(5) Three Representatives appointed by the Speaker of the House of Representatives.

(6) One elected or appointed municipal official appointed by the President Pro Tempore of the Senate.

(7) One elected or appointed municipal official appointed by the Speaker of the House of Representatives.

The Speaker of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 4.2. The Commission shall study the following concerning residential and urban development encroachment on military bases and training areas:

(1) Restricting the zoning in the areas around military bases and training areas.

(2) How encroachment affects deed registration.

(3) Protecting the areas around military bases and training areas by purchasing development rights and buffers using all available State trust funds and other available funding mechanisms.

(4) Any other issue the Commission considers relevant.

SECTION 4.3. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 4.4. The Commission shall submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening. The Commission shall terminate upon the convening of the 2005 General Assembly.

SECTION 4.5. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART V. LEGISLATIVE STUDY COMMISSION ON STATE PERSONNEL STATUTES (S.B. 1378 – Reeves)

SECTION 5.1. The General Assembly shall study issues related to the State Personnel Act. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall designate an appropriate committee to conduct the study. The Committee may make an interim report to the 2005 General Assembly and shall make its final report to the 2006 Regular Session of the 2005 General Assembly.

PART VI. ELECTRONIC RECORDATION AND REVISION OF NOTARY LAWS (S.B. 1094–Berger)

SECTION 6.1. The General Statutes Commission shall study the issue of electronic recordation, specifically with regard to real property documents and other documents filed with registers of deeds. The Commission shall study methods for establishing uniform legal standards for the receipt, recordation, authentication, preservation, and retrieval of electronic documents. The Commission shall include in its study consideration of the Uniform Real Property Electronic Recordation Act drafted by the National Conference of Commissioners on Uniform State Laws as well as other resources on electronic recording standards from national organizations such as the Property Records Industry Association (PRIA) and the Mortgage Industry Standards Maintenance Organization (MISMO). The General Statutes Commission shall report its findings and recommendations and any legislative proposals to the 2005 General Assembly upon its convening.

SECTION 6.2. The Secretary of State shall study the issue of amending the notary public laws in order to modernize and simplify their administration. The study shall also address the issue of electronic notarization. The Secretary of State shall report its findings and recommendations and any legislative proposals to the 2005 General Assembly upon its convening.

PART VII. UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT

SECTION 7.1. The General Statutes Commission is directed to study the Uniform Unincorporated Nonprofit Association Act in consultation with interested parties and to report to the 2005 General Assembly on the Commission's recommendations and legislative proposals.

PART VIII. INNOVATIVE PEAT-BASED WASTEWATER SYSTEMS STUDY

SECTION 8.1. The Commission for Health Services shall evaluate the desirability and feasibility of developing and implementing a pilot program whereby any individual seeking to use an innovative wastewater system, under G.S. 130A-343(g), that employs peat-based technology, at the individual's residence shall be required to use a wastewater system that satisfies all of the following:

(1) The peat-based wastewater system complies with Standard 40, a standard developed by the National Sanitation Foundation, Inc. (NSF), an independent testing and research organization.

(2) The peat-based wastewater system has a mandatory maintenance agreement developed by the manufacturer of the system that is part of the purchase contract for the system.

SECTION 8.2. As part of the evaluation required by Section 8.1 of this act, the Commission shall identify two or more counties that would participate in the pilot program.

SECTION 8.3. The Commission for Health Services shall report the results of its evaluation to the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on or before January 15, 2005.

PART IX. JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE

SECTION 9.1. The Joint Legislative Utility Review Committee may study the economic, environmental, and social issues associated with the development and use of renewable and alternative energy in the State including, but not limited to, the following:

(1) The environmental benefits of renewable and alternative energy development, including the reduction of: emissions such as sulfur dioxides, nitrogen oxides, and mercury and greenhouse gases; waste ash in landfills; and water and air quality degradation associated with the extraction and transport of fossil fuels.

(2) The environmental benefits of conserving rural lands for traditional uses.

(3) The environmental challenges to renewable and alternative energy development in the State, including existing laws, aesthetic issues, the impact on birds and the ecology, and secondary development associated with alternate energy development.

(4) The potential for renewable and alternative energy to support rural economic development by broadening the tax base and creating new jobs.

(5) Initiatives taken in other states to address renewable and alternative energy development.

(6) Options for permitting renewable and alternative energy in the State, including suggestions for public involvement and environmental review.

(7) Opportunities for renewable and alternative energy pilot projects in the State.

In conducting the study, the Committee may solicit input from renewable and alternative energy industry representatives, utility representatives, the State Energy Office, conservationists, environmentalists, leaders in rural economic development, tourism industry representatives, academics, local elected officials, and legislators from the eastern and western regions of the State.

PART X. NORTH CAROLINA BUILDING CODE COUNCIL STUDY (Queen)

SECTION 10.1. The General Assembly finds that the affordability of housing is an important issue and that the State should endeavor to ensure that State regulation does not unnecessarily increase the cost of housing. To that end, the North Carolina Building Code Council shall study the Residential Building Code to determine which provisions, if any, are unnecessary, outdated, overly stringent, or otherwise unduly increase the cost of housing.

SECTION 10.2. The Building Code Council may submit a report of the findings of its study, including any recommendations for statutory changes, to the 2005 General Assembly upon its convening.

PART XI. LOCAL SCHOOL CONSTRUCTION FINANCING STUDY COMMISSION (S.B. 1372 – Clodfelter)

SECTION 11.1. Establishment of the Commission. – The Local School Construction Financing Study Commission is established.

SECTION 11.2. Membership. – The Commission shall be composed of 18 members, as follows:

(1) One member appointed by the Governor, after consultation with the President Pro Tempore of the Senate and the Speaker of the House of Representatives, who shall serve as chair;

(2) Eight members appointed by the President Pro Tempore of the Senate: two members of the Senate from urban areas, two members of the Senate from rural areas, one member representing a large, fast-growing, urban school administrative unit that is a plaintiff in the Leandro school-financing litigation, one member from the financial services industry, one county commissioner, and one educator;

(3) Eight members appointed by the Speaker of the House of Representatives: two members of the House of Representatives from urban areas, two members of the House of Representatives from rural areas, one member representing a rural school administrative unit that is a plaintiff in the Leandro school-financing litigation, one member who is knowledgeable about municipal and school finance, one school board member, and one educator; and

(4) The State Treasurer or the Treasurer's designee.

Vacancies shall be filled by the appointing authority.

SECTION 11.3. Duties of the Commission. – The Commission shall examine the present system of local financing for school facilities and shall study alternative options for financing local school construction, renovation, repair, and maintenance. The Commission may study and consider public-private partnerships for school construction and facility ownership, sale lease-back arrangements, private and commercial financing arrangements, design standards for school facilities that may facilitate alternative financing techniques, alternative local revenue sources for financing school facilities, the use of real estate investment trusts, State and local

construction bond pools, and any other financing issues deemed pertinent by the Commission.

SECTION 11.4. Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 11.5. Consultants and Other Staff. – The Commission may hire consultants to provide research, staff support, and information about school financing in other states to the Commission, in accordance with G.S. 120-32.02. The Legislative Services Office, with the prior approval of the Legislative Services Commission, shall also assign professional and clerical staff to assist the Commission in its work.

SECTION 11.6. Cooperation by Government Agencies. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision of the State for facilities, data, or other assistance. All State departments and agencies, local governments, and their subdivisions shall cooperate with the Commission and, upon request, shall furnish the Commission and its staff any information in their possession or available to them.

SECTION 11.7. Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly.

SECTION 11.8. Meeting Location. – The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building. The Commission may also meet at various locations around the State in order to promote greater public participation in its deliberations.

SECTION 11.9. Reports. – The Commission shall make an interim report to the 2005 General Assembly no later than January 31, 2005, and a final report to the 2006 Regular Session of the 2005 General Assembly no later than March 31, 2006. The final report shall contain recommendations for legislation to implement recommendations made by the Commission. The interim report may also contain recommendations for legislation. The Commission shall terminate on March 31, 2006.

SECTION 11.10. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART XII. VOTER PAPER TRAIL STUDY (S.B. 1415 – Kinnaird, Lucas)

SECTION 12.1. There is established the Electronic Voting Systems Study Commission. That Commission shall consist of nine members to be appointed as follows:

(1) Four members shall be appointed by the President Pro Tempore of the Senate. One shall be a county commissioner. One shall be a county election director. One shall be a citizen of North Carolina who does not hold public office and who has been an active advocate on the issue of prohibiting direct record voting equipment without voter-verifiable paper records.

(2) Four members shall be appointed by the Speaker of the House of Representatives. One shall be a member of the State Board of Elections. One shall be a county election board member. One shall be a person with expertise in computer security.

(3) The Executive Director of the State Board of Elections.

SECTION 12.2. The Electronic Voting Systems Study Commission shall study the issue of whether direct record electronic (DRE) voting system should be prohibited in North Carolina unless each unit of the system produces a voter-verifiable paper record that is suitable for a recount or a manual audit and that is equivalent or superior to the paper record produced by a paper ballot system.

In conducting the study, the Commission shall consider any input it deems useful concerning DRE voting systems, concerning compliance with the Help America Vote Act of 2002 (HAVA) and with voting-systems standards to be adopted under HAVA, including that the procedure provides sufficient opportunity for access and participation, including privacy and independence, to all voters regardless of disability. The Commission shall consider any other issue related to the use of electronic voting systems. The Commission shall make a final report to the 2005 General Assembly upon its convening. The report shall contain the Commission's findings and recommendations. The Commission shall terminate on the earlier of the filing of its final report or the convening of the 2005 General Assembly.

SECTION 12.3. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint a cochair for the Commission. The Commission may contract for consultant services as provided by G.S. 120-32.02. Upon approval by 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 Supervisor 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 discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1, 138-5, or 138-6, as appropriate. Vacancies shall be filled by the appointing authority.

SECTION 12.4. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART XIII. JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE STUDIES

SECTION 13.1. The Joint Legislative Education Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 13.2. Teacher assistant salary schedule– The Committee may study establishing a salary schedule for teacher assistants.

SECTION 13.3. Rural schools (S.B.703 – Swindell, Holloman) – The Committee may study the unique issues that concern the rural schools in this State.

SECTION 13.4. Physical restraints/seclusion in schools (S.B. 977 – Dorsett) – The Committee may study the use of physical restraints and seclusion in public schools.

SECTION 13.5. High school graduation rate incentives (S.B. 949 – Lucas) – The Committee may study whether bonuses should be paid to principals for increased graduation rates.

SECTION 13.6. At-risk students single funding stream (S.B. 954 – Lucas) – The Committee may study whether a single funding stream should be targeted to at-risk students.

SECTION 13.7. Close achievement gap (S.B. 599 – Lucas) – The Committee may study the best practices and methodologies for closing the achievement gap among children of various demographic groups who are performing below grade level.

SECTION 13.8. E-textbooks for students – The Committee may study issues related to the availability and use of electronic copies of textbooks for public school students.

SECTION 13.9. Attracting teachers to become coaches (Nesbitt) – The Committee may study the need to attract teachers into assuming additional duties of coaching interscholastic athletic teams in middle and high schools. If it undertakes this study, the Committee shall consider the feasibility of establishing a coaching fellowship program to attract students preparing to enter teaching through higher education coursework into coaching.

SECTION 13.10. Kindergarten admission requirements – The Committee may study the issue of modifying kindergarten admission requirements as it relates to student readiness to enter kindergarten.

SECTION 13.11. Update the job description for school counselors – The Committee may study updating and clarifying the job description for public school guidance counselors.

SECTION 13.12. Testing reform (Lucas, Apodaca) – The Committee may study the State's testing program. If it undertakes this study, the Committee shall consider:

(1) The number of tests currently mandated at the State level and the process and cost of developing, validating, and scoring them.

(2) Whether the State should consider the use of nationally developed tests as a substitute to State developed tests. In particular, the Committee shall determine whether this use would: affect the ABCs Program;

adequately measure student achievement and performance; provide more than minimum levels of achievement; provide a better comparison to student achievement and performance in other states; be practical for high school courses or higher level courses; reduce the need for field testing; and offer any cost savings to the State.

(3) The number of grades in which State tests are given. The Committee shall determine the necessity for testing all grades in third through eighth grades, whether a reduction in the grades tested would affect the receipt of federal money, and the extent to which a reduction would impair the State's ability to identify schools under the ABCs Program.

(4) The high school courses for which State tests are given and whether there is an appropriate distribution of tests across grades nine through 12 and that test an appropriate array of the minimum courses required for admission to the constituent institutions of The University of North Carolina. In addition, the Committee shall examine whether students who take higher level courses and students in 12th grade are held accountable for their academic growth and performance.

(5) The advantages and disadvantages of using a composite of end-of-course tests or other tests such as the SAT, AP tests, or other nationally standardized tests in high school rather than developing a high school exit exam. If the Committee finds a high school exit exam is preferable, then it shall determine whether it must be administered to all students or limited to certain students, for example, those who do not take the SAT or a certain number of courses for which there are end-of-course tests.

(6) The extent to which additional testing, including field testing, practice testing, and locally mandated testing, is occurring and whether this should be limited or prohibited.

(7) Evaluate alternative schools to determine how educational achievement is being advanced in these alternative school programs and that placement in these programs is to improve student performance rather than improve the performance of the school in which the student originally was assigned.

(8) The number of school days that are spent on testing.

(9) Any other issue the Committee considers relevant.

SECTION 13.13. Total Teacher Program – The Committee may study the Total Teacher Program, which is an instructional program designed to be used with the North Carolina public school curriculum. In the course of the study, the Committee may consider the effectiveness of the Program, the experience of schools in other states in using the Program, the cost and potential cost savings due to the Program, and other matters related to the Program.

SECTION 13.14. School construction (Garrou) – The Committee may study issues relating to school construction and school capacity.

SECTION 13.15. Computer-based math and literacy programs for children under age 6 – The Committee may study ways to improve math and literacy skills in children age 18 months to six years of age through the use of innovative computer based software.

SECTION 13.16. Appropriate education for students on long-term suspension – The Committee may study whether and to what extent North Carolina should mandate the following:

(1) Local school administrative units in North Carolina shall provide or cause to be provided an appropriate education for all students recommended for a long-term suspension.

(2) Each student recommended for long-term suspension shall receive a multidisciplinary assessment and evaluation to (i) ascertain his or her educational history, needs, and special learning problems and (ii) assess the risk the child poses to staff and other students. The assessment and evaluation shall include feedback and recommendations from local mental health and juvenile justice professionals.

(3) An individualized education and service plan shall be developed for all students recommended for long-term suspension by a committee that includes education, mental health, and juvenile justice professionals, the child's parent or guardian, and any other person the committee considers appropriate. The chair of the Juvenile Crime Prevention Council or a designee shall serve as chair of this committee.

(4) All efforts shall be made to reduce the risk the child poses to staff and other students and to allow the child to continue his or her education in his or her regular school without disruption. These efforts shall include the provision of related services and interventions from other agencies when considered necessary by the committee.

(5) During the first 10 days of suspension, the local school administrative unit shall place the student recommended for suspension in a diagnostic setting for purposes of ensuring there is no disruption to the student's education and to complete the assessment process.

(6) The local education agency shall contract with private or public agencies if an appropriate education cannot be provided within the school system. Funds appropriated to a local school administrative unit for the education of the child shall be used to pay for the program in which the child is placed.

(7) The child's parent or guardian shall have the right to appeal the recommendation for the long-term suspension or any placement decision made by the local school administrative unit.

(8) No child shall be rejected for education and services by a local school administrative unit unless a district court judge places the child in a juvenile justice program or facility. In that circumstance, the

Department of Juvenile Justice and Delinquency Prevention is responsible for providing the child's education.

SECTION 13.17. School nutrition/physical activity – The Committee may study school nutrition and opportunities for physical activity to keep children healthy.

PART XIV. REVENUE LAWS STUDY COMMITTEE

SECTION 14.1. The Revenue Laws Study Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 14.2. Valuation of Lots in Subdivisions (S.B. 520 – Dalton) – The Committee may study the valuation of partially improved, undeveloped lots in subdivisions.

SECTION 14.3. Private Activity Bonds (Rand) – The Committee may study private activity bonds.

SECTION 14.4. Conform Bank Expense Deduction – The Committee may study whether the State income tax on banks should be conformed to the federal income tax.

SECTION 14.5. Subsidiary Dividend Taxes – The Committee may study whether the expense attribution law as it applies to deductible dividends should be modified.

SECTION 14.6. Income Tax Derived From Manufacturing – The Committee may study whether income derived from manufacturing should be exempt from income taxation.

SECTION 14.7. Tax Foreclosures – The Property Tax Subcommittee of the Revenue Laws Study Committee may study the issue of foreclosures on tax liens, including proposals for expediting the foreclosure action.

SECTION 14.8. Comparative Tax Burden – The Committee may study the comparative tax burden on residents of South Carolina and residents of North Carolina.

SECTION 14.9. Tax Incentives to Promote Preservation of Open Spaces (S.B. 950 – Lucas) – The Committee may study whether tax incentives should be provided to promote the preservation of open spaces.

SECTION 14.10. Sales and Use Tax Exemption (Kerr) – The Committee may study the issue of allowing local school administrative units a sales and use tax exemption instead of a sales and use tax refund and methods to fund this change.

SECTION 14.11. Tax Preferences – The Committee may study whether tax expenditures should be reviewed at least once every 10 years.

SECTION 14.12. Reduce Utility Equipment Sales Tax – The Committee may study whether light construction equipment should be given preferential sales and use tax treatment.

SECTION 14.13. Business Taxation (S.B. 1330 – Clodfelter) – The Committee may study comprehensive reform and simplification of the existing State taxes on business entities, including corporations, limited liability companies,

partnerships, business trusts, associations, and other entities engaged in business. The elements of the plan to be studied shall include the following:

(1) Repealing the corporate income tax, Part 1 of Article 4 of Chapter 105 of the General Statutes.

(2) Including all types of business entities under a revised form of the franchise tax, Article 3 of Chapter 105 of the General Statutes.

(3) Limiting the annual filing fee for all business entities to the amount of the filing fee for corporations.

(4) Revising the current franchise tax to include two components, an assessment based on asset values and an assessment based on gross income or receipts from business activities.

(5) The revised franchise tax would be calculated and applied on a consolidated basis for members of a related or affiliated group of business entities, allocated and apportioned to this State using existing formulas for allocating and apportioning corporate income.

(6) The tax rates to be applied to these components would be the rates that are determined to yield revenue equal to the current combined revenue from corporate income and franchise taxes.

(7) The Department of Revenue would annually review the revenue generated by the new simplified tax to determine if rate adjustments are necessary to preserve the revenue-neutrality of the simplification.

(8) Any other issues or elements the Study Committee considers appropriate.

SECTION 14.14. Tax Credits for Certain Real Property Donations (S.B. 1214 – Clodfelter) – The Committee may study real property donation tax credits, including the credits specified in G.S. 105-130.34 and G.S. 105-151.12. The study may address the following issues:

(1) The coordination between the Department of Environment and Natural Resources and the Department of Revenue in administering the credits.

(2) The criteria by which the Department of Environment and Natural Resources determines whether a donation provides public benefits.

(3) The integrity of appraisals submitted by donors and procedures for preventing abuse of the credits.

(4) Qualifications and certifications of the government and nonprofit agencies that receive the donations.

(5) Long-term stewardship of conservation easements.

(6) Rising land prices and the effect of the credit caps on the amount of credit that can be claimed.

(7) Options for carryforward, refundability, and transfer of the credits.

(8) Any other issues the Committee considers relevant to tax incentives for encouraging farmers, landowners, and developers to conserve land.

As a part of this study, the Committee shall consult with the Farm Bureau, the Executive Director of the Clean Water Management Trust Fund, the Executive Director of the Wildlife Resources Commission, the Secretary of the Department of Environment

and Natural Resources or his designee, the Conservation Fund, and Sustainable North Carolina.

SECTION 14.15. Travel and Tourism Capital Investment – The Commission shall study the establishment of a Travel and Tourism Capital Investment Program in the Department of Commerce.

PART XV. JOINT LEGISLATIVE HEALTH CARE OVERSIGHT COMMITTEE

SECTION 15.1. The Joint Legislative Health Care Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 15.2. Benefits for State Employee Dependents (Rand) – The Committee may study alternative benefit plans for dependents of State employees.

SECTION 15.3. Consolidation of State Health Care Services (Rand) – The Committee may study whether a State entity should be established to purchase health care services provided with State funds and to administer data consolidation and claims processing systems in order to enhance quality of care, promote cost containment, and achieve administrative efficiency and effectiveness in the system of services provided by the State.

PART XVI. STUDY OF VARIOUS WAYS TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS IN STATE SPENDING (Rand)

SECTION 16.1. The University of North Carolina (through the Office of the President), the Judicial Branch (through the Administrative Office of the Courts), the Executive Branch (through the Department of Administration), the Legislative Branch (through the Legislative Services Office), the Community College System (through the President's Office), and the Department of Public Instruction shall jointly study various ways to promote government efficiency and savings on State spending, including the following proposals:

(1) Consolidate Administrative Functions (S.B. 805, S.B. 808 – Rand)
(2) Statewide Benefit Committee Established
(3) DMV-NCDL/Registration Extensions (S.B. 804 – Rand)
(4) Combine State Safety Programs (S.B. 807 – Rand)
(5) Increase Use of Public Defenders (S.B. 810 – Rand)
(6) Controller's Fee – (S.B. 813 – Rand)
(7) Deferred Retirement Option Program (S.B. 817 – Rand)

SECTION 16.2. The Department of Administration shall report the results of this study to the Legislative Research Commission by January 15, 2005.

PART XVII. JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE STUDIES

SECTION 17.1. The Joint Legislative Transportation Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 17.2. I-95 Tolls (Rand) – The Committee may study the feasibility of establishing tolls on Interstate 95 from the South Carolina to Virginia borders.

SECTION 17.3. Alternative Fuels – The Committee may study the use, availability, benefits, and disadvantages of alternative fuels. The study may include consideration of the following issues:

(1) The existence and availability of federal grants or other incentive programs for alternative fuels and alternative fuel vehicles and the impact of these programs on the need or desirability for a State program.

(2) The impact of increased alternative fuel vehicle use on the collection of motor fuel taxes and highway use taxes and whether the taxation of alternative fuels or vehicles using nonliquid or hybrid fuels needs to be modified.

SECTION 17.4. Comprehensive Transportation Issues (S.B. 1015 – Berger) – The Committee may study all aspects of transportation, including planning and scheduling of projects, legislative and executive oversight, revenues, funding, and expenditures of the Highway Fund, the Highway Trust Fund, and Federal Aid programs for transportation. The study shall include an examination of all the following:

(1) The effectiveness of legislative oversight of the Department of Transportation and all other transportation-related programs in North Carolina.

(2) The gap between transportation funding structures and the actual transportation needs of the State.

(3) Historical and projected application of funds within the several transportation funding sources.

(4) Deficiencies in matching funding and expenditures between the several Funds.

(5) Economic feasibility of alternate transportation modes, including cost/benefit comparisons of planning, construction, and operation of alternate transportation programs.

(6) Alternative methods of funding, financing, and planning transportation construction, maintenance, and operations.

(7) Delivery of construction and maintenance projects, including alternative management structures, outsourcing, and privatization.

(8) Any other issue related to transportation, transportation funding, project planning, and management of transportation programs.

PART XVIII. STUDY FINANCING OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 18.1. The Department of Health and Human Services shall study the financing of mental health, developmental disabilities, and substance abuse services. The study shall include the following:

(1) An examination of all sources of funds used in the delivery of mental health, developmental disabilities, and substance abuse services throughout the Department.

(2) An examination of alternative financing mechanisms for funding mental health, developmental disabilities, and substance abuse services, including Medicaid.

(3) Recommendations for feasible alternative financing mechanisms.

The Department shall report its findings and recommendations to the Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than July 1, 2005.

PART XIX. ENVIRONMENTAL REVIEW COMMISSION STUDIES

SECTION 19.1. The Environmental Review Commission may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 19.2. Effectiveness of Environmental Programs – The Commission may study the overall effectiveness of the State's efforts to protect the environment and conserve the natural resources of North Carolina. This study should include a comprehensive evaluation of the implementation of existing legal mandates and of the organizational structure of the Department of Environment and Natural Resources. This study should also consider:

(1) The adequacy of current funding levels, additional funding needs, and funding options, including increasing fees to cover the cost of permitting, inspections, and enforcement.

(2) Options to improve efficiency and reduce costs, including the consolidation of permitting, inspection, and enforcement functions.

(3) The adequacy of current staffing levels.

(4) Options to improve coordination among programs.

(5) The adequacy of current inspection and enforcement activities and options to improve compliance with environmental laws and rules, including improvements in the use of civil penalties.

SECTION 19.3. Plan to Share Floodplain Mapping Information – The Commission may study whether the information compiled on a regular basis by the Statewide Floodplain Mapping Unit would be useful and relevant to dam operators, local agencies, and State agencies with regard to making decisions about coordinating and controlling water releases from dams, flood control, floodplain management, and emergency evacuation procedures. If it undertakes this study, the Commission may consider the type of information compiled by the Statewide Floodplain Mapping Unit

and the value of that information in assisting with decisions regarding flood control techniques, floodplain management, and the time, frequency, and manner of water releases from dams. The Commission may also consider the feasibility of making that information readily available to dam operators, appropriate local agencies, and appropriate State agencies. The Commission may also consider whether it is appropriate to incorporate the information available from the Statewide Floodplain Mapping Unit into local emergency management plans and downstream inundation maps. The Commission may also study any other issues relevant to this topic.

SECTION 19.4. Water Restriction Guidelines – The Commission may study water restriction guidelines created by the Department of Environment and Natural Resources and implemented by local governments. If it undertakes this study, the Commission shall consider the State's role and authority to regulate water usage during times of drought conditions and shall also consider:

(1) The economic impact of water conservation measures.

(2) The balance between protecting water supply and economic impact on local communities.

(3) Recommendations on establishing consistency across the State with respect to classes of water use, specifically the use of the terms essential and nonessential use.

SECTION 19.5. Regional Water Supplies (S.B. 1409 – Shaw) – The Commission may study the issue of the development and funding of regional water supply systems.

SECTION 19.6. Clean Air Trust Fund – The Commission may study establishing a Clean Air Trust Fund.

SECTION 19.7. Fair Bargain Act (S.B. 878 – Horton) – The Commission May study evocation of contracts under certain circumstances.

SECTION 19.8. Deterrents to Stormwater Runoff (Horton) – The Commission may study the feasibility of encouraging permeable surfaces as a deterrent to stormwater runoff.

SECTION 19.9. Protecting Property Owners Adjacent to Activities for which a Stormwater Permit is Issued (S.B. 888 – Rucho) – The Commission may study ways to protect a property owner whose land is adjacent to or downstream from a site on which alterations of the existing flow of stormwater will occur.

SECTION 19.10. Highway Use Tax Based on Efficiency/Vehicle Registration Based on Vehicle Miles Traveled (S.B. 1374 – Clodfelter) – The Commission shall study both of the following:

(1) Whether the State should modify the current highway use tax so that all or a portion of the highway use tax paid on a private passenger vehicle is based on the fuel efficiency rating of the vehicle.

(2) Whether the State should modify the current vehicle registration fee so that all or a portion of the annual vehicle registration renewal fee for a passenger vehicle is based on the vehicle miles traveled by the vehicle.

In its conduct of these studies, the Commission shall consider whether the modifications studied under subsection (a) of this section should be made on a

revenue-neutral basis or should be made so as to generate additional revenue to be used to fund initiatives designed to improve air quality and the efficiency of the transportation system in the State.

SECTION 19.11. State Parks and Recreations Areas (S.B. 1270 – Kinnaird) The Commission may study the addition of the Lower Haw River State Natural Area to the State Parks system and the establishment of a State Recreation Area at Blewett Falls Lake.

SECTION 19.12. Stormwater Issues. – The Commission may study various approaches to prevent and reduce stormwater pollution throughout the State, including but not limited to: low impact design as a stormwater management technique; financial and regulatory incentives for the use of innovative stormwater management techniques; technical assistance for local governments in implementing successful stormwater management programs or collaborative regional programs; State and local efforts to reduce sedimentation pollution; potential funding sources for improved stormwater management; and protection of highly sensitive waters such as shellfishing and recreational waters and trout streams.

PART XX. HIGHWAY TRUST FUND STUDY COMMITTEE EXTENDED

SECTION 20.1. Section 29.12 of S.L. 2003-284 reads as rewritten:

"**SECTION 29.12.(k)** Report. – The Study Committee may make interim reports and shall make a final report to the Joint Legislative Transportation Oversight Committee no later than ~~November 1, 2004.~~ January 31, 2005. Regardless of whether it has filed an interim or final report, the Committee shall terminate on ~~November 1, 2004.~~January 31, 2005."

PART XXI. DEPARTMENT OF ADMINISTRATION STUDY (Nesbitt)

SECTION 21.1. The Department of Administration may study retainage from payment on public construction projects. If it undertakes this study, the Department shall consider the following:

(1) Retainage by public owners from payment to contractors and retainage by those contractors from payment to subcontractors.

(2) Retainage from periodic progress payments and final payment, including a maximum allowable amount of retainage.

(3) A time certain for the owner's release of retainage, based upon the owner's occupancy, substantial completion of the work, or the owner's use of the improvements for the purposes intended.

(4) A time certain for the contractor's release of retainage to a subcontractor, based upon the contractor's receipt of retainage.

(5) Conditions permitting withholding of retention beyond the date of release, including those stated in G.S. 143-134.1(d), and limits on the amount of retainage for a condition permitting withholding.

(6) Interest on wrongfully withheld retainage and conditions for the payment of attorneys' fees for the collection of wrongfully withheld retainage.

(7) Line-item release of retainage, based upon a schedule of values, for specific work that has been completed by the contractor and approved by the owner.

(8) Any other matters relating to the withholding and release of retainage on public construction projects.

SECTION 21.2. The Department shall report the results of its study to the 2005 General Assembly upon its convening.

PART XXII. UNC BOARD OF GOVERNORS STUDY COMMISSION

SECTION 22.1. There is created the UNC Board of Governors Study Commission. The Commission shall consist of 10 members appointed as follows: five by the President Pro Tempore of the Senate and five by the Speakers of the House of Representatives. The Speakers of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. Vacancies on the Commission shall be filled by the appointing authority. The Commission shall meet upon the call of the chairs. A majority of the members of the Commission shall constitute a quorum.

SECTION 22.2. The Commission shall study the method of election or appointment of members of the Board of Governors, the length of members' terms, the number of terms a member may serve, and the size of the Board of Governors. As part of the study, the Commission may examine the governing boards of other states' institutions of higher education. The Commission shall report its findings and any recommendations to the 2005 Regular Session of the General Assembly.

SECTION 22.3. Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 22.4. Subject to the approval of the Legislative Services Commission, the Commission may meet in the State Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist in the work of the Commission. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. All State departments and agencies and local governments and their subdivisions shall furnish the Commission with information in their possession or available to them. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this part.

SECTION 22.5. The Commission shall terminate upon the filing of its final report.

PART XXIII. NORTH CAROLINA STUDY COMMISSION ON AGING STUDY

SECTION 23.1. The North Carolina Study Commission on Aging may study the topic listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 23.2. Long-term care remediation (S.B. 206 – Swindell, Purcell) – The Commission may study the feasibility of implementing a remediation program for long-term care facilities in this State that is similar to the Collaborative Remediation Project in Michigan.

SECTION 23.3. Mentally ill long-term care residents (S.B. 1150 – Swindell) – The Commission may study issues related to mentally ill residents in long-term care facilities.

PART XXIV. JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES STUDIES

SECTION 24.1. The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 24.2. Integration of care for children with multiple system service needs (S.B. 262 – Foxx, Allran, Dannelly, Lucas, Purcell) – The Committee shall conduct a comprehensive review of the State's system of care for children with multiple system service needs. The purpose of the comprehensive review is to determine the extent to which children who need services from multiple State and local agencies in this system are or are not receiving those services in a timely manner, the effectiveness of the services provided, the potential long-term impact on the children, their families, and State and local resources of not providing all services in a timely and cost-effective manner, and to make detailed recommendations on the system changes necessary to address the problems identified as quickly as possible. Recommendations on system changes shall include programmatic and funding changes, and an analysis and estimate of implementation costs and projected cost-savings to the State in future years. In order to ensure a dedicated focus and appropriate expertise for the comprehensive review, the Committee shall convene a task force to conduct the review. The task force shall be comprised of the cochairs of the Oversight Committee, the Joint Legislative Education Oversight Committee, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Joint Legislative Health Care Oversight Committee, and other individuals appointed by the cochairs of the Oversight Committee upon recommendation of the other members of the task force.

In conducting its review, the task force shall consider thoroughly all of the following:

(1) State-of-the-art approaches to services to children with multiple system service needs as the basis of reform in North Carolina.

(2) Evidence-based best practices in North Carolina and elsewhere for potential systemwide adoption.

(3) Barriers to access for developing a uniform access process to implement a "no wrong door" policy such that children and families may enter any service access point but will be afforded seamless access to all necessary services.

(4) Initiatives taken or under consideration in other states to ensure a unified approach to system services, including the feasibility of establishing a funding consortium for pooling resources of all involved agencies in order to streamline access to the system by children and involvement in the system by service providers.

(5) Ways to improve the multidisciplinary identification and evaluation of children's multiple service needs and the communication of those needs to all appropriate service providers.

(6) The extent to which children currently in the juvenile justice system have not received adequate and appropriate educational, mental health, or other health services, and the reasons why the children have not been adequately served.

(7) Information from the Department of Public Instruction and other organizations showing the number of children who have been suspended or expelled from public school, the reasons for the suspension or expulsion, the number of these children who have received alternative placements to ensure that they are being adequately and appropriately served by State and local service systems.

(8) Necessary changes to North Carolina service systems involving mental health, developmental disabilities, and substance abuse services, social services, education services, juvenile justice, and other related service systems that will enable these systems to work together to ensure effective and timely access to services for children and their families.

The Oversight Committee, subject to the provisions of G.S. 120-32.02, may hire a consultant to assist the task force in its comprehensive review. The Oversight Committee shall establish interim and final reporting time lines for the consultant's findings and recommendations, and, subject to the requirements of this section, for meetings and reports of the task force.

SECTION 24.3. Mental health in prisons – The Committee may study the incidence of mental illness and substance abuse problems among inmates in the North Carolina prison and juvenile justice systems.

PART XXV. JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE STUDY

SECTION 25.1. The Joint Legislative Commission on Seafood and Aquaculture may study whether it should be unlawful to take shrimp with trawl nets in

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

PART XXVI. ADMINISTRATIVE OFFICE OF THE COURTS/DEPARTMENT OF CORRECTION STUDY

SECTION 26.1. The Administrative Office of the Courts and the Department of Correction shall jointly study the processes for the collection and payment of restitution in this State, and shall determine methods for reducing the number of restitution payments that go unclaimed. The Administrative Office of the Courts and the Department of Correction shall report their findings and recommendations to the 2005 General Assembly upon its convening.

PART XXVII. MARINE FISHERIES COMMISSION STUDY OF SHELLFISH CULTIVATION LEASES (S.B. 1071 – Albertson)

SECTION 27.1. The Marine Fisheries Commission may study whether and how to establish a process by which shellfish cultivation leases that are terminated pursuant to G.S. 113-202(l) may be leased to an applicant for a shellfish cultivation lease without the leasehold reverting to public bottom. If the Commission conducts a study pursuant to this section, it shall report its findings, recommendations, and legislative proposals, if any, to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

SECTION 27.2. The Marine Fisheries Commission may study issues related to the corporate ownership of shellfish cultivation leases. If the Commission conducts a study pursuant to this section, it shall report its findings, recommendations, and legislative proposals, if any, to the Joint Legislative Commission on Seafood and Aquaculture no later than December 1, 2004.

PART XXVIII. OFFICE OF STATE BUDGET AND MANAGEMENT STUDY

SECTION 28.1. The Office of State Budget and Management shall conduct an analysis of the structure and operation of the Department of Public Instruction. The analysis shall identify potential efficiencies and savings in the operation of the Department. The analysis may consider consolidation of functions with other agencies and automation of functions.

SECTION 28.2. The Office of State Budget and Management shall report its findings to the State Board of Education. The Office of State Budget and Management and the State Board of Education shall jointly report to the Joint Legislative Education Oversight Committee by January 15, 2005, on the results of the analysis.

PART XXIX. UNC BOARD OF GOVERNORS STUDY FEASIBILITY OF FORGIVENESS OF STUDENT DEBT PROGRAM

SECTION 29.1. The Board of Governors of The University of North Carolina, in conjunction with the North Carolina State Education Assistance Authority, may study the feasibility of a program that would forgive student indebtedness for teachers who have continuing certification in and are teaching in the disciplines of mathematics, science, or special education. The Board shall report the results of its study to the Joint Legislative Education Oversight Committee by January 15, 2005.

PART XXX. STATE BOARD TEACHER RETENTION TASK FORCE

SECTION 30.1. The State Board of Education shall form a Task Force cochaired by the State Board of Education Chairman or designee and the Lt. Governor or designee to study issues related to effective recruitment and retention of teachers for the North Carolina public schools. The Task Force shall include practicing public school teachers, principals, superintendents, local boards of education, and representatives from the University System, the Community College System, and others as deemed appropriate by the cochairs. In the course of this study, the State Board of Education shall consider:

(1) Impediments to effective teacher recruitment and retention;

(2) Strategies for increasing the effectiveness or recruitment and retention efforts;

a. Modifications to teacher salaries and benefits that will ensure that teacher compensation in North Carolina remains at or above the national average, thereby better enabling the public schools to recruit and retain highly qualified teachers. The State Board may consider:

1. Increased salaries for beginning teachers to make the profession more attractive at the entry level;
2. Increased salaries for teachers at those points at which higher numbers of teachers leave the teaching profession;
3. Retirement options for teachers with 30 years of experience that will provide opportunities for those highly skilled and experienced teachers to continue in service;
4. Differentiated salary opportunities for teachers who demonstrate exemplary teaching skills, work in certain areas of certification, work in hard-to-staff schools, or serve as mentors, school improvement team leaders, or serve as leaders in a Quality Teacher as Leader Program;
5. Other modifications to teacher salaries and benefits necessary to recruit and retain highly qualified teachers in the public schools.

b. Tax incentives to encourage experienced teachers to remain in the teaching profession;

c. Locally designed initiatives to facilitate teacher recruitment and retention;

d. Strategies for increasing the number of highly qualified beginning teachers such as:

1. Expanding teacher preparation programs;

2. Expanding scholarship loan programs for prospective teachers to recruit the most qualified high school students to the teaching profession; and

3. Ensuring that graduates of teacher preparation programs are well prepared to meet teacher-certification requirements.

e. Strategies for giving beginning teachers the opportunity to develop into skilled professionals such as assigning them to teach only in their area of certification and minimizing their noninstructional duties;

f. Strategies for ensuring that school-based administrators are adequately trained to provide support for both experienced and inexperienced teachers and that they provide that support;

g. Strategies for ensuring that teachers are treated respectfully by students, such as a Teachers' Bill of Rights;

h. Increased expectations regarding parental involvement in and support of their children's education;

i. The availability of communications devices in the classroom;

j. Strategies for a Quality Teacher as Leader Program as a career option that compensates teachers for accomplished teaching and values teachers as leaders; and

k. Strategies for ensuring that schools are staffed appropriately and teachers have the time necessary to meet the State, federal and local demands for quality teaching and learning environments.

SECTION 30.2. The State Board of Education shall report its findings and recommendations to the Joint Legislative Education Oversight Committee prior to February 15, 2005. These recommendations may include changes to laws and policies.

SECTION 30.3. The Department of Public Instruction shall provide staff to support the work of the Task Force upon the request of the cochairs or staff and consultants may be hired from funds designated to support the work of the Task Force.

SECTION 30.4. The State Board of Education shall use federal funds to support the work of the Task Force.

PART XXXI. JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE (S.B. 1014 – Berger)

SECTION 31.1. The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee may study the confinement of inmates who are

irreversibly, physically incapacitated due to chronic illness or disability. The Committee's study may include, but is not limited to, a review of current policies, a calculation of potential population figures and medical care costs, a determination of possible alternatives to incarceration and accompanying costs, and a consideration of procedures for termination or commutation of sentences.

SECTION 31.2. The Committee shall report its findings and recommendations, including any proposed legislation, no later than the convening of the 2005 General Assembly.

PART XXXII. AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION STUDIES

SECTION 32.1. The Agriculture and Forestry Awareness Study Commission may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 32.2. Agriculture Commodity Incentives (Albertson) – The Commission may study the possibility of establishing incentive programs to benefit firms purchasing additional large quantities of North Carolina farm commodity products when an overabundance of a specific commodity is designated by the State Department of Agriculture and Consumer Services to be available for sale.

SECTION 32.3. Food Safety and Security (S.B. 834 – Albertson) – The Commission may study ways to protect the State's food supply system and the agricultural industry base.

SECTION 32.4. Dairy Industry (Albertson; Rand) – The Commission shall study the condition of the dairy industry in the State. As a part of its study, the Commission shall examine:

(1) The short-term and long-term problems associated with maintaining a viable dairy industry and supplying the needed quantity of milk in the State.

(2) Ways to sustain the existing dairy industry in the State.

(3) Opportunities for expanding the dairy industry, including attracting both new dairy producers and new processors into the State.

(4) The contribution of dairy farmers to the maintenance of prime agricultural lands, and working lands, and the quality of life in the State.

(5) The need for programs that stabilize the pricing of milk at the farm level, such as counter-cyclical or safety net type programs in the Farm Security and Rural Investment Act of 2002, or a milk transportation grant program to maintain a local supply of fresh milk for processing and consumption, programs that facilitate the entry of young farmers into the dairy industry, and programs that preserve dairy green space along the urban fringe.

(6) Other factors impacting the dairy industry in North Carolina.

PART XXXIII. COMMITTEE ON EMPLOYEE HOSPITAL AND MEDICAL BENEFITS STUDY NEWBORN COVERAGE (S.B. 1421 – Kinnaird)

SECTION 33.1. The Committee on Employee Hospital and Medical Benefits may study the following issues pertaining to benefits under the Teachers' and State Employees' Comprehensive Major Medical Plan ("Plan"):

(1) Whether to repeal or otherwise modify G.S. 135-40.6(7) that limits coverage for examination and supervision of a normal newborn infant to only when the mother of the infant is receiving maternity benefits under the Plan.

(2) Whether to adopt a federally qualified health reimbursement arrangement as an additional component of the Plan.

(3) Whether deductibles and co-payment amounts applicable under the Plan should be based on income of the Plan member, with lower-income Plan members paying less than higher-income Plan members.

PART XXXIV. HURRICANE EVACUATION STANDARDS STUDY COMMISSION

SECTION 34.1. The Hurricane Evacuation Standards Study Commission is established. The Commission shall consist of six members to be appointed as follows:

(1) Three members of the House of Representatives to be appointed by the Speaker of the House of Representatives; and

(2) Three members of the Senate to be appointed by the President Pro Tempore of the Senate.

SECTION 34.2. The Commission shall study the development and establishment of hurricane evacuation standards for the State. The Commission shall consider and recommend to the General Assembly those legislative actions necessary to implement its recommendations.

SECTION 34.3. The following State employees shall attend each meeting of the Commission and shall provide technical support and expertise to the Commission to develop appropriate State hurricane evacuation standards:

(1) Director, Division of Emergency Management, Department of Crime Control and Public Safety.

(2) Chief of Logistics, Division of Emergency Management, Department of Crime Control and Public Safety.

(3) State Roadway Design Engineer, Department of Transportation.

(4) Assistant State Roadway Design Engineer, Department of Transportation.

(5) Division Engineer, Division 1, Department of Transportation.

(6) Division Engineer, Division 2, Department of Transportation.

(7) Division Engineer, Division 3, Department of Transportation.

(8) Division Traffic Engineer, Division 1, Department of Transportation.

(9) Division Traffic Engineer, Division 2, Department of Transportation.
(10) Division Traffic Engineer, Division 3, Department of Transportation.

SECTION 34.4. 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 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 members of the Commission, while in the discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1.

SECTION 34.5. The Commission shall report its findings and any recommendations to the Governor and the Joint Legislative Transportation Oversight Committee of the General Assembly by January 15, 2005. Upon the earlier of the filing of its final report or the convening of the 2005 General Assembly, the Commission shall terminate.

SECTION 34.6. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Hurricane Evacuation Standards Commission.

PART XXXV. JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON INFORMATION TECHNOLOGY

SECTION 35.1. Chapter 120 of the General Statutes is amended by creating a new Article to read:

"Article 30.

"Joint Legislative Oversight Committee on Information Technology.

"**§ 120-261. Committee established; purpose; organization.**

(a) Establishment. – There is established the Joint Legislative Oversight Committee on Information Technology (Committee).

(b) Purpose. – The Committee shall examine, on a continuing basis, systemwide issues affecting State government information technology, including, but not limited to, State information technology operations, infrastructure, development, financing, administration, and service delivery. The Committee may examine State agency or enterprise-specific information technology issues. The Committee shall make ongoing recommendations to the General Assembly on ways to improve the effectiveness, efficiency, and quality of State government information technology.

(c) Membership. – The Committee shall consist of 16 members as follows:

(1) Eight members of the Senate appointed by the President Pro Tempore of the Senate. At least two appointees shall be members of the Senate Appropriations Committee.

(2) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives. At least two appointees shall be members of the House of Representatives Appropriations Committee.

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each select a member from their appointees to serve as cochair of the Committee.

(d) Terms. – Members of the Committee shall serve two-year terms beginning at the convening of the General Assembly in each odd-numbered year, with no prohibition against being reappointed, except for the terms of the initial members which shall begin on appointment and end on the day of convening of the 2005 General Assembly. A member continues to serve until the member's successor is appointed. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee. The officer who made the original appointment shall fill any vacancy within 30 days.

(e) Quorum. – A majority of the members of the Committee shall constitute a quorum for the transaction of business. The affirmative vote of a majority of the members present at meetings of the Committee shall be necessary for action to be taken by the Committee.

(f) Subcommittees. – The Committee cochairs may establish subcommittees for the purpose of making special studies pursuant to its duties, and may appoint non-Committee members to serve on each subcommittee as resource persons. Resource persons shall be voting members of the subcommittee and shall receive subsistence and travel expenses in accordance with G.S. 138-5 and G.S. 138-6.

"**§ 120-262. Assistance; per diem; subsistence; and travel allowances.**

(a) The Committee may contract for consulting services as provided by G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional and clerical staff to assist in the work of the Committee. The professional staff shall include the appropriate staff from the Fiscal Research, Research, Legislative Drafting, and Information Systems Divisions of the Legislative Services Office of the General Assembly. Clerical staff shall be furnished to the Committee through the offices of the Senate and the House of Representatives Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the Committee. The Committee may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

(b) Members of the Committee shall receive per diem, subsistence, and travel allowances as follows:

(1) Committee members who are members of the General Assembly, at the rate established in G.S. 120-3.1.

(2) Committee members and resource persons who are officials or employees of the State or of local government agencies, at the rate established in G.S. 138-6.

(3) All other Committee members and resource persons, at the rate established in G.S. 138-5.

"**§ 120-263. Reports.**

The Committee shall submit annual reports to the General Assembly on or before the convening of the regular session of the General Assembly each year. The Committee may submit interim reports at any time it deems appropriate.

"**§ 120-264. Authority.**

The Committee has the authority to obtain information and data from all State officers, agents, agencies, and departments, while in discharge of its duties, pursuant to G.S. 120-19, as if it were a committee of the General Assembly."

SECTION 35.2. Article 26 of Chapter 120 of the General Statutes is repealed.

PART XXXVI. STREAM MAPPING

SECTION 36.1. The Geographic Information Coordinating Council and the Department of Environment and Natural Resources shall develop and recommend a plan to improve the mapping and digital representation of surface waters in North Carolina, including intermittent and perennial streams, lakes, and ponds, to the General Assembly and the Environmental Review Commission on January 15, 2005.

SECTION 36.2. The plan shall include at a minimum: mapping specifications and standards; estimated budget and schedule for statewide implementation; and entry of the data into NC OneMap.

SECTION 36.3. The Geographic Information Coordinating Council and the Department shall include at a minimum the Division of Emergency Management in the Department of Crime Control and Public Safety, the Department of Commerce, the Department of Transportation, and the US Geological Survey in the development of the plan.

SECTION 36.4. The General Assembly encourages municipalities and counties to share the mapping and digital representation of surface waters that they have developed with the Geographic Information Coordinating Council, NC OneMap, and the public.

PART XXXVII. STUDY COMMISSION ON HEALTH CARE WORKFORCE DEVELOPMENT

SECTION 37.1. There is created the Health Care Workforce Study Commission ("Commission"). The Commission shall consist of 19 members appointed as follows:

(1) Five members appointed by the Governor, to include:

a. One person who is a health care provider or a pharmacist in a rural community.
b. One person who is a hospital administrator from recommendations provided by the North Carolina Hospital Association.
c. One person who is a dental care provider.
d. One person from the Office of Research, Demonstrations, and Rural Health Development of the Department of Health and Human Services.
e. The Program Director of the North Carolina AHEC Program.

(2) Seven members appointed by the Speakers of the House of Representatives, to include:
a. Four members of the House of Representatives.
b. One person who is a nursing home administrator from recommendations provided by the NC Health Care Facilities Association.
c. One person who is a community college president from recommendations provided by the President of the North Carolina Community College System.
d. One person who is a medical provider.

(3) Seven members appointed by the President Pro Tempore of the Senate, to include:
a. Four members of the Senate.
b. One person who operates an adult care home from recommendations provided by the NC Association of Long Term Care Facilities.
c. One person who is a university president from recommendations provided by the President of The University of North Carolina System.
d. One person who is a medical provider.

SECTION 37.2. The purpose of the Commission is to determine methods to increase the number of people providing health and dental care in this State and to overcome existing barriers contributing to the health care providers shortages. In undertaking this study, the Commission shall consider the following:

(1) How to cultivate an interest in health occupations programs at the secondary school level.

(2) How to address the shortage of adequately prepared health care occupations faculty at community colleges, including designating health care occupation degrees as "high cost" programs and paying health care occupation faculty at a higher rate, designating a salary differential for faculty members who provide clinical or classroom training during evening, night, and weekend shifts, and offering other incentives to encourage masters trained professionals to teach at community colleges.

(3) How to address the attrition rates for students in health care occupation curriculums in community colleges.

(4) Resources available to assist community colleges with the purchase of equipment necessary to train students for health care occupations.

(5) Shortages of faculty at the university level.

(6) Restoring funding for university level Fast Track programs.

(7) Whether a curriculum program that offers a baccalaureate degree in respiratory therapy should be established in The University of North Carolina System.

(8) How to improve current programs responsible for addressing dentist and physician shortages, particularly in the rural parts of the State.

(9) How to address nursing shortages, taking into consideration the Institute of Medicine's Nursing Task Force recommendations.

(10) How to address shortages of pharmacists.

(11) Completion of the articulation plan between NCCCS and the University of North Carolina system's health care training programs, with a set deadline for implementation.

SECTION 37.3. The Speakers of the House of Representatives shall appoint a cochair, and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. The Commission may contract for consultant services as provided by G.S. 120-32.02. 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 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 discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1, 138-5, or 138-6, as appropriate. Vacancies shall be filled by the appointing authority.

SECTION 37.4. The Commission shall submit an interim report to the 2005 Regular Session of the 2005 General Assembly that contains its recommendations, legislative proposals, and cost analyses. The Commission shall make a final report to the 2006 Regular Session of the 2005 General Assembly and shall terminate upon the earlier of the filing of its final report or April 30, 2006.

SECTION 37.5. From the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established in this act.

PART XXXVIII. SMART START FUNDING STUDY (Hagan)

SECTION 38.1. Commission Established. – There is established a Smart Start Funding Study Commission.

SECTION 38.2. Membership. – The Commission shall be composed of 21 members as follows:

(1) Four members of the Senate appointed by the President Pro Tempore of the Senate.
(2) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.
(3) North Carolina Partnership for Children board member appointed by Speaker of the House of Representatives.
(4) President of the North Carolina Partnership for Children.
(5) Secretary of the Department of Heath and Human Services or designee.
(6) North Carolina Budget and Tax Center representative appointed by the President Pro Tempore of the Senate.
(7) State Budget Director or designee.
(8) Department of Social Services County Director appointed by the Speaker of the House of Representatives.
(9) Department of Public Health County Director appointed by the President Pro Tempore of the Senate.
(10) County Commissioner appointed by the Speaker of the House of Representatives.
(11) Local Partnership for Children Executive Director appointed by the President Pro Tempore of the Senate.
(12) Local Partnership for Children board chair appointed by the Speaker of the House of Representatives.
(13) Two business leaders representing small and corporate business, one appointed by the President Pro Tempore of the Senate, and one by the Speaker of the House of Representatives.
(14) Representative of the Rural Economic Development Center appointed by the President Pro Tempore of the Senate.

SECTION 38.3. Secretary of Health and Human Services. – The Commission shall invite the Secretary of Health and Human Services to attend each meeting of the Commission and encourage the Secretary's participation in the Commission's deliberations.

SECTION 38.4. Duties of Commission. – The Commission shall study the funding of the North Carolina Partnership for Children, Inc. In conducting the study, the Commission shall consider the following:

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

SECTION 38.5. Vacancies. – Any vacancy on the Commission shall be filled by the appointing authority.

SECTION 38.6. Cochairs. – Cochairs of the Commission shall be designated by the President Pro Tempore of the Senate and the Speaker of the House of Representatives from among their respective appointees. The Commission shall meet upon the call of the chairs.

SECTION 38.7. Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S.120-3.1, 138-5, or 138-6, as appropriate.

SECTION 38.8. Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to the Commission to aid its work.

SECTION 38.9. Consultants. – The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

SECTION 38.10. Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

SECTION 38.11. Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. Subject to the approval of the Legislative Services Commission, the Commission may meet in the State Legislative Building or the Legislative Office Building.

SECTION 38.12. Report. – The Commission shall make its findings and recommendations in a final report to the 2005 General Assembly. Upon the earlier of the filing of its final report or the convening of the 2005 General Assembly, the Commission shall terminate.

SECTION 38.13. Funding. – From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the purpose of conducting the study provided for in this section.

PART XXXIX. JOINT LEGISLATIVE HEALTHCARE OVERSIGHT COMMITTEE HEATHCARE

SECTION 39.1. The Joint Legislative Health Care Oversight Committee may study the following:

(1) Nursing shortage (S.J.R. 142 – Forrester, Purcell)
(2) Medical errors (S.J.R. 634 – Forrester)
(3) Environmental causes of cancer (S.J.R. 143 – Forrester, Purcell)
(4) Educating the public on ovarian cancer risks and prevention (S.J.R. 636 – Forrester)

(5) Reducing prescription drug costs
(6) Bulk purchasing of pharmaceutical drugs (S.J.R. 968 – Kinnaird)
(7) Internet sale of prescription drugs (Rand)
(8) Pain management and palliative care
(9) Care of the mentally ill in long-term care facilities (S.B. 1148 – Swindell)

PART XL. CHILD WELFARE SYSTEM REFORM

SECTION 40.1. The Department of Health and Human Services shall transfer funds to the General Assembly to hire an independent consultant to evaluate North Carolina's Child Welfare System at the State and local levels and provide recommendations to reform that system.

SECTION 40.2. The Fiscal Research Division, through the Legislative Services Office, in consultation with the Department of Health and Human Services, shall issue a Request for Proposal (RFP) for an independent consultant with extensive experience in child welfare systems to develop recommendations for reforming the State's existing system. The contractor shall evaluate the overall administration and oversight of the existing system and make specific recommendations to strengthen the system. The contractor shall review North Carolina's historical performance in meeting national performance outcome measurements and note any progress in taking corrective action to address the areas identified as weaknesses in the existing system. The contractor shall evaluate variances in resources, including staffing levels, at the local level as well as the administrative structure at the State level. The contractor shall review statewide abuse and neglect data to determine if the data is accurate and useful and make recommendations for improving the data collection system. The contractor's final report shall include recommendations to ensure accountability and consistency at both the State and local levels.

SECTION 40.3. The final report from the consultant shall be presented to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than October 1, 2005.

PART XLI. BILL AND RESOLUTION REFERENCES

SECTION 41.1. The listing of the original bill or resolution in this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

PART XLII. EFFECTIVE DATE AND APPLICABILITY

SECTION 42.1. Except as otherwise specifically provided, this act is effective when it becomes law. If a study is authorized both in this act and in the Current Operations and Capital Improvements Appropriations Act of 2004, the study

shall be implemented in accordance with the Current Operations and Capital Improvements Appropriations Act of 2004 as ratified.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1152*

Rules and Operations of the Senate Committee Substitute Adopted 7/16/04
Third Edition Engrossed 7/16/04
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1152-CSSW-87 [v.26]

7/17/2004 8:50:28 PM

Short Title: Studies Act of 2004. (Public)

Sponsors:

Referred to:

May 18, 2004

A BILL TO BE ENTITLED

AN ACT CONCERNING STUDIES.

The General Assembly of North Carolina enacts:

PART I. TITLE

SECTION 1. This act shall be known as "The Studies Act of 2004".

PART II. LEGISLATIVE RESEARCH COMMISSION

SECTION 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 2003 or 2004 Regular Session of the 2003 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. The following groupings are for reference only:

(1) Government Regulatory Issues:
- a. Fire safety in local confinement facilities (H.B. 1050 – Frye)
- b. Regulating ticket brokers (H.B. 1072 – Miner, Gibson; S.B. 556 - Hoyle)
- c. Light pollution (Queen)
- d. Urban cores (Queen)
- e. Legislative and executive branch lobbying (Kinnaird; H.B. 1780 – Hackney, H.B. 1788 – Gibson, McComas, H.B. 1789)
- f. Alcoholic beverage control (Gibson)

g. State fire protection (S.B. 1377 – Kinnaird; H.B. 1648 – Insko, Hackney)
h. Landscape/irrigation contractors (H.B. 947 – Gibson, McHenry)
i. Regulations regarding massage therapy (Gibson)

(2) Transportation Issues:
a. Purchasing alternative-fuel or low-emission school buses (S.J.R. 768 – Bingham)
b. Commercial drivers license requirements and emergency situations (Sloan)
c. Handheld cell phone use while driving (H.B. 623 – Bowie, Luebke, McAllister)
d. State ports (H.B. 1249 – McComas)
e. Towing laws, salvage laws and lienholder notification when vehicles are abandoned or seized (Crawford)

(3) Consumer Issues:
a. Debt collection practices (Rand; H.B. 1039 - Weiss)

(4) Insurance Issues:
a. Workers' compensation/agricultural employment (S.B. 632 – Clodfelter; H.B. 922 - Luebke)
b. Workers' compensation/trucking companies (H.B. 1370 – Saunders; S.B. 1081 - Jenkins)
c. High risk health insurance pools (H.B. 1494 – Insko, Bowie, Justus, Allred; H.B. 1367 - Insko)
d. Health insurance mandates (H.B. 1476 – Owens, Bowie, Justus, Blackwood)
e. Reduce workers' compensation premiums (H.B. 1626 – Goodwin)

(5) Criminal Law Issues:
a. Review of sentencing guidelines
b. Judicial approval for pleas in certain cases (Clodfelter)
c. Reclassify statutory rape (H.B. 243 – Haire)
d. Amend habitual felon law (H.B. 242 – Haire)
e. Restructure prior criminal record points (H.B. 247 – Haire)
f. Sentence lengths (H.B. 264 – Haire)
g. Adjust penalties for B1 to E offenses (H.B. 246 – Haire)
h. Arson offenses (H.B. 244 – Haire)
i. Drug trafficking laws (H.B. 241 – Haire)
j. Giving notice of rights to contest mechanic's lien storage charges of vehicles seized under the DWI forfeiture laws (Lewis)
k. Youthful offenders (H.B. 1406 – Bordsen, Crawford)
l. Street gang terrorism prevention (H.B. 732 – Michaux)

(6) State/Local Government Employee Issues:

a. Pay equity (S.B. 747 – Lucas; H.B. 544 – Alexander, Clary, Weiss, Insko)
b. Job sharing (H.J.R. 958 – Glazier)
c. Reemployment of retirees (S.B. 10 – Garwood; H.B. 219 – Glazier; Rapp, Goodwin, McLawhorn)
d. Postretirement earnings (S.B. 1313 – Dorsett; H.B. 1658 – Jeffus, H.B. 1505 – Rapp, Bell, McLawhorn)
e. State government employment (H.B. 861 – Earle, Wainwright)
f. Optional graduated 25-year retirement plan for local governments (H.B. 1276 – Goodwin; Rapp, McLawhorn)

(7) Labor, Employment, and Economic Development Issues:
a. Loss of manufacturing businesses (Culpepper)
b. Film industry incentives (H.B. 1802 – McComas, Harrell)
c. Credit for hiring apprentices (H.B. 1437 – Goodwin)
d. Labor audit systems/incentives (H.B. 1599 – Goodwin)
e. Non-English speaking worker safety (H.B. 1627 – Goodwin)

(8) Health and Human Services Issues:
a. Dix Hospital property (H.B. 960 – Ross, Weiss, Munford, Stam; S.B. 413 - Reeves)
b. Care and safety of residents of residential care facilities (H.B. 1431 – Farmer-Butterfield, Insko)
c. Promoting patient safety in the provision of health care (H.B. 1765 – L. Allen, England)
d. Provision of emergency medical services in rural counties and their funding mechanisms (Wright)

(9) Other:
a. Immigration (S.J.R. 553 – Albertson)
b. Casino nights for nonprofit organizations (H.B. 149 – Owens)
c. Soil and water conservation issues (Brubaker)
d. Trafficking of persons (S.J.R. 1197 – Kinnaird; H.J.R. 1086 – Alexander; H.J.R. 1576 – Justice, Womble)
e. Regulation of sellers of timeshares (Rand)
f. Attorney solicitation regulation (S.B. 1317 – Rand)
g. Compensation for eugenic sterilization (H.B. 1236 – Womble, Parmon, Insko, Ross)
h. Authority and responsibility of homeowners associations (Earle)
i. Charitable bingo/beach bingo (H.B. 1598 – Culpepper; H.B. 1637 – Gorman)
j. Agribusiness and agriculture teaching fellows (H.B. 1762 – Goodwin)
k. Meeting IRS request for a defined retirement age (Rapp, Goodwin, McLawhorn)

SECTION 2.1.(a) Size/Scope of Boards and Commissions (S.J.R. 924 – Rand; H.J.R. 1067 – Dockham, Owens) – The Commission may study boards and commissions. If this study is undertaken, the Commission shall establish a schedule for reviewing boards and commissions so that approximately twenty-five percent (25%) of the total number of State boards and commissions are reviewed each year for the next four years. In reviewing boards and commissions, the Commission shall consider the following:

(1) The consolidation of boards and commissions, where appropriate.
(2) Reducing the number of members serving on boards and commissions.
(3) Reducing the number of meetings of boards and commissions.
(4) The scope and authority of boards and commissions.
(5) The elimination of boards and commissions, where appropriate.

SECTION 2.1.(b) Availability of Health Insurance for Small Businesses and Trade Associations (S.B. 758 – Rand, Clodfelter, Soles) – The Commission may study the availability of health insurance for small employers. The Commission shall examine the Small Employer Group Health Insurance Reform Act to determine whether its provisions should be revised to increase the availability of health insurance offered to small employers in North Carolina. The Commission shall also examine whether North Carolina laws conflict with federal law regarding the ability of a trade association to obtain health insurance through a commercial carrier.

SECTION 2.1.(c) Availability of Health Insurance for Uninsurable Individuals (Rand) – The Commission may study ways to make insurance available to individuals who have difficulty obtaining health insurance coverage. In conducting the study, the Commission shall consider methods employed by other states to meet this need, and possible administrative structures, funding mechanisms, and coverages.

SECTION 2.1.(d) Pawnbrokers (Glazier, Dickson) – The Commission may study the laws regulating pawnbrokers and those nonregulated retail outlets engaging in similar business and acting as pawnbrokers. If undertaken by the Commission, the study shall include an examination of the advisability, viability, and cost of all of the following modifications to existing law with the goal of more efficiently monitoring pawnshop businesses that are engaging in similar business and to more effectively aid in the speedy recovery of stolen property:

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

SECTION 2.1.(e) Medicaid Funding (H.B. 540 – Daughtridge, Carney; H.B. 1467 – Nye; Hunter) – The Commission may study the feasibility of eliminating county financial participation in the Medicaid program. In conducting the study, the Commission may consider alternative funding methods to ensure that the short- and long-term impact on State funds of eliminating county financial participation in Medicaid is revenue neutral when calculated on a statewide basis. The Commission may also consider retaining the county contribution to administrative costs of the Medicaid program. In making its recommendations to the General Assembly, the Commission shall include a fiscal analysis of the impact on State revenue and Medicaid expenses estimated to result from eliminating county participation in the Medicaid program.

SECTION 2.1.(f) Study VoCATS – The Commission may study the VoCATS program, which is the accountability system for vocational education courses. If it undertakes this study, the Commission shall consider the following:

(1) Whether the State-developed tests are the appropriate means to measure student mastery of the knowledge and skills taught in vocational education courses, with specific focus on the agriculture curriculum.

(2) The system for development of appropriate tests and methods of measuring student achievement and program performance in vocational and technical education.

(3) The public school system of measuring student performance in the vocational and technical area as compared to the community college system of measuring student performance in the vocational and technical area.

(4) Alternatives to the current tests, methods, and techniques provided through VoCATS.

SECTION 2.1.(g) Availability and Delivery of Government Services to Hispanics (Reeves, Malone; Barnhart, McComas) – The Commission may study the current State and local policies regarding the availability and delivery of government services to the State's increasing Hispanic population, the issues confronted by governmental agencies in effectively delivering those services, and the issues confronted by members of the Hispanic community in obtaining those services. If it undertakes this study, the Commission shall focus particularly on services in the areas of education, health, and public safety. As part of its study, the Commission may consider how all of the following complicate the delivery and receipt of government services within the State's Hispanic community:

(1) Cultural differences.

(2) Language barriers.

(3) Difficulties encountered by members of the Hispanic community in obtaining the personal identification documents that are often required to obtain government services.

(4) Difficulties encountered by members of the Hispanic community in obtaining drivers licenses, occupational licenses, professional licenses,

and other types of licenses required to qualify for governmental services or to do business in the State.

(5) Federal immigration laws, the failure to comply with those laws, and how the fear of discovery of noncompliance with federal immigration laws affects the delivery and receipt of services, and in some instance even the willingness to apply for those services.

(6) The increasing economic, personnel, and time demands placed on State and local government agencies in responding to the growing needs for governmental services.

(7) Any other issue relevant to this study.

If it undertakes this study, the Commission shall also identify those issues that are best addressed at the local level, those that are best addressed at the State level, and those best addressed at the federal level.

SECTION 2.1.(h) Office of State Energy (Daughtridge) – The Commission may study the functions, duties, and responsibilities of the Office of State Energy and may make a determination of whether those functions, duties, and responsibilities support the legislative purpose for the Office or whether the purpose should be modified.

SECTION 2.1.(i) Comprehensive Statewide Emergency Communications Planning (Clodfelter; Culpepper) – The Commission may study and recommend legislation, funding needs, interoperability, and policy to:

(1) Enact a comprehensive first and second responder statewide communications goals list and plan that includes, at a minimum, law enforcement, fire, medical, utilities, and emergency management agencies.

(2) Coordinate and assist grant applications from State and local organizations for federal communications funding.

SECTION 2.1.(j) Naturopathy (S.B.1268 – Kinnaird; H.B. 1142 and H.B. 1702 – Hill) – The Commission may study the practice of naturopathy in North Carolina and make recommendations as to whether it would be in the public interest for practitioners to be licensed or otherwise appropriately regulated.

In conducting the study, the Commission may consider the following:

(1) The definition and components of naturopathy and naturopathic therapies.

(2) The health, cultural, and social significance of naturopathy in North Carolina and nationally.

(3) The distinctions and similarities between naturopathic therapies and conventional medical treatments.

(4) The education and training of practitioners and the quality of that education and training, the extent to which the practice of naturopathy requires specialized skills or training, and the standards for determining the level of education and qualifications that should be required for licensure.

(5) The extent to which there is, and can be, integration and coordination of natural therapies and conventional medical treatments.
(6) The regulation and enforcement related to naturopathy in North Carolina and nationally, the need for regulation, and the extent and impact of previous regulatory efforts.
(7) Whether, without licensure, the general public possesses the ability to determine whether a practitioner is competent.
(8) Whether substantial harm to the public health, safety, and welfare exists if the practice of naturopathy is unregulated.
(9) The appropriate structure, composition, and responsibilities of a regulatory board pertaining to the practice of naturopathy, the extent to which the responsibilities of a board can be fulfilled, and whether board operations can reasonably be financed through licensing fees.
(10) The extent to which naturopathy is regulated in other states, and the impact of that regulation.
(11) The scope of practice applicable to practitioners of naturopathy.
(12) Whether practitioners of naturopathy in North Carolina have, or propose to have, a code of ethics, a voluntary certification program, or other measures to ensure minimum quality of service.
(13) The kinds of regulatory provisions that exist in other states.
(14) How the practice of naturopathy will be regulated, including the qualifications and disciplinary proceedings to be applied to practitioners.
(15) How the public will benefit from licensure or other regulation.
(16) The fiscal impact of licensure or other regulation upon the State.
(17) Any other information the Commission considers relevant.

SECTION 2.1.(k) Equity-Building Homes (S.B. 894 – Queen) – The Commission may study methods to substantially increase the number of North Carolinians who own equity-building homes. As part of the study, the Commission may:

(1) Determine the extent to which the public is knowledgeable about housing products that are likely to build equity over time.
(2) Identify State, federal, and local barriers to constructing equity-building homes in both high-demand locations and rural areas.
(3) Investigate the adequacy and funding of programs and counseling services that are available to educate consumers about home financing products, credit remediation, home maintenance, and foreclosure prevention strategies.

As used in this section, the term "equity-building home" means a residential structure that will be the purchaser's primary residence and that meets the State and local building code standards in place at the time of construction, or if there were no building codes in effect at the time of construction, that was constructed on-site. An equity-building home will also have characteristics that are likely to cause it to appreciate in value over time.

SECTION 2.1.(l) Funding/Budgeting of Occupational Licensing Boards (Hagan) – The Commission may study the funding mechanisms of all of the occupational licensing boards and commissions in the State and shall consider options for funding and budgeting those boards and commissions more effectively and efficiently, including funding and budgeting those board and commissions through the General Fund.

SECTION 2.1.(m) State-Local Relationships (S.B. 1336 – Hoyle, Foxx) – The Commission may study the relationship between the State and local governments with respect to the provision of services. The study shall address the following issues:

(1) Mandates that the State has placed on local governments regarding the provision of services to State residents. This study shall include a review of which mandates are a result of State law, which mandates are a result of federal law, and which mandates are a result of a combination of State and federal law.

(2) Funding sources for local governments. The study shall include a review of all appropriations made from the State to local governments, all revenues shared between the State and local governments, and all methods of raising revenue allowed by the State to local governments.

(3) A comparison of the State-local relationship in North Carolina with the state-local relationships in other states. In particular, the study shall compare the percentage of the costs of services borne by the State in comparison to the percentage of similar cost borne by other states.

(4) A comparison of local governments with regard to the burden on local budgets of mandated programs. This study shall look at the property tax rates in different jurisdictions and the percentage of local budgets that support various programs.

(5) A comparison of the combined State-local tax burden on individuals and businesses in comparison with those in other states.

In considering appointees to the committee to study this matter, the appointing authorities shall consider inclusion of local government representatives.

SECTION 2.1.(n) Abandoned Junk Vehicles (Culpepper, Justus) – The Commission may study issues relating to the environmental, aesthetic and other public benefits derived from the abatement and recycling of junked and abandoned automobiles. If it undertakes this study, the Commission shall consider:

(1) Whether the abatement program can best be undertaken on a county-by-county basis or a central statewide basis.

(2) The funding method for the abatement program.

(3) The process whereby junked vehicles might be delivered to scrap processors as expeditiously as possible.

(4) The merits of use of a tax credit so as to encourage the expedited collection and recycling of used and junked automobiles.

(5) Determination of the costs to the State and to local governments associated with abandoned and junked automobiles and landfilling of those automobiles.

(6) Any other related issues.

SECTION 2.1.(o) Single Administrator for State 401(k) and 457 Plans – The Commission may study the Supplemental Retirement Income Plan of North Carolina and the North Carolina Public Employee Deferred Compensation Plan to determine whether these plans should be administered by a single administrator.

SECTION 2.2. For each Legislative Research Commission committee created during the 2003-2005 biennium, the cochairs of the Legislative Research Commission shall appoint the committee membership.

SECTION 2.3. For each of the topics the Legislative Research Commission decides to study under this part or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 2.4. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

PART III. JOINT LEGISLATIVE GROWTH STRATEGIES OVERSIGHT COMMITTEE

SECTION 3.1. The Joint Legislative Growth Strategies Oversight Committee may study the issues of:

(1) Delegating authority to cities and counties (S.B. 160 – Clodfelter).

(2) Modernizing city and county planning (S.B. 914 – Clodfelter).

(3) Transferable development rights.

SECTION 3.2. Section 3.3 of S.L. 2001-491 reads as rewritten:

"**SECTION 3.3.** This Part becomes effective January 15, 2002, and expires January 16, ~~2005.~~ 2007. Prior to its expiration on January 16, ~~2005,~~ 2007, the Committee shall report to the General Assembly on its activities conducted pursuant to this Part.".

PART IV. STUDY COMMISSION ON RESIDENTIAL AND URBAN DEVELOPMENT ENCROACHMENT ON MILITARY BASES AND TRAINING AREAS (Rand)

SECTION 4.1. There is created the Study Commission on Residential and Urban Development Encroachment on Military Bases and Training Areas. The Commission shall consist of 17 members as follows:

(1) Two county commissioners appointed by the President Pro Tempore of the Senate.

(2) Two county commissioners appointed by the Speaker of the House of Representatives.

(3) The commanding generals of Fort Bragg, Pope Air Force Base, Seymour Johnson Air Force Base, Camp Lejeune, and Cherry Point Air Station, or the general's designee.

(4) Three Senators appointed by the President Pro Tempore of the Senate.

(5) Three Representatives appointed by the Speaker of the House of Representatives.
(6) One elected or appointed municipal official appointed by the President Pro Tempore of the Senate.
(7) One elected or appointed municipal official appointed by the Speaker of the House of Representatives.

The Speaker of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 4.2. The Commission shall study the following concerning residential and urban development encroachment on military bases and training areas:

(1) Restricting the zoning in the areas around military bases and training areas.
(2) How encroachment affects deed registration.
(3) Protecting the areas around military bases and training areas by purchasing development rights and buffers using all available State trust funds and other available funding mechanisms.
(4) Any other issue the Commission considers relevant.

SECTION 4.3. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 4.4. The Commission shall submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening. The Commission shall terminate upon the convening of the 2005 General Assembly.

SECTION 4.5. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART V. LEGISLATIVE STUDY COMMISSION ON STATE PERSONNEL STATUTES (S.B. 1378 – Reeves; H.B. 1651 - Gibson)

SECTION 5.1. The General Assembly may study issues related to the State Personnel Act. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall designate an appropriate committee to conduct the study. The Committee may make an interim report to the 2005 General Assembly and shall make its final report to the 2006 Regular Session of the 2005 General Assembly.

PART VI. ELECTRONIC RECORDATION AND REVISION OF NOTARY LAWS (S.B. 1094 – Berger)

SECTION 6.1. The General Statutes Commission shall study the issue of electronic recordation, specifically with regard to real property documents and other documents filed with registers of deeds. The Commission shall study methods for establishing uniform legal standards for the receipt, recordation, authentication, preservation, and retrieval of electronic documents. The Commission shall include in its study consideration of the Uniform Real Property Electronic Recordation Act drafted by the National Conference of Commissioners on Uniform State Laws as well as other resources on electronic recording standards from national organizations such as the Property Records Industry Association (PRIA) and the Mortgage Industry Standards Maintenance Organization (MISMO). The General Statutes Commission shall report its findings and recommendations and any legislative proposals to the 2005 General Assembly upon its convening.

SECTION 6.2. The Secretary of State shall study the issue of amending the notary public laws in order to modernize and simplify their administration. The study shall also address the issue of electronic notarization. The Secretary of State shall report its findings and recommendations and any legislative proposals to the 2005 General Assembly upon its convening.

PART VII. UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT

SECTION 7.1. The General Statutes Commission is directed to study the Uniform Unincorporated Nonprofit Association Act in consultation with interested parties and to report to the 2005 General Assembly on the Commission's recommendations and legislative proposals.

PART VIII. INNOVATIVE PEAT-BASED WASTEWATER SYSTEMS STUDY (Baker)

SECTION 8.1. The Commission for Health Services shall evaluate the desirability and feasibility of developing and implementing a pilot program whereby any individual seeking to use an innovative wastewater system, under G.S. 130A-343(g), that employs peat-based technology, at the individual's residence shall be required to use a wastewater system that satisfies all of the following:

(1) The peat-based wastewater system complies with Standard 40, a standard developed by the National Sanitation Foundation, Inc. (NSF), an independent testing and research organization.

(2) The peat-based wastewater system has a mandatory maintenance agreement developed by the manufacturer of the system that is part of the purchase contract for the system.

SECTION 8.2. As part of the evaluation required by Section 8.1 of this act, the Commission shall identify two or more counties that would participate in the pilot program.

SECTION 8.3. The Commission for Health Services shall report the results of its evaluation to the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and the Environmental Review Commission on or before January 15, 2005.

PART IX. JOINT LEGISLATIVE UTILITY REVIEW COMMITTEE

SECTION 9.1. The Joint Legislative Utility Review Committee may study the economic, environmental, and social issues associated with the development and use of renewable and alternative energy in the State including, but not limited to, the following:

(1) The environmental benefits of renewable and alternative energy development, including the reduction of: emissions such as sulfur dioxides, nitrogen oxides, and mercury and greenhouse gases; waste ash in landfills; and water and air quality degradation associated with the extraction and transport of fossil fuels.

(2) The environmental benefits of conserving rural lands for traditional uses.

(3) The environmental challenges to renewable and alternative energy development in the State, including existing laws, aesthetic issues, the impact on birds and the ecology, and secondary development associated with alternate energy development.

(4) The potential for renewable and alternative energy to support rural economic development by broadening the tax base and creating new jobs.

(5) Initiatives taken in other states to address renewable and alternative energy development.

(6) Options for permitting renewable and alternative energy in the State, including suggestions for public involvement and environmental review.

(7) Opportunities for renewable and alternative energy pilot projects in the State.

In conducting the study, the Committee may solicit input from renewable and alternative energy industry representatives, utility representatives, the State Energy Office, conservationists, environmentalists, leaders in rural economic development,

tourism industry representatives, academics, local elected officials, and legislators from the eastern and western regions of the State.

PART X. NORTH CAROLINA BUILDING CODE COUNCIL STUDY (Culpepper; Queen)

SECTION 10.1. The General Assembly finds that the affordability of housing is an important issue and that the State should endeavor to ensure that State regulation does not unnecessarily increase the cost of housing. To that end, the North Carolina Building Code Council shall study the Residential Building Code to determine which provisions, if any, are unnecessary, outdated, overly stringent, or otherwise unduly increase the cost of housing.

SECTION 10.2. The Building Code Council may submit a report of the findings of its study, including any recommendations for statutory changes, to the 2005 General Assembly upon its convening.

PART XI. LOCAL SCHOOL CONSTRUCTION FINANCING STUDY COMMISSION (S.B. 1372 – Clodfelter; H.B. 1778 - Yongue)

SECTION 11.1. Establishment of the Commission. – The Local School Construction Financing Study Commission is established.

SECTION 11.2. Membership. – The Commission shall be composed of 19 members, as follows:

(1) One member appointed by the Governor, after consultation with the President Pro Tempore of the Senate and the Speaker of the House of Representatives, who shall serve as chair;

(2) Eight members appointed by the President Pro Tempore of the Senate: two members of the Senate from urban areas, two members of the Senate from rural areas, one member representing a large, fast-growing, urban school administrative unit that is a plaintiff in the Leandro school-financing litigation, one member from the financial services industry, one county commissioner, and one educator;

(3) Eight members appointed by the Speaker of the House of Representatives: two members of the House of Representatives from urban areas, two members of the House of Representatives from rural areas, one member representing a rural school administrative unit that is a plaintiff in the Leandro school-financing litigation, one member who is knowledgeable about municipal and school finance, one school board member, and one educator; and

(4) The State Treasurer or the Treasurer's designee.

(5) The State Superintendent of Public Instruction or the Superintendent's designee.

Vacancies shall be filled by the appointing authority.

SECTION 11.3. Duties of the Commission. – The Commission shall examine the present system of local financing for school facilities and shall study alternative options for financing local school construction, renovation, repair, and maintenance. The Commission may study and consider public-private partnerships for school construction and facility ownership, sale lease-back arrangements, private and commercial financing arrangements, design standards for school facilities that may facilitate alternative financing techniques, alternative local revenue sources for financing school facilities, the use of real estate investment trusts, State and local construction bond pools, and any other financing issues deemed pertinent by the Commission.

SECTION 11.4. Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 11.5. Consultants and Other Staff. – The Commission may hire consultants to provide research, staff support, and information about school financing in other states to the Commission, in accordance with G.S. 120-32.02. The Legislative Services Office, with the prior approval of the Legislative Services Commission, shall also assign professional and clerical staff to assist the Commission in its work.

SECTION 11.6. Cooperation by Government Agencies. – The Commission may call upon any department, agency, institution, or officer of the State or any political subdivision of the State for facilities, data, or other assistance. All State departments and agencies, local governments, and their subdivisions shall cooperate with the Commission and, upon request, shall furnish the Commission and its staff any information in their possession or available to them.

SECTION 11.7. Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly.

SECTION 11.8. Meeting Location. – The Legislative Services Commission shall grant adequate meeting space to the Commission in the State Legislative Building or the Legislative Office Building. The Commission may also meet at various locations around the State in order to promote greater public participation in its deliberations.

SECTION 11.9. Reports. – The Commission shall make an interim report to the 2005 General Assembly no later than January 31, 2005, and a final report to the 2006 Regular Session of the 2005 General Assembly no later than March 31, 2006. The final report shall contain recommendations for legislation to implement recommendations made by the Commission. The interim report may also contain recommendations for legislation. The Commission shall terminate on March 31, 2006.

SECTION 11.10. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART XII. VOTER PAPER TRAIL STUDY (S.B. 1415 – Kinnaird, Lucas; H.B. 1748 – Insko, McGee)

SECTION 12.1. There is established the Electronic Voting Systems Study Commission. That Commission shall consist of nine members to be appointed as follows:

(1) Four members shall be appointed by the President Pro Tempore of the Senate. One shall be a county commissioner. One shall be a county election director. One shall be a citizen of North Carolina who does not hold public office and who has been an active advocate on the issue of prohibiting direct record voting equipment without voter-verifiable paper records.

(2) Four members shall be appointed by the Speaker of the House of Representatives. One shall be a member of the State Board of Elections. One shall be a county election board member. One shall be a person with expertise in computer security.

(3) The Executive Director of the State Board of Elections.

SECTION 12.2. The Electronic Voting Systems Study Commission shall study the issue of whether direct record electronic (DRE) voting system should be prohibited in North Carolina unless each unit of the system produces a voter-verifiable paper record that is suitable for a recount or a manual audit and that is equivalent or superior to the paper record produced by a paper ballot system.

In conducting the study, the Commission shall consider DRE voting systems, compliance with the Help America Vote Act of 2002 (HAVA) and with voting-systems standards to be adopted under HAVA, including providing sufficient opportunity for access and participation, and privacy and independence, to all voters regardless of disability. The Commission shall consider any other issue related to the use of electronic voting systems. The Commission shall make a final report to the 2005 General Assembly upon its convening. The report shall contain the Commission's findings and recommendations. The Commission shall terminate on the earlier of the filing of its final report or the convening of the 2005 General Assembly.

SECTION 12.3. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint a cochair for the Commission. The Commission may contract for consultant services as provided by G.S. 120-32.02. Upon approval by 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 Supervisor 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 discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1, 138-5, or 138-6, as appropriate. Vacancies shall be filled by the appointing authority.

SECTION 12.4. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART XIII. JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE STUDIES

SECTION 13.1. The Joint Legislative Education Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 13.2. Teacher assistant salary schedule (Holliman; H.B. 800 – Warner, Pate)– The Committee may study establishing a salary schedule for teacher assistants.

SECTION 13.3. Rural schools (S.B.703 – Swindell, Holloman) – The Committee may study the unique issues that concern the rural schools in this State.

SECTION 13.4. Physical restraints/seclusion in schools (S.B. 977 – Dorsett) – The Committee may study the use of physical restraints and seclusion in public schools.

SECTION 13.5. High school graduation rate incentives (S.B. 949 – Lucas; H.B. 1251 - Glazier) – The Committee may study whether bonuses should be paid to principals for increased graduation rates.

SECTION 13.6. At-risk students single funding stream (S.B. 954 – Lucas; H.B. 1250 - Glazier) – The Committee may study whether a single funding stream should be targeted to at-risk students.

SECTION 13.7. Close achievement gap (S.B. 599 – Lucas; H.B. 938 - Michaux) – The Committee may study the best practices and methodologies for closing the achievement gap among children of various demographic groups who are performing below grade level.

SECTION 13.8. E-textbooks for students (H.B. 940 – Miller) – The Committee may study issues related to the availability and use of electronic copies of textbooks for public school students.

SECTION 13.9. Attracting teachers to become coaches (Nesbitt; H.B. 1786 - Goodwin) – The Committee may study the need to attract teachers into assuming additional duties of coaching interscholastic athletic teams in middle and high schools. If it undertakes this study, the Committee shall consider the feasibility of establishing a coaching fellowship program to attract students preparing to enter teaching through higher education coursework into coaching.

SECTION 13.10. Kindergarten admission requirements (Pate) – The Committee may study the issue of modifying kindergarten admission requirements as it relates to student readiness to enter kindergarten.

SECTION 13.11. Update the job description for school counselors (H.B. 463 – Bell) – The Committee may study updating and clarifying the job description for public school guidance counselors.

SECTION 13.12. Testing reform (Lucas, Apodaca) – The Committee may study the State's testing program. If it undertakes this study, the Committee shall consider:

(1) The number of tests currently mandated at the State level and the process and cost of developing, validating, and scoring them.

(2) Whether the State should consider the use of nationally developed tests as a substitute to State developed tests. In particular, the Committee shall determine whether this use would: affect the ABCs Program; adequately measure student achievement and performance; provide more than minimum levels of achievement; provide a better comparison to student achievement and performance in other states; be practical for high school courses or higher level courses; reduce the need for field testing; and offer any cost savings to the State.

(3) The number of grades in which State tests are given. The Committee shall determine the necessity for testing all grades in third through eighth grades, whether a reduction in the grades tested would affect the receipt of federal money, and the extent to which a reduction would impair the State's ability to identify schools under the ABCs Program.

(4) The high school courses for which State tests are given and whether there is an appropriate distribution of tests across grades nine through 12 and that test an appropriate array of the minimum courses required for admission to the constituent institutions of The University of North Carolina. In addition, the Committee shall examine whether students who take higher level courses and students in 12th grade are held accountable for their academic growth and performance.

(5) The advantages and disadvantages of using a composite of end-of-course tests or other tests such as the SAT, AP tests, or other nationally standardized tests in high school rather than developing a high school exit exam. If the Committee finds a high school exit exam is preferable, then it shall determine whether it must be administered to all students or limited to certain students, for example, those who do not take the SAT or a certain number of courses for which there are end-of-course tests.

(6) The extent to which additional testing, including field testing, practice testing, and locally mandated testing, is occurring and whether this should be limited or prohibited.

(7) Evaluate alternative schools to determine how educational achievement is being advanced in these alternative school programs and that placement in these programs is to improve student performance rather than improve the performance of the school in which the student originally was assigned.

(8) The number of school days that are spent on testing.

(9) Any other issue the Committee considers relevant.

SECTION 13.13. Total Teacher Program – The Committee may study the Total Teacher Program, which is an instructional program designed to be used with the North Carolina public school curriculum. In the course of the study, the Committee may consider the effectiveness of the Program, the experience of schools in other states in using the Program, the cost and potential cost savings due to the Program, and other matters related to the Program.

SECTION 13.14. School construction (Garrou) – The Committee may study issues relating to school construction and school capacity.

SECTION 13.15. Computer-based math and literacy programs for children under age 6 – The Committee may study ways to improve math and literacy skills in children age 18 months to six years of age through the use of innovative computer based software.

SECTION 13.16. Appropriate education for students on long-term suspension – The Committee may study whether and to what extent North Carolina should mandate the following:

(1) Local school administrative units in North Carolina shall provide or cause to be provided an appropriate education for all students recommended for a long-term suspension.

(2) Each student recommended for long-term suspension shall receive a multidisciplinary assessment and evaluation to (i) ascertain his or her educational history, needs, and special learning problems and (ii) assess the risk the child poses to staff and other students. The assessment and evaluation shall include feedback and recommendations from local mental health and juvenile justice professionals.

(3) An individualized education and service plan shall be developed for all students recommended for long-term suspension by a committee that includes education, mental health, and juvenile justice professionals, the child's parent or guardian, and any other person the committee considers appropriate. The chair of the Juvenile Crime Prevention Council or a designee shall serve as chair of this committee.

(4) All efforts shall be made to reduce the risk the child poses to staff and other students and to allow the child to continue his or her education in his or her regular school without disruption. These efforts shall include the provision of related services and interventions from other agencies when considered necessary by the committee.

(5) During the first 10 days of suspension, the local school administrative unit shall place the student recommended for suspension in a diagnostic setting for purposes of ensuring there is no disruption to the student's education and to complete the assessment process.

(6) The local education agency shall contract with private or public agencies if an appropriate education cannot be provided within the school system. Funds appropriated to a local school administrative unit

for the education of the child shall be used to pay for the program in which the child is placed.

(7) The child's parent or guardian shall have the right to appeal the recommendation for the long-term suspension or any placement decision made by the local school administrative unit.

(8) No child shall be rejected for education and services by a local school administrative unit unless a district court judge places the child in a juvenile justice program or facility. In that circumstance, the Department of Juvenile Justice and Delinquency Prevention is responsible for providing the child's education.

SECTION 13.17. School nutrition/physical activity – The Committee may study school nutrition and opportunities for physical activity to keep children healthy.

SECTION 13.18. Adequacy of Low-Wealth School Funds (H.B. 1706 – McLawhorn) – The Committee may study the issue of low wealth school funding.

PART XIV. REVENUE LAWS STUDY COMMITTEE

SECTION 14.1. The Revenue Laws Study Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 14.2. Valuation of Lots in Subdivisions (S.B. 520 – Dalton; H.B. 528 – Moore, Clary, England) – The Committee may study the valuation of partially improved, undeveloped lots in subdivisions.

SECTION 14.3. Private Activity Bonds (Rand) – The Committee may study private activity bonds.

SECTION 14.4. Conform Bank Expense Deduction (H.B. 1290 – McComas; H.B. 827 – Weiss, Luebke, Insko, Glazier) – The Committee may study whether the State income tax on banks should be conformed to the federal income tax.

SECTION 14.5. Subsidiary Dividend Taxes (H.B. 1291 – McComas) – The Committee may study whether the expense attribution law as it applies to deductible dividends should be modified.

SECTION 14.6. Income Tax Derived From Manufacturing (H.B. 1268 – Blackwood) – The Committee may study whether income derived from manufacturing should be exempt from income taxation.

SECTION 14.7. Tax Foreclosures (H.B. 981 – A. Williams) – The Property Tax Subcommittee of the Revenue Laws Study Committee may study the issue of foreclosures on tax liens, including proposals for expediting the foreclosure action.

SECTION 14.8. Comparative Tax Burden (H.B. 1247 – McComas) – The Committee may study the comparative tax burden on residents of South Carolina and residents of North Carolina.

SECTION 14.9. Tax Incentives to Promote Preservation of Open Spaces (S.B. 950 – Lucas; H.B. 887 – G. Allen, Hackney) – The Committee may study whether tax incentives should be provided to promote the preservation of open spaces.

SECTION 14.10. Sales and Use Tax Exemption (Kerr; Pate) – The Committee may study the issue of allowing local school administrative units a sales and use tax exemption instead of a sales and use tax refund and methods to fund this change.

SECTION 14.11. Tax Preferences (H.B. 959 – Glazier) – The Committee may study whether tax expenditures should be reviewed at least once every 10 years.

SECTION 14.12. Reduce Utility Equipment Sales Tax (H.B. 759 – Goforth) – The Committee may study whether light construction equipment should be given preferential sales and use tax treatment.

SECTION 14.13. Business Taxation (S.B. 1330 – Clodfelter) – The Committee may study comprehensive reform and simplification of the existing State taxes on business entities, including corporations, limited liability companies, partnerships, business trusts, associations, and other entities engaged in business. The elements of the plan to be studied shall include the following:

(1) Repealing the corporate income tax, Part 1 of Article 4 of Chapter 105 of the General Statutes.

(2) Including all types of business entities under a revised form of the franchise tax, Article 3 of Chapter 105 of the General Statutes.

(3) Limiting the annual filing fee for all business entities to the amount of the filing fee for corporations.

(4) Revising the current franchise tax to include two components, an assessment based on asset values and an assessment based on gross income or receipts from business activities.

(5) The revised franchise tax would be calculated and applied on a consolidated basis for members of a related or affiliated group of business entities, allocated and apportioned to this State using existing formulas for allocating and apportioning corporate income.

(6) The tax rates to be applied to these components would be the rates that are determined to yield revenue equal to the current combined revenue from corporate income and franchise taxes.

(7) The Department of Revenue would annually review the revenue generated by the new simplified tax to determine if rate adjustments are necessary to preserve the revenue-neutrality of the simplification.

(8) Any other issues or elements the Study Committee considers appropriate.

SECTION 14.14. Travel and Tourism Capital Investment (H.B. 1316 – Earle, Miner, McComas) – The Commission shall study the establishment of a Travel and Tourism Capital Investment Program in the Department of Commerce.

SECTION 14.15. Small Business Health Insurance Credit (H.B. 1375 – Goforth; S.B. 1059 - Rand) – The Commission may study providing a tax credit for small businesses that provide employee health insurance.

SECTION 14.16. Tax Preferences to Support Military – The Commission may study allowing a full or partial motor fuel tax refund for motor fuel used on a military base and other preferences that would demonstrate this State's support for the military.

PART XV. JOINT LEGISLATIVE HEALTH CARE OVERSIGHT COMMITTEE

SECTION 15.1. The Joint Legislative Health Care Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 15.2. Benefits for State Employee Dependents (Rand) – The Committee may study alternative benefit plans for dependents of State employees.

SECTION 15.3. Consolidation of State Health Care Services (Rand) – The Committee may study whether a State entity should be established to purchase health care services provided with State funds and to administer data consolidation and claims processing systems in order to enhance quality of care, promote cost containment, and achieve administrative efficiency and effectiveness in the system of services provided by the State.

SECTION 15.4. State Cost of Prescription Drugs (H.B. 1234 – Insko, Glazier, Ross) – The Committee may study whether the State should establish a single State entity for negotiating the cost of prescription drugs paid for by the State.

SECTION 15.5. Miscellaneous Topics - The Committee may also study the following topics:

(1) Nursing shortage (S.J.R. 142 – Forrester, Purcell; H.B. 329 - Setzer)
(2) Medical errors (S.J.R. 634 – Forrester)
(3) Environmental causes of cancer (S.J.R. 143 – Forrester, Purcell; H.B. 330 - Setzer)
(4) Educating the public on ovarian cancer risks and prevention (S.J.R. 636 – Forrester)
(5) Reducing prescription drug costs (H.B. 1234 – Insko, Glazier, Ross)
(6) Bulk purchasing of pharmaceutical drugs (S.J.R. 968 – Kinnaird)
(7) Internet sale of prescription drugs (Rand)
(8) Pain management and palliative care (Luebke)

PART XVI. STUDY OF VARIOUS WAYS TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS IN STATE SPENDING (Rand)

SECTION 16.1. The University of North Carolina (through the Office of the President), the Judicial Branch (through the Administrative Office of the Courts), the Executive Branch (through the Department of Administration), the Legislative Branch (through the Legislative Services Office), the Community College System (through the President's Office), and the Department of Public Instruction shall jointly study various ways to promote government efficiency and savings on State spending, including the following proposals:

(1) Consolidate Administrative Functions (S.B. 805, S.B. 808 – Rand; H.B. 1052 – Owens, Dockham)

(2) Statewide Benefit Committee Established (H.B. 1068 – Dockham, Owens)
(3) DMV-NCDL/Registration Extensions (S.B. 804 – Rand)
(4) Combine State Safety Programs (S.B. 807 – Rand)
(5) Increase Use of Public Defenders (S.B. 810 – Rand)
(6) Controller's Fee – (S.B. 813 – Rand)
(7) Deferred Retirement Option Program (S.B. 817 – Rand)

SECTION 16.2. The Department of Administration shall report the results of this study to the Legislative Research Commission by January 15, 2005.

PART XVII. JOINT LEGISLATIVE TRANSPORTATION OVERSIGHT COMMITTEE STUDIES

SECTION 17.1. The Joint Legislative Transportation Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 17.2. I-95 Tolls (Rand) – The Committee may study the feasibility of establishing tolls on Interstate 95 from the South Carolina to Virginia borders.

SECTION 17.3. Alternative Fuels (Daughtridge) – The Committee may study the use, availability, benefits, and disadvantages of alternative fuels. The study may include consideration of the following issues:

(1) The existence and availability of federal grants or other incentive programs for alternative fuels and alternative fuel vehicles and the impact of these programs on the need or desirability for a State program.
(2) The impact of increased alternative fuel vehicle use on the collection of motor fuel taxes and highway use taxes and whether the taxation of alternative fuels or vehicles using nonliquid or hybrid fuels needs to be modified.

SECTION 17.4. Comprehensive Transportation Issues (S.B. 1015 – Berger) – The Committee may study all aspects of transportation, including planning and scheduling of projects, legislative and executive oversight, revenues, funding, and expenditures of the Highway Fund, the Highway Trust Fund, and Federal Aid programs for transportation. The study shall include an examination of all the following:

(1) The effectiveness of legislative oversight of the Department of Transportation and all other transportation-related programs in North Carolina.
(2) The gap between transportation funding structures and the actual transportation needs of the State.
(3) Historical and projected application of funds within the several transportation funding sources.
(4) Deficiencies in matching funding and expenditures between the several Funds.

(5) Economic feasibility of alternate transportation modes, including cost/benefit comparisons of planning, construction, and operation of alternate transportation programs.
(6) Alternative methods of funding, financing, and planning transportation construction, maintenance, and operations.
(7) Delivery of construction and maintenance projects, including alternative management structures, outsourcing, and privatization.
(8) Any other issue related to transportation, transportation funding, project planning, and management of transportation programs.

SECTION 17.5. Registration of all terrain vehicles (H.B. 473 – Baker) – The Committee may study whether all terrain vehicles should be registered and regulated.

SECTION 17.6. Clarify disclosure of motor vehicle total loss claims (H.B. 1152 – Cole) – The Committee may study whether any motor vehicle that is declared a total loss shall have the registration card and the back of the title marked total loss claim vehicle.

PART XVIII. STUDY FINANCING OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES

SECTION 18.1. The Department of Health and Human Services shall study the financing of mental health, developmental disabilities, and substance abuse services. The study shall include the following:

(1) An examination of all sources of funds used in the delivery of mental health, developmental disabilities, and substance abuse services throughout the Department.
(2) An examination of alternative financing mechanisms for funding mental health, developmental disabilities, and substance abuse services, including Medicaid.
(3) Recommendations for feasible alternative financing mechanisms.

The Department shall report its findings and recommendations to the Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services, the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than July 1, 2005.

PART XIX. ENVIRONMENTAL REVIEW COMMISSION STUDIES

SECTION 19.1. The Environmental Review Commission may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 19.2. Effectiveness of Environmental Programs – The Commission may study the overall effectiveness of the State's efforts to protect the environment and conserve the natural resources of North Carolina. This study should

include a comprehensive evaluation of the implementation of existing legal mandates and of the organizational structure of the Department of Environment and Natural Resources. This study should also consider:

(1) The adequacy of current funding levels, additional funding needs, and funding options, including increasing fees to cover the cost of permitting, inspections, and enforcement.

(2) Options to improve efficiency and reduce costs, including the consolidation of permitting, inspection, and enforcement functions.

(3) The adequacy of current staffing levels.

(4) Options to improve coordination among programs.

(5) The adequacy of current inspection and enforcement activities and options to improve compliance with environmental laws and rules, including improvements in the use of civil penalties.

SECTION 19.3. Plan to Share Floodplain Mapping Information (H.J.R. 1157 – Daughtridge) – The Commission may study whether the information compiled on a regular basis by the Statewide Floodplain Mapping Unit would be useful and relevant to dam operators, local agencies, and State agencies with regard to making decisions about coordinating and controlling water releases from dams, flood control, floodplain management, and emergency evacuation procedures. If it undertakes this study, the Commission may consider the type of information compiled by the Statewide Floodplain Mapping Unit and the value of that information in assisting with decisions regarding flood control techniques, floodplain management, and the time, frequency, and manner of water releases from dams. The Commission may also consider the feasibility of making that information readily available to dam operators, appropriate local agencies, and appropriate State agencies. The Commission may also consider whether it is appropriate to incorporate the information available from the Statewide Floodplain Mapping Unit into local emergency management plans and downstream inundation maps. The Commission may also study any other issues relevant to this topic.

SECTION 19.4. Water Restriction Guidelines (Gibson) – The Commission may study water restriction guidelines created by the Department of Environment and Natural Resources and implemented by local governments. If it undertakes this study, the Commission shall consider the State's role and authority to regulate water usage during times of drought conditions and shall also consider:

(1) The economic impact of water conservation measures.

(2) The balance between protecting water supply and economic impact on local communities.

(3) Recommendations on establishing consistency across the State with respect to classes of water use, specifically the use of the terms essential and nonessential use.

SECTION 19.5. Regional Water Supplies (S.B. 1409 – Shaw) – The Commission may study the issue of the development and funding of regional water supply systems.

SECTION 19.6. Clean Air Trust Fund – The Commission may study establishing a Clean Air Trust Fund.

SECTION 19.7. Fair Bargain Act (S.B. 878 – Horton) – The Commission may study revocation of contracts under certain circumstances.

SECTION 19.8. Deterrents to Stormwater Runoff (Horton) – The Commission may study the feasibility of encouraging permeable surfaces as a deterrent to stormwater runoff.

SECTION 19.9. Protecting Property Owners Adjacent to Activities for which a Stormwater Permit is Issued (S.B. 888 – Rucho) – The Commission may study ways to protect a property owner whose land is adjacent to or downstream from a site on which alterations of the existing flow of stormwater will occur.

SECTION 19.10. Highway Use Tax Based on Efficiency/Vehicle Registration Based on Vehicle Miles Traveled (S.B. 1374 – Clodfelter) – The Commission shall study both of the following:

(1) Whether the State should modify the current highway use tax so that all or a portion of the highway use tax paid on a private passenger vehicle is based on the fuel efficiency rating of the vehicle.

(2) Whether the State should modify the current vehicle registration fee so that all or a portion of the annual vehicle registration renewal fee for a passenger vehicle is based on the vehicle miles traveled by the vehicle.

In its conduct of these studies, the Commission shall consider whether the modifications studied under subsection (a) of this section should be made on a revenue-neutral basis or should be made so as to generate additional revenue to be used to fund initiatives designed to improve air quality and the efficiency of the transportation system in the State.

SECTION 19.11. Stormwater Issues. – The Commission may study various approaches to prevent and reduce stormwater pollution throughout the State, including but not limited to: low impact design as a stormwater management technique; financial and regulatory incentives for the use of innovative stormwater management techniques; technical assistance for local governments in implementing successful stormwater management programs or collaborative regional programs; State and local efforts to reduce sedimentation pollution; potential funding sources for improved stormwater management; and protection of highly sensitive waters such as shellfishing and recreational waters and trout streams.

PART XX. HIGHWAY TRUST FUND STUDY COMMITTEE EXTENDED

SECTION 20.1. Section 29.12 of S.L. 2003-284 reads as rewritten:

"**SECTION 29.12.(k)** Report. – The Study Committee may make interim reports and shall make a final report to the Joint Legislative Transportation Oversight Committee no later than ~~November 1, 2004.~~ January 31, 2005. Regardless of whether it has filed an interim or final report, the Committee shall terminate on ~~November 1, 2004.~~January 31, 2005."

PART XXI. DEPARTMENT OF ADMINISTRATION STUDY (Nesbitt)

SECTION 21.1. The Department of Administration may study retainage from payment on public construction projects. If it undertakes this study, the Department shall consider the following:

(1) Retainage by public owners from payment to contractors and retainage by those contractors from payment to subcontractors.

(2) Retainage from periodic progress payments and final payment, including a maximum allowable amount of retainage.

(3) A time certain for the owner's release of retainage, based upon the owner's occupancy, substantial completion of the work, or the owner's use of the improvements for the purposes intended.

(4) A time certain for the contractor's release of retainage to a subcontractor, based upon the contractor's receipt of retainage.

(5) Conditions permitting withholding of retention beyond the date of release, including those stated in G.S. 143-134.1(d), and limits on the amount of retainage for a condition permitting withholding.

(6) Interest on wrongfully withheld retainage and conditions for the payment of attorneys' fees for the collection of wrongfully withheld retainage.

(7) Line-item release of retainage, based upon a schedule of values, for specific work that has been completed by the contractor and approved by the owner.

(8) Any other matters relating to the withholding and release of retainage on public construction projects.

SECTION 21.2. The Department shall report the results of its study to the 2005 General Assembly upon its convening.

PART XXII. UNC BOARD OF GOVERNORS STUDY COMMISSION

SECTION 22.1. There is created the UNC Board of Governors Study Commission. The Commission shall consist of 10 members appointed as follows: five by the President Pro Tempore of the Senate and five by the Speakers of the House of Representatives. The Speakers of the House of Representatives shall appoint a cochair and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. Vacancies on the Commission shall be filled by the appointing authority. The Commission shall meet upon the call of the chairs. A majority of the members of the Commission shall constitute a quorum.

SECTION 22.2. The Commission shall study the method of election or appointment of members of the Board of Governors, the length of members' terms, the number of terms a member may serve, and the size of the Board of Governors. As part of the study, the Commission may examine the governing boards of other states' institutions of higher education. The Commission shall report its findings and any recommendations to the 2005 Regular Session of the General Assembly.

SECTION 22.3. Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 22.4. Subject to the approval of the Legislative Services Commission, the Commission may meet in the State Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist in the work of the Commission. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. All State departments and agencies and local governments and their subdivisions shall furnish the Commission with information in their possession or available to them. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this part.

SECTION 22.5. The Commission shall terminate upon the filing of its final report.

PART XXIII. NORTH CAROLINA STUDY COMMISSION ON AGING STUDY

SECTION 23.1. The North Carolina Study Commission on Aging may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 23.2. Long-term care remediation (S.B. 206 – Swindell, Purcell) – The Commission may study the feasibility of implementing a remediation program for long-term care facilities in this State that is similar to the Collaborative Remediation Project in Michigan.

SECTION 23.3. Mentally ill long-term care residents (S.B. 1150 – Swindell; H.B. 1490 – Clary, Nye, Weiss) – The Commission may study issues related to mentally ill residents in long-term care facilities.

PART XXIV. JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE SERVICES STUDIES

SECTION 24.1. The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 24.2. Integration of care for children with multiple system service needs (S.B. 262 – Foxx, Allran, Dannelly, Lucas, Purcell; H.B. 169 - Insko) – The Committee shall conduct a comprehensive review of the State's system of care for children with multiple system service needs. The purpose of the comprehensive review is to determine the extent to which children who need services from multiple State and local agencies in this system are or are not receiving those services in a timely manner,

the effectiveness of the services provided, the potential long-term impact on the children, their families, and State and local resources of not providing all services in a timely and cost-effective manner, and to make detailed recommendations on the system changes necessary to address the problems identified as quickly as possible. Recommendations on system changes shall include programmatic and funding changes, and an analysis and estimate of implementation costs and projected cost-savings to the State in future years. In order to ensure a dedicated focus and appropriate expertise for the comprehensive review, the Committee shall convene a task force to conduct the review. The task force shall be comprised of the cochairs of the Oversight Committee, the Joint Legislative Education Oversight Committee, the Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee, the Joint Legislative Health Care Oversight Committee, and other individuals appointed by the cochairs of the Oversight Committee upon recommendation of the other members of the task force.

In conducting its review, the task force shall consider thoroughly all of the following:

(1) State-of-the-art approaches to services to children with multiple system service needs as the basis of reform in North Carolina.

(2) Evidence-based best practices in North Carolina and elsewhere for potential systemwide adoption.

(3) Barriers to access for developing a uniform access process to implement a "no wrong door" policy such that children and families may enter any service access point but will be afforded seamless access to all necessary services.

(4) Initiatives taken or under consideration in other states to ensure a unified approach to system services, including the feasibility of establishing a funding consortium for pooling resources of all involved agencies in order to streamline access to the system by children and involvement in the system by service providers.

(5) Ways to improve the multidisciplinary identification and evaluation of children's multiple service needs and the communication of those needs to all appropriate service providers.

(6) The extent to which children currently in the juvenile justice system have not received adequate and appropriate educational, mental health, or other health services, and the reasons why the children have not been adequately served.

(7) Information from the Department of Public Instruction and other organizations showing the number of children who have been suspended or expelled from public school, the reasons for the suspension or expulsion, the number of these children who have received alternative placements to ensure that they are being adequately and appropriately served by State and local service systems.

(8) Necessary changes to North Carolina service systems involving mental health, developmental disabilities, and substance abuse services, social

services, education services, juvenile justice, and other related service systems that will enable these systems to work together to ensure effective and timely access to services for children and their families.

The Oversight Committee, subject to the provisions of G.S. 120-32.02, may hire a consultant to assist the task force in its comprehensive review. The Oversight Committee shall establish interim and final reporting time lines for the consultant's findings and recommendations, and, subject to the requirements of this section, for meetings and reports of the task force.

SECTION 24.3. Mental health in prisons (H.B. 1085 – Insko) – The Committee may study the incidence of mental illness and substance abuse problems among inmates in the North Carolina prison and juvenile justice systems.

PART XXV. JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE STUDY (H.B. 758 – Stiller)

SECTION 25.1. The Joint Legislative Commission on Seafood and Aquaculture may study whether it should be unlawful to take shrimp with trawl nets in certain inland waters. The Commission may report the results of its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

PART XXVI. ADMINISTRATIVE OFFICE OF THE COURTS/DEPARTMENT OF CORRECTION STUDY (H.B. 890 – Eddins, Holliman)

SECTION 26.1. The Administrative Office of the Courts and the Department of Correction shall jointly study the processes for the collection and payment of restitution in this State, and shall determine methods for reducing the number of restitution payments that go unclaimed. The Administrative Office of the Courts and the Department of Correction shall report their findings and recommendations to the 2005 General Assembly upon its convening.

PART XXVII. UNC BOARD OF GOVERNORS STUDY FEASIBILITY OF FORGIVENESS OF STUDENT DEBT PROGRAM

SECTION 27.1. The Board of Governors of The University of North Carolina, in conjunction with the North Carolina State Education Assistance Authority, may study the feasibility of a program that would forgive student indebtedness for teachers who have continuing certification in and are teaching in the disciplines of mathematics, science, or special education. The Board shall report the results of its study to the Joint Legislative Education Oversight Committee by January 15, 2005.

PART XXVIII. STATE BOARD TEACHER RETENTION TASK FORCE

SECTION 28.1. The State Board of Education shall form a Task Force cochaired by the State Board of Education Chairman or designee and the Lt. Governor

or designee to study issues related to effective recruitment and retention of teachers for the North Carolina public schools. The Task Force shall include practicing public school teachers, principals, superintendents, local boards of education, and representatives from the University System, the Community College System, and others as deemed appropriate by the cochairs. In the course of this study, the State Board of Education shall consider:

(1) Impediments to effective teacher recruitment and retention;

(2) Strategies for increasing the effectiveness or recruitment and retention efforts;

a. Modifications to teacher salaries and benefits that will ensure that teacher compensation in North Carolina remains at or above the national average, thereby better enabling the public schools to recruit and retain highly qualified teachers. The State Board may consider:

1. Increased salaries for beginning teachers to make the profession more attractive at the entry level;
2. Increased salaries for teachers at those points at which higher numbers of teachers leave the teaching profession;
3. Retirement options for teachers with 30 years of experience that will provide opportunities for those highly skilled and experienced teachers to continue in service;
4. Differentiated salary opportunities for teachers who demonstrate exemplary teaching skills, work in certain areas of certification, work in hard-to-staff schools, or serve as mentors, school improvement team leaders, or serve as leaders in a Quality Teacher as Leader Program;
5. Other modifications to teacher salaries and benefits necessary to recruit and retain highly qualified teachers in the public schools.

b. Tax incentives to encourage experienced teachers to remain in the teaching profession;

c. Locally designed initiatives to facilitate teacher recruitment and retention;

d. Strategies for increasing the number of highly qualified beginning teachers such as:

1. Expanding teacher preparation programs;
2. Expanding scholarship loan programs for prospective teachers to recruit the most qualified high school students to the teaching profession; and
3. Ensuring that graduates of teacher preparation programs are well prepared to meet teacher-certification requirements.

e. Strategies for giving beginning teachers the opportunity to develop into skilled professionals such as assigning them to teach only in their area of certification and minimizing their noninstructional duties;
f. Strategies for ensuring that school-based administrators are adequately trained to provide support for both experienced and inexperienced teachers and that they provide that support;
g. Strategies for ensuring that teachers are treated respectfully by students, such as a Teachers' Bill of Rights;
h. Increased expectations regarding parental involvement in and support of their children's education;
i. The availability of communications devices in the classroom;
j. Strategies for a Quality Teacher as Leader Program as a career option that compensates teachers for accomplished teaching and values teachers as leaders; and
k. Strategies for ensuring that schools are staffed appropriately and teachers have the time necessary to meet the State, federal and local demands for quality teaching and learning environments.

SECTION 28.2. The State Board of Education shall report its findings and recommendations to the Joint Legislative Education Oversight Committee prior to February 15, 2005. These recommendations may include changes to laws and policies.

SECTION 28.3. The Department of Public Instruction shall provide staff to support the work of the Task Force upon the request of the cochairs or staff and consultants may be hired from funds designated to support the work of the Task Force.

SECTION 28.4. The State Board of Education shall use federal funds to support the work of the Task Force.

PART XXIX. JOINT LEGISLATIVE CORRECTIONS, CRIME CONTROL, AND JUVENILE JUSTICE OVERSIGHT COMMITTEE STUDIES

SECTION 29.1. The Joint Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 Regular Session of the 2005 General Assembly upon its convening.

SECTION 29.2. Deter juvenile escapes (H.B. 956 – Haire) – The Committee may study the issue of persons who escape from the custody of the Department of Juvenile Justice and Delinquency Prevention (Department) and develop appropriate sanctions for those persons. If it undertakes this study, the Committee shall consult with the Department, the Administrative Office of the Courts, and the North Carolina Sentencing and Policy Advisory Commission to develop a statutory scheme through which both juveniles and persons who are over the age of 16 years shall be punished for escaping from the custody of the Department.

SECTION 29.3. Federal Structured Sentencing System (Culpepper) – The Committee may study the State's current system of structured sentencing and compare that with the federal system of structured sentencing. In its study, the Committee shall consider all of the following:

(1) A comparison of the role and responsibilities of the North Carolina Sentencing and Policy Advisory Commission with regard to structured sentencing with the role and responsibilities of the Commission's federal counterpart.

(2) The effectiveness of both the State and federal systems in adjusting the sentencing grid and the factors considered in the sentencing process so that the sentencing range available to the court is appropriate for the crime committed and also allows appropriate flexibility for the court to consider the circumstances on a case-by-case standard.

(3) The effect of the structured sentencing system at the State and federal levels on the number of prison beds required and whether regular periodic adjustments of the sentencing structure that take into account both the nature of the crimes most often committed, the effectiveness of the punishments imposed, and the increase or decrease in prison populations provides a more equitable and economic criminal justice system.

(4) Any other issue relevant to this study.

SECTION 29.4. Confinement of Incapacitated Inmates (S.B. 1014 – Berger) - The Committee may study the confinement of inmates who are irreversibly, physically incapacitated due to chronic illness or disability. The Committee's study may include, but is not limited to, a review of current policies, a calculation of potential population figures and medical care costs, a determination of possible alternatives to incarceration and accompanying costs, and a consideration of procedures for termination or commutation of sentences.

SECTION 29.5. The Committee shall report its findings and recommendations, including any proposed legislation, no later than the convening of the 2005 General Assembly.

PART XXX. AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION STUDIES

SECTION 30.1. The Agriculture and Forestry Awareness Study Commission may study the topics listed in this part and report its findings, together with any recommended legislation, to the 2005 General Assembly upon its convening.

SECTION 30.2. Agriculture Commodity Incentives (Albertson) – The Commission may study the possibility of establishing incentive programs to benefit firms purchasing additional large quantities of North Carolina farm commodity products when an overabundance of a specific commodity is designated by the State Department of Agriculture and Consumer Services to be available for sale.

SECTION 30.3. Food Safety and Security (S.B. 834 – Albertson) – The Commission may study ways to protect the State's food supply system and the agricultural industry base.

SECTION 30.4. Dairy Industry (Albertson, Rand; H.B. 1143 – Hill) – The Commission shall study the condition of the dairy industry in the State. As a part of its study, the Commission shall examine:

(1) The short-term and long-term problems associated with maintaining a viable dairy industry and supplying the needed quantity of milk in the State.

(2) Ways to sustain the existing dairy industry in the State.

(3) Opportunities for expanding the dairy industry, including attracting both new dairy producers and new processors into the State.

(4) The contribution of dairy farmers to the maintenance of prime agricultural lands, and working lands, and the quality of life in the State.

(5) The need for programs that stabilize the pricing of milk at the farm level, such as counter-cyclical or safety net type programs in the Farm Security and Rural Investment Act of 2002, or a milk transportation grant program to maintain a local supply of fresh milk for processing and consumption, programs that facilitate the entry of young farmers into the dairy industry, and programs that preserve dairy green space along the urban fringe.

(6) Other factors impacting the dairy industry in North Carolina.

PART XXXI. COMMITTEE ON EMPLOYEE HOSPITAL AND MEDICAL BENEFITS STUDY NEWBORN COVERAGE (S.B. 1421 – Kinnaird; H.B. 1787 - Insko)

SECTION 31.1. The Committee on Employee Hospital and Medical Benefits may study the following issues pertaining to benefits under the Teachers' and State Employees' Comprehensive Major Medical Plan ("Plan"):

(1) Whether to repeal or otherwise modify G.S. 135-40.6(7) that limits coverage for examination and supervision of a normal newborn infant to only when the mother of the infant is receiving maternity benefits under the Plan.

(2) Whether to adopt a federally qualified health reimbursement arrangement as an additional component of the Plan.

(3) Whether deductibles and co-payment amounts applicable under the Plan should be based on income of the Plan member, with lower-income Plan members paying less than higher-income Plan members.

PART XXXII. HURRICANE EVACUATION STANDARDS STUDY COMMISSION

SECTION 32.1. The Hurricane Evacuation Standards Study Commission is established. The Commission shall consist of six members to be appointed as follows:

(1) Three members of the House of Representatives to be appointed by the Speaker of the House of Representatives; and

(2) Three members of the Senate to be appointed by the President Pro Tempore of the Senate.

SECTION 32.2. The Commission shall study the development and establishment of hurricane evacuation standards for the State. The Commission shall consider and recommend to the General Assembly those legislative actions necessary to implement its recommendations.

SECTION 32.3. The following State employees shall attend each meeting of the Commission and shall provide technical support and expertise to the Commission to develop appropriate State hurricane evacuation standards:

(1) Director, Division of Emergency Management, Department of Crime Control and Public Safety.

(2) Chief of Logistics, Division of Emergency Management, Department of Crime Control and Public Safety.

(3) State Roadway Design Engineer, Department of Transportation.

(4) Assistant State Roadway Design Engineer, Department of Transportation.

(5) Division Engineer, Division 1, Department of Transportation.

(6) Division Engineer, Division 2, Department of Transportation.

(7) Division Engineer, Division 3, Department of Transportation.

(8) Division Traffic Engineer, Division 1, Department of Transportation.

(9) Division Traffic Engineer, Division 2, Department of Transportation.

(10) Division Traffic Engineer, Division 3, Department of Transportation.

SECTION 32.4. 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 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 members of the Commission, while in the discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1.

SECTION 32.5. The Commission shall report its findings and any recommendations to the Governor and the Joint Legislative Transportation Oversight Committee of the General Assembly by January 15, 2005. Upon the earlier of the filing

of its final report or the convening of the 2005 General Assembly, the Commission shall terminate.

SECTION 32.6. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Hurricane Evacuation Standards Commission.

PART XXXIII. STREAM MAPPING (H.B. 1797 – Luebke)

SECTION 33.1. The Geographic Information Coordinating Council and the Department of Environment and Natural Resources shall develop and recommend a plan to improve the mapping and digital representation of surface waters in North Carolina, including intermittent and perennial streams, lakes, and ponds, to the General Assembly and the Environmental Review Commission on January 15, 2005.

SECTION 33.2. The plan shall include at a minimum: mapping specifications and standards; estimated budget and schedule for statewide implementation; and entry of the data into NC OneMap.

SECTION 33.3. The Geographic Information Coordinating Council and the Department shall include at a minimum the Division of Emergency Management in the Department of Crime Control and Public Safety, the Department of Commerce, the Department of Transportation, and the US Geological Survey in the development of the plan.

SECTION 33.4. The General Assembly encourages municipalities and counties to share the mapping and digital representation of surface waters that they have developed with the Geographic Information Coordinating Council, NC OneMap, and the public.

PART XXXIV. STUDY COMMISSION ON HEALTH CARE WORKFORCE DEVELOPMENT (H.B. 1498 – Tolson, Goforth, Allred, Bell)

SECTION 34.1. There is created the Health Care Workforce Study Commission ("Commission"). The Commission shall consist of 20 members appointed as follows:

(1) Five members appointed by the Governor, to include:
   a. One person who is a health care provider or a pharmacist in a rural community.
   b. One person who is a hospital administrator from recommendations provided by the North Carolina Hospital Association.
   c. One person who is a dental care provider.
   d. One person from the Office of Research, Demonstrations, and Rural Health Development of the Department of Health and Human Services.
   e. The Program Director of the North Carolina AHEC Program.

(2) Eight members appointed by the Speakers of the House of Representatives, to include:
   a. Four members of the House of Representatives.
   b. One person who is a nursing home administrator from recommendations provided by the NC Health Care Facilities Association.
   c. One person who is a community college president from recommendations provided by the President of the North Carolina Community College System.
   d. One person who is a physician.
   e. One person who is a home care administrator from recommendations provided by the Association of Home and Hospice Care of North Carolina.

(3) Eight members appointed by the President Pro Tempore of the Senate, to include:
   a. Four members of the Senate.
   b. One person who operates an adult care home from recommendations provided by the NC Association of Long Term Care Facilities.
   c. One person who is a university president from recommendations provided by the President of The University of North Carolina System.
   d. One person who is a health care provider with expertise in respiratory care.
   e. One person who is a nurse from recommendations provided by the North Carolina Nurses Association.

SECTION 34.2. The purpose of the Commission is to determine methods to increase the number of people providing health and dental care in this State and to overcome existing barriers contributing to the health care provider shortages. In undertaking this study, the Commission shall consider the following:

(1) How to cultivate an interest in health occupations programs at the secondary school level.

(2) How to address the shortage of adequately prepared health care occupations faculty at community colleges, including designating health care occupation degrees as "high cost" programs and paying health care occupation faculty at a higher rate, designating a salary differential for faculty members who provide clinical or classroom training during evening, night, and weekend shifts, and offering other incentives to encourage masters trained professionals to teach at community colleges.

(3) How to address the attrition rates for students in health care occupation curriculums in community colleges.

(4) Resources available to assist community colleges with the purchase of equipment necessary to train students for health care occupations.

(5) Shortages of faculty at the university level.
(6) Restoring funding for university level Fast Track programs.
(7) Whether a curriculum program that offers a baccalaureate degree in respiratory therapy should be established in The University of North Carolina System.
(8) How to improve current programs responsible for addressing dentist and physician shortages, particularly in the rural parts of the State.
(9) How to address nursing shortages, taking into consideration the Institute of Medicine's Nursing Task Force recommendations.
(10) How to address shortages of pharmacists and other allied health care providers.
(11) Completion of the articulation plan between the North Carolina Community College System and the University of North Carolina System's health care training programs.
(12) Any other issue the Commission considers relevant.

SECTION 34.3. The Speakers of the House of Representatives shall appoint a cochair, and the President Pro Tempore of the Senate shall appoint a cochair for the Commission. The Commission may contract for consultant services as provided by G.S. 120-32.02. 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 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 discharge of official duties, may exercise all the powers provided under the provisions of G.S. 120-19 through G.S. 120-19.4, including the power to request all officers, agents, agencies, and departments of the State to provide any information, data, or documents within their possession, ascertainable from their records, or otherwise available to them, and the power to subpoena witnesses. Members of the Commission shall receive per diem, subsistence, and travel allowances at the rate established in G.S. 120-3.1, 138-5, or 138-6, as appropriate. Vacancies shall be filled by the appointing authority.

SECTION 34.4. The Commission shall submit an interim report to the 2005 Regular Session of the 2005 General Assembly that contains its recommendations, legislative proposals, and cost analyses. The Commission shall make a final report to the 2006 Regular Session of the 2005 General Assembly and shall terminate upon the earlier of the filing of its final report or April 30, 2006.

SECTION 34.5. From the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established in this act.

PART XXXV. SMART START FUNDING STUDY (Hagan)

SECTION 35.1. Commission Established. – There is established a Smart Start Funding Study Commission.

SECTION 35.2. Membership. – The Commission shall be composed of 21 members as follows:

(1) Four members of the Senate appointed by the President Pro Tempore of the Senate.

(2) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.

(3) North Carolina Partnership for Children board member appointed by the Speaker of the House of Representatives.

(4) President of the North Carolina Partnership for Children.

(5) Secretary of the Department of Heath and Human Services or designee.

(6) North Carolina Budget and Tax Center representative appointed by the President Pro Tempore of the Senate.

(7) State Budget Director or designee.

(8) Department of Social Services County Director appointed by the Speaker of the House of Representatives.

(9) Department of Public Health County Director appointed by the President Pro Tempore of the Senate.

(10) County Commissioner appointed by the Speaker of the House of Representatives.

(11) Local Partnership for Children Executive Director appointed by the President Pro Tempore of the Senate.

(12) Local Partnership for Children board chair appointed by the Speaker of the House of Representatives.

(13) Two business leaders representing small and corporate business, one appointed by the President Pro Tempore of the Senate, and one by the Speaker of the House of Representatives.

(14) Representative of the Rural Economic Development Center appointed by the President Pro Tempore of the Senate.

SECTION 35.3. Secretary of Health and Human Services. – The Commission shall invite the Secretary of Health and Human Services to attend each meeting of the Commission and encourage the Secretary's participation in the Commission's deliberations.

SECTION 35.4. Duties of Commission. – The Commission shall study the funding of the North Carolina Partnership for Children, Inc. In conducting the study, the Commission shall consider the following:

(1) The current funding system of the North Carolina Partnership for Children, Inc.

(2) Any strategies for achieving full funding and full service for North Carolina's young children and families.

(3) Funding equity among all counties and local partnerships.

(4) Any other information the Commission deems relevant.

SECTION 35.5. Vacancies. – Any vacancy on the Commission shall be filled by the appointing authority.

SECTION 35.6. Cochairs. – Cochairs of the Commission shall be designated by the President Pro Tempore of the Senate and the Speaker of the House of Representatives from among their respective appointees. The Commission shall meet upon the call of the chairs.

SECTION 35.7. Expenses of Members. – Members of the Commission shall receive per diem, subsistence, and travel allowances in accordance with G.S.120-3.1, 138-5, or 138-6, as appropriate.

SECTION 35.8. Staff. – Upon the prior approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to the Commission to aid its work.

SECTION 35.9. Consultants. – The Commission may hire consultants to assist with the study. Before expending any funds for a consultant, the Commission shall report to the Joint Legislative Commission on Governmental Operations on the consultant selected, the work products to be provided by the consultant, and the cost of the contract, including an itemization of the cost components.

SECTION 35.10. Meetings During Legislative Session. – The Commission may meet during a regular or extra session of the General Assembly, subject to approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

SECTION 35.11. Meeting Location. – The Commission shall meet at various locations around the State in order to promote greater public participation in its deliberations. Subject to the approval of the Legislative Services Commission, the Commission may meet in the State Legislative Building or the Legislative Office Building.

SECTION 35.12. Report. – The Commission shall make its findings and recommendations in a final report to the 2005 General Assembly. Upon the earlier of the filing of its final report or the convening of the 2005 General Assembly, the Commission shall terminate.

SECTION 35.13. Funding. – From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the purpose of conducting the study provided for in this section.

PART XXXVI. CHILD WELFARE SYSTEM REFORM (Nye, Barnhart, Clary)

SECTION 36.1. The Department of Health and Human Services shall transfer funds to the General Assembly to hire an independent consultant to evaluate North Carolina's Child Welfare System at the State and local levels and provide recommendations to reform that system.

SECTION 36.2. The Fiscal Research Division, through the Legislative Services Office, in consultation with the Department of Health and Human Services, shall issue a Request for Proposal (RFP) for an independent consultant with extensive experience in child welfare systems to develop recommendations for reforming the State's existing system. The contractor shall evaluate the overall administration and oversight of the existing system and make specific recommendations to strengthen the

system. The contractor shall review North Carolina's historical performance in meeting national performance outcome measurements and note any progress in taking corrective action to address the areas identified as weaknesses in the existing system. The contractor shall evaluate variances in resources, including staffing levels, at the local level as well as the administrative structure at the State level. The contractor shall review statewide abuse and neglect data to determine if the data is accurate and useful and make recommendations for improving the data collection system. The contractor's final report shall include recommendations to ensure accountability and consistency at both the State and local levels.

SECTION 36.3. The final report from the consultant shall be presented to the House of Representatives Appropriations Subcommittee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, and the Fiscal Research Division no later than October 1, 2005.

PART XXVII. GENERAL STATUTES COMMISSION STUDY (H.B. 1198 – Alexander)

SECTION 37.1. The General Statutes Commission may recommend legislation to amend the General Statutes to delete the words "handicap" and "handicapped" whenever they appear and substitute the appropriate phrase to describe persons with disabilities, unless the words are required by federal law or describe some other situation. If undertaken, the report shall be made to the General Assembly no later than January 15, 2005.

PART XXVIII. DEPARTMENT OF CULTURAL RESOURCES/COMMISSION OF INDIAN AFFAIRS STUDY (H.B. 747 – Sutton)

SECTION 38.1. The Department of Cultural Resources and the Commission of Indian Affairs of the Department of Administration may jointly study the future of the North Carolina Archaeological Collection, which is currently maintained by the Research Laboratories of Archaeology at the University of North Carolina at Chapel Hill. If the study is undertaken, the Department and the Commission shall consider the steps necessary to ensure the future preservation of the collection and the need to use the collection to its fullest potential as a resource for research, teaching, and other public programs.

SECTION 38.2. If the study is undertaken, the Department of Cultural Resources and the Department of Administration shall report their findings and recommendations to the 2004 Regular Session of the 2003 General Assembly and shall include a specific recommendation on a permanent home for the collection where it can be safely housed and where a permanent facility can be established in which the collection can be exhibited for the benefit of the public.

PART XXXIX. DEPARTMENT OF TRANSPORTATION STUDY WITH THE STATE TREASURER (McComas)

SECTION 39.1. The Department of Transportation and Department of State Treasurer shall jointly study and develop a proposal to provide appropriate debt financing to accelerate the construction schedule for the Wilmington Bypass project identified in G.S. 136-180(a). The study shall address financial, legal, and practical issues involved in various financing options including special indebtedness under Article 9 of Chapter 142 of the General Statutes, revenue bonds supported by toll revenues, and other appropriate types of debt.

SECTION 39.2. The two Departments shall jointly report their findings and recommendations, including proposed legislation, by January 15, 2005, to the Speakers of the House of Representatives, the President Pro Tempore of the Senate, the cochairs of the Joint Legislative Transportation Oversight Committee, and the Legislative Library.

PART XL. LEGISLATIVE STUDY COMMISSION ON FINANCING INFRASTRUCTURE FOR INDUSTRIAL CORRIDORS (McComas, Justice)

SECTION 40.1. Creation. – There is created the Legislative Study Commission on Financing Infrastructure for Industrial Corridors. The purposes of the Commission are to investigate and identify State, federal, and local funding sources for proposed water and sewer infrastructure improvements for the Highway 421 Industrial Corridor in Pender and New Hanover Counties, to foster interlocal cooperation to enhance economic development in the region, and to recommend any legislative changes necessary to enhance available resources for development.

SECTION 40.2. Members. – The Commission shall consist of 12 members as provided in this subsection. The following individuals shall serve ex officio: (i) the chair of the Pender County Board of Commissioners or another member of the board designated by the chair and (ii) the chair of the New Hanover County Board of Commissioners or another member of the board designated by the chair. Five members shall be appointed by the Speaker of the House of Representatives as follows: two members of the House of Representatives, an individual nominated by the Cape Fear Regional Growth Team, an individual from New Hanover County who represents Wilmington Industrial Development, Inc., also known as the Wilmington Committee of 100, and an owner of property abutting the Highway 421 Industrial Corridor in New Hanover County. Five members shall be appointed by the President Pro Tempore of the Senate as follows: two members of the Senate, an individual nominated by the Cape Fear Regional Growth Team, an individual from Pender County who represents Wilmington Industrial Development, Inc., also known as the Wilmington Committee of 100, and an owner of property abutting the Highway 421 Industrial Corridor in Pender County.

SECTION 40.3. Administration. – The Speakers of the House of Representatives shall designate one Representative as cochair, and the President Pro

Tempore of the Senate shall designate one Senator as cochair. Any vacancy on the Commission shall be filled by the appointing authority that made the initial appointment. The Commission shall expire upon delivering its final report.

The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 40.4. Study. – In conducting the study, the Commission shall consider the following:

(1) The feasibility of proposed water and sewer infrastructure improvements for the Highway 421 Industrial Corridor in light of soil quality, existing development, and other relevant factors.

(2) Available funding sources through State programs administered by the Department of Commerce, including eligibility requirements and potential legislation to clarify or adjust these requirements.

(3) Federal funding sources through federal block grants and other sources, including eligibility requirements and their applicability to the proposed infrastructure improvements.

(4) Available funding sources through private individuals or entities.

(5) Options for interlocal agreements to provide regional cooperation in enhancing funding resources for the proposed infrastructure improvements and related projects.

(6) Options for ownership and administration of the infrastructure improvements by Pender County or by an authority.

(7) The measurable economic development benefits to the area from making the proposed water and sewer improvements.

(8) Any other issues the Commission considers relevant.

SECTION 40.5. Report. – The Legislative Study Commission on Financing Infrastructure for Industrial Corridors shall report to the 2005 General Assembly upon its convening. The Commission shall terminate the earlier of the filing of its report or the convening of the 2005 General Assembly.

SECTION 40.6. Cooperation. – All State departments and agencies and local governments and their subdivisions shall, upon request, furnish the Commission with any information in their possession or available to them.

SECTION 40.7. From the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds to support the expenses of the Commission established by this Part.

PART XLI. WILMINGTON RACE RIOT COMMISSION (Wright)

SECTION 41.1. Section 17.1(c) of S.L. 2000-138, as amended by Section 3.1 of S.L. 2002-180, reads as rewritten:

"Section 17.1.(c) The Commission shall consist of 13 members, each of whom shall serve a ~~four-year~~ five-year term. Commission members shall be appointed on or before September 1, 2000, as follows:

(1) The President Pro Tempore of the Senate shall appoint three members.

(2) The Speaker of the House of Representatives shall appoint three members.

(3) The Governor shall appoint three public members, one of whom shall be a historian.

(4) The Mayor and City Council of the City of Wilmington shall appoint two members.

(5) The New Hanover County Commissioners shall appoint two members.

The Commission shall terminate on December 31, ~~2004.~~ 2005."

SECTION 41.2. Section 17.1(e) of S.L. 2000-138, as amended by S.L. 2002-180, reads as rewritten:

"Section 17.1.(e) The Commission may remove any of its members for neglect of duty, incompetence, or unprofessional conduct. Members serve at the pleasure of the appointing authority. A member subject to disciplinary proceedings shall be disqualified from participating in the official business of the Commission until the charges have been resolved."

SECTION 41.3. Section 17.1.(f) of S.L. 2000-138, as amended by S.L. 2002-180, reads as rewritten:

"Section 17.1.(f) Members of the Commission ~~shall not~~may receive per diem or reimbursement for travel or subsistence. From funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the per diem of the Commission."

SECTION 41.4. Section 17.1(g) of S.L. 2000-138, as amended by Section 3.2 of S.L. 2002-180, reads as rewritten:

"Section 17.1.(g) The Commission's officers shall consist of two cochairs, a vice-chair, and other officers deemed necessary by the Commission to carry out the purposes of this Article. The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall appoint the cochairs of the Commission. All other officers shall be elected by the Commission. All officers shall serve for ~~four-year~~ five-year terms and shall serve until their successors are elected and qualified."

SECTION 41.5. Section 17.1(j) of S.L. 2000-138, as amended by Section 3.3 of S.L. 2002-180, reads as rewritten:

"Section 17.1.(j) The Commission may submit to the General Assembly an interim report of its findings and recommendations. The Commission shall submit to the General Assembly a final report of its findings and recommendations no later than ~~December 31, 2004.~~December 31, 2005. The final report may include suggestions for a permanent marker or memorial of the riot and whether to designate the event ~~as~~ with a historic site."

PART XLII. OFFICE OF STATE PERSONNEL STUDY (Albertson)

SECTION 42.1. The Office of State Personnel shall conduct a reclassification study of all sworn law enforcement officers employed in the Division of Parks and Recreation of the Department of Environment and Natural Resources. The Office of State Personnel shall report the results of this study to the General Assembly and the Fiscal Research Division of the General Assembly by January 3, 2005.

PART XLIII. CRAVEN AND PAMLICO TECHNICAL HIGH SCHOOL TASK FORCE STUDIES (Gorman)

SECTION 43.1. The State Board of Community Colleges, the State Board of Education, Craven Community College, and the Craven County Schools may establish a task force to develop a plan to expand students' educational opportunities within the public school system by creating a technical high school. If the task force is established, in developing the plan, the task force shall consider similar programs currently operated in the State, including, but not limited to, the Middle College program in Guilford County and the Technical High School in Union County. The task force shall also take into account the State's high school graduation requirements. If the task force is established, the task force shall report to the Joint Legislative Education Oversight Committee no later than January 15, 2005.

SECTION 43.2. The State Board of Community Colleges, the State Board of Education, Pamlico Community College, and the Pamlico County Schools may establish a task force to develop a plan to expand students' educational opportunities within the public school system by creating a technical high school. If the task force is established, in developing the plan, the task force shall consider similar programs currently operated in the State, including, but not limited to, the Middle College program in Guilford County and the Technical High School in Union County. The task force shall also take into account the State's high school graduation requirements. If the task force is established, the task force shall report to the Joint Legislative Education Oversight Committee no later than January 15, 2005.

PART XLIV. NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION STUDY

SECTION 44.1. The North Carolina Sentencing and Policy Advisory Commission, pursuant to its statutory responsibilities under Article 4 of Chapter 164 of

the General Statutes, shall study the North Carolina Structured Sentencing Act in light of the United States Supreme Court's decision in *Blakely v. Washington*, decided June 24, 2004. The Commission shall report its findings and recommendations, including any proposed legislation, to the 2005 General Assembly upon its convening.

PART XLV. LEGISLATIVE STUDY COMMISSION ON STATE GUARDIANSHIP LAWS (H.B. 1409 – Nye, Weiss, G. Wilson; S.B. 1152 – Swindell)

SECTION 45.1. There is created the Legislative Study Commission on State Guardianship Laws. The purpose of the Commission is to review State law pertaining to guardianship and its relationship to other pertinent State laws such as the health care power of attorney, the right to a natural death, and durable power of attorney.

SECTION 45.2. The Commission shall consist of 16 members as follows:

(1) Four members of the House of Representatives appointed by the Speaker of the House of Representatives.

(2) Four members of the Senate appointed by the President Pro Tempore of the Senate.

(3) The Director of the Administrative Office of the Courts, or the Director's designee.

(4) The Director of the Division of Aging in the Department of Health and Human Services, or the Director's designee.

(5) A county director of social services appointed by the President Pro Tempore of the Senate.

(6) A clerk of superior court appointed by the Speaker of the House of Representatives.

(7) A physician who specializes in geriatrics appointed by the President Pro Tempore of the Senate.

(8) An attorney who has experience in guardianship matters appointed by the Speaker of the House of Representatives.

(9) A representative of the Governor's Advocacy Council for Persons With Disabilities.

(10) An area authority or county program director for mental health, developmental disabilities, and substance abuse services, appointed by the Speaker of the House of Representatives.

In addition, representatives designated by the following organizations shall serve as ex-officio, nonvoting members of the Commission:

(1) The North Carolina Bar Association.

(2) The Arc of North Carolina.

(3) North Carolina Guardianship Association.

(4) Alzheimer's Association – Western Chapter.

(5) Alzheimer's Association – Eastern Chapter.

(6) Carolina Legal Assistance.

(7) The Area Agencies on Aging.

(8) County Departments of Aging.
(9) Friends of Residents in Long Term Care.

The Speaker of the House of Representatives shall designate one Representative as cochair, and the President Pro Tempore shall designate one Senator as cochair. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment. The Commission shall expire upon delivering its final report.

The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 45.3. In conducting the study, the Commission shall consider the following:

(1) Whether guardianship should be a remedy of last resort used only if less restrictive alternatives are insufficient.
(2) The definition of incompetency.
(3) Whether courts should be required to make express findings regarding the extent of a person's incapacity and limit the scope of the guardianship accordingly.
(4) Legal rights retained or lost as a result of being adjudicated incompetent.
(5) The proper role of attorneys and guardians ad litem in guardianship proceedings.
(6) The role of public human services agencies in providing guardianship services.
(7) Legal procedures and protections in guardianship proceedings.
(8) Public monitoring of guardianship.
(9) Funding for guardianship services provided by public and nonprofit agencies.
(10) Educating citizens with respect to guardianship and alternatives to guardianship.
(11) Prudent investor rules.
(12) Powers, duties, and liabilities of guardians.
(13) Review of the State's adult protective services law.
(14) Enactment of the Uniform Guardianship and Protective Proceedings Act (UGPPA).

(15) Whether guardianship statutes need revision to provide greater protection of the health and welfare of incapacitated adults.

(16) Whether the State should track the number of people under private guardianship and, if so, proposed methods for the tracking.

SECTION 45.4. The Legislative Study Commission on State Guardianship Laws may make an interim report to the 2005 General Assembly not later than the convening of the 2005 General Assembly, and shall make its final report to the 2006 Regular Session of the 2005 General Assembly upon its convening.

SECTION 45.5. All State departments and agencies and local governments and their subdivisions shall furnish the Commission with any information in their possession or available to them.

SECTION 45.6. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission.

PART XLVI. TWENTY-FIRST CENTURY REVENUE SYSTEM STUDY COMMISSION (Daughtridge)

SECTION 46.1. Findings. – The General Assembly finds the following:

(1) In recent years, several legislative study commissions have examined North Carolina's tax system and found that restructuring is needed to achieve fairness, efficiency, and simplicity in light of the changing economics and changing needs of our State.

(2) The Governor's Commission to Modernize State Finances built on those studies, outlining in its 2002 report the new realities of the State and the ways in which the finance structure should be revised in order to respond to modern conditions so that economic growth can continue while adequate services are provided and the tax burden is shared equitably.

(3) These studies found that the State and local tax laws have grown increasingly Byzantine and unwieldy as each year new laws pile on additional adjustments, requirements, exceptions, and calculations, many of which are perceived as unfair preferences for special interests leaving ordinary citizens to shoulder more than their share of rising taxes. The overarching recommendation of the Governor's Commission that tax rates be lowered and tax bases broadened is a vital step toward solving these problems.

(4) The budget shortfalls of recent years have emphasized the inadequacy of the current revenue structure to meet the State's needs. This weakness will worsen with the upcoming sunset of two major revenue sources, reinforcing the findings of legislative and executive commissions that long-term and fundamental changes are required to establish a stable, fair, and simple system for raising revenue for public services.

SECTION 46.2. Commission Created – There is created the Legislative Study Commission on a 21st Century Revenue System. The purpose of the Commission is to build on the recommendations of past legislative and executive branch commissions to design a realignment of the State and local revenue system in accordance with a clear, consistent tax policy in light of modern economic, social, and political conditions.

SECTION 46.3. Membership. – The Commission consists of 12 members as follows:

(1) Six Senators appointed by the President Pro Tempore of the Senate.

(2) Six Representatives appointed by the Speaker of the House of Representatives.

SECTION 46.4. Cochairs. – The President Pro Tempore must designate one Senator as cochair, and the Speaker must designate one Representative as cochair. Vacancies on the Commission must be filled by the same appointing authority as made the initial appointment.

SECTION 46.5. Administration. – The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the joint call of the cochairs. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

The Legislative Services Commission, through the Legislative Services Officer, must assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks must assign clerical staff to the Commission, and the expenses relating to the clerical employees must be borne by the Commission. Members of the Commission are entitled to receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 46.6. Duties. – The Commission must:

(1) Establish the principles of taxation upon which a sound State and local tax structure should be built for the 21st century.

(2) Recommend changes in the State and local tax structure to align it with these benchmark tax principles.

(3) Recommend changes to simplify and consolidate existing taxes to provide uniformity; to ease the administrative burden on the taxpayer; to provide low tax rates applied to broad tax bases; and to reduce the costs of collecting and administering taxes.

SECTION 46.7. Report. – The Commission may make an interim report to the 2005 General Assembly not later than its convening, and must make its final report to the 2006 Regular Session of the 2005 General Assembly upon its convening. The Commission shall terminate the earlier of the filing its final report or upon the convening of the 2006 Regular Session of the 2005 General Assembly.

SECTION 46.8. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission.

PART XLVII. CONTINUE JOINT COMMITTEE ON EXECUTIVE BUDGET ACT REVISIONS/ADDITIONAL STUDY (Culpepper)

SECTION 47.1. Section 6.12.(b) of S.L. 2003-284 reads as rewritten:

"**SECTION 6.12.(b)** The Committee shall consider contemporary financial management practices in reviewing the current budget process. The Committee shall recommend any changes to the Executive Budget Act that are needed to modernize and improve the processes of budget preparation, budget adoption, budget execution, and program evaluation. The Committee shall report its recommendations to the ~~2003~~ 2005 General Assembly on or before ~~April 1, 2004.~~ its convening."

SECTION 47.2. The Joint Committee on Executive Budget Act Revisions shall consider the issues raised by the provisions contained in House Bill 1218, 2003 Regular Session, and Senate Bill 726, 2003 Regular Session, and include in its report any recommendations concerning those issues.

PART XLVIII. NORTH CAROLINA CENTRAL UNIVERSITY STUDY (H.B. 826 – Earle, Wainwright)

SECTION 48.1. North Carolina Central University, in conjunction with its Department of Sociology, may study whether there is an overrepresentation of minority youth in North Carolina youth development centers. If it undertakes the study, the University shall:

(1) Compile and analyze data of youth development center commitments for the years 1992 to 2002, including data of the race, age, gender, and level of offense of all juveniles committed to youth development centers in all 100 counties of the State during those years;

(2) Survey all programs throughout the State that serve as prevention programs and alternatives to commitment for juveniles adjudicated delinquent in order to analyze the impact these programs have in deterring minority youth commitment;

(3) Assess the availability and accessibility of prevention programs and programs that serve as alternatives to commitment to minority and at-risk youth in all 100 counties of the State, including the percentage of minority and at-risk youth adjudicated delinquent who are placed in programs that serve as alternatives to commitment; and

(4) Test data for variables contributing to minority youth overrepresentation in State youth development centers, including data related to the role of the court system in either committing juveniles to youth development centers or placing them in alternative programs.

SECTION 48.2. If it undertakes this study, North Carolina Central University shall present its findings, including policy recommendations and legislative proposals, to the Department of Juvenile Justice and Delinquency Prevention and the General Assembly on or before January 15, 2005.

PART XLIX. STUDY COMMISSION ON ECONOMIC DEVELOPMENT INFRASTRUCTURE (Harrell)

SECTION 49.1. There is created the Study Commission on Economic Development Infrastructure. The Commission shall consist of 32 members as follows:

(1) 16 members appointed by the President Pro Tempore of the Senate.

(2) 16 members appointed by the Speaker of the House of Representatives.

SECTION 49.2. At least half of the members appointed to the Commission by the President Pro Tempore of the Senate and at least half of the members appointed to the Commission by the Speaker of the House of Representatives shall be persons who are not members of the General Assembly and who are either actively engaged in economic development or C-Level Executives of private corporations.

SECTION 49.3. The President Pro Tempore of the Senate shall appoint two cochairs of the Commission and the Speaker of the House of Representatives shall appoint two cochairs of the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 49.4. The Commission shall examine the existing infrastructure for the delivery of economic development, including the many entities involved in economic development. The Commission shall develop a plan to restructure and consolidate the infrastructure for the delivery of economic development to improve its organization and effectiveness. The Commission shall specifically examine the role of the following in the delivery of economic development:

(1) The Department of Commerce.

(2) The regional councils of government created pursuant to G.S. 160A-470.

(3) The Economic Development Board created pursuant to G.S. 143B-434. The Commission shall consider whether the Economic Development Board, which is currently advisory in nature, should be reconstituted and given responsibility for policy development or regulatory authority.

(4) The regional planning and economic development commissions created pursuant to Article 2 of Chapter 158 of the General Statutes. The Commission shall consider whether regional planning and economic development commissions should be given greater responsibility for marketing and business recruitment.

SECTION 49.5. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

SECTION 49.6. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services

Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 49.7. The Commission shall submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening. The Commission shall terminate upon the convening of the 2005 General Assembly.

SECTION 49.8. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART L. STUDY COMMISSION ON THE ORGANIZATION, POWERS, DUTIES, FUNCTIONS, FUNDING, AND POTENTIAL CONSOLIDATION OR ELIMINATION OF STATE BOARDS, COMMISSIONS, AND COUNCILS (Harrell)

SECTION 50.1. There is created the Study Commission on State Boards, Commissions, and Councils. The Commission shall consist of 28 members as follows:

(1) 14 members appointed by the President Pro Tempore of the Senate.

(2) 14 members appointed by the Speaker of the House of Representatives.

SECTION 50.2. The President Pro Tempore of the Senate shall appoint two cochairs of the Commission and the Speaker of the House of Representatives shall appoint two cochairs of the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 50.3. The Commission shall examine the organization, powers, duties, functions, and funding of State boards, commissions, and councils. The Commission shall specifically consider the following:

(1) Whether the boards, commissions, or councils should be eliminated or consolidated with one or more other boards, commissions, or councils.

(2) Whether the number of members serving on boards, commissions, and councils or the manner in which members are selected should be altered.

(3) Whether the number and frequency of meetings of boards, commissions, and councils should be altered.

(4) The cost of supporting each board, commission, or council, including salaries, per diem, travel, clerical and administrative support, and other expenses.

(5) The productivity and effectiveness of the boards, commissions, and councils.

SECTION 50.4. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

SECTION 50.5. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 50.6. The Commission shall submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening. The Commission shall terminate upon the convening of the 2005 General Assembly.

SECTION 50.7. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART LI. STUDY COMMISSION ON WORKER RETRAINING (Harrell)

SECTION 51.1. There is created the Study Commission on Worker Retraining. The Commission shall consist of 32 members as follows:

(1) 16 members appointed by the President Pro Tempore of the Senate.

(2) 16 members appointed by the Speaker of the House of Representatives.

SECTION 51.2. At least half of the members appointed to the Commission by the President Pro Tempore of the Senate and at least half of the members appointed to the Commission by the Speaker of the House of Representatives shall be persons who are not members of the General Assembly and who are actively engaged in worker retraining or welfare reform as either private citizens, administrators of State agencies, or administrators or faculty at community colleges in the State.

SECTION 51.3. The President Pro Tempore of the Senate shall appoint two cochairs of the Commission and the Speaker of the House of Representatives shall appoint two cochairs of the Commission. The Commission may meet at any time upon the joint call of the cochairs. Vacancies on the Commission shall be filled by the same appointing authority as made the initial appointment.

SECTION 51.4. The Commission shall examine:

(1) Business incentives that encourage employers to support efforts by employees to retrain in order to qualify for higher paying or non-exportable jobs by allowing employees time off, reimbursing employees for education expenses, or providing other support.

(2) Successful retraining incentive programs in this and other states.

SECTION 51.5. The Commission, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

SECTION 51.6. Subject to the approval of the Legislative Services Commission, the Commission may meet in the Legislative Building or the Legislative Office Building. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Commission in its work. The House of Representatives' and the Senate's Supervisors of Clerks shall assign clerical support staff to the Commission, and the expenses relating to the clerical employees shall be borne by the Commission. Members of the Commission shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

SECTION 51.7. The Commission shall submit a final report of its findings and recommendations, including any legislative recommendations, to the 2005 General Assembly upon its convening. The Commission shall terminate upon the convening of the 2005 General Assembly.

SECTION 51.8. Of the funds appropriated to the General Assembly, the Legislative Services Commission shall allocate funds for the expenses of the Commission established by this Part.

PART LII. NORTH CAROLINA BLUE RIBBON COMMISSION ON MEDICAID REFORM

SECTION 52.1. S.L. 2003-284, Section 6.14A.(b) reads as rewritten:

"**SECTION 6.14A.(b)** The Commission shall consist of ~~12~~16 members appointed as follows:

(1) ~~Six~~Eight members appointed by the Speaker of the House of Representatives, including one member who shall be designated as House Cochair. No more than ~~three~~ five may be legislators.

(2) ~~Six~~Eight members appointed by the President Pro Tempore of the Senate, including one member who shall be designated as Senate Cochair. No more than ~~three~~ five may be legislators.

The appointing officer shall fill vacancies. The Commission shall meet at the call of the Cochairs. Members of the Commission shall receive per diem, subsistence, and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Commission may contract for consultant services as provided in G.S. 120-32.02. Upon approval of the Legislative Services Commission, the Legislative Services Officer shall assign professional staff to assist the Commission in its work. Clerical staff shall be furnished to the Commission through the offices of the House of Representatives and Senate Directors of Legislative Assistants. The Commission may meet in the Legislative Building or the Legislative Office Building. The Commission may exercise all of the powers provided under G.S. 120-19 through G.S. 120-19.4 while in the discharge of its official duties. The funds appropriated by this act to the Reserve for the Blue Ribbon Commission on Medicaid Reform shall be transferred to the Department of Health and

Human Services in order to draw down federal match funds to be used to cover the cost of the Commission's work."

PART LIII. BILL AND RESOLUTION REFERENCES

SECTION 53.1. The listing of the original bill or resolution in this act is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

PART LIV. EFFECTIVE DATE AND APPLICABILITY

SECTION 54.1. Except as otherwise specifically provided, this act is effective when it becomes law. If a study is authorized both in this act and in the Current Operations and Capital Improvements Appropriations Act of 2004, the study shall be implemented in accordance with the Current Operations and Capital Improvements Appropriations Act of 2004 as ratified.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1152*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1152-ASW-70 [v.3]

Date _____,2004

Comm. Sub. [YES]
Amends Title [NO]
S1152-CSSW-87[v.26]

Representative Owens

moves to amend the bill on page 27, line 18, by deleting the word "**STUDY**" at the end of that line and substituting "**STUDIES**";

and on page 13, line 39, by deleting "educator; and" and substituting "educator;";

and on page 13, line 40, by deleting "designee." and substituting "designee; and";

and on page 35, line 31, by deleting "20" and substituting "21".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 1152 A BILL TO BE ENTITLED AN ACT CONCERNING STUDIES.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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, unfavorable as to Senate committee substitute bill.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 2

SENATE BILL 3

Judiciary I Committee Substitute Adopted 2/18/03

Short Title: Session Limits. (Public)

Sponsors:

Referred to:

February 10, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS AND TO PROVIDE FOR AN EARLIER CONVENING OF THE GENERAL ASSEMBLY FOR ORGANIZATION.

The General Assembly of North Carolina enacts:

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

"(1) Regular sessions.

(a) The General Assembly shall meet in regular session ~~in 1973~~ after the term of office for Senators and Representatives commences in 2004 and every two years thereafter on the day prescribed by law.

(b) Odd-numbered years. – Beginning with the regular session in 2005, 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 calendar days. The month of December beginning on the first Wednesday in the month in each preceding even-numbered year is also included in the calculation of the limit of days the General Assembly may meet in odd-numbered years. If the General Assembly, upon convening of the regular session, meets initially for not more than two consecutive calendar days and then adjourns for not less than 30 calendar days, that period of adjournment shall be excluded from the 135 calendar days.

(c) Even-numbered years. – 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 calendar days, but the month of December beginning on the first Wednesday in the month of each even-numbered year is excluded from the calculation of

the maximum number of days the General Assembly can meet in that year.

(d) Any reconvened session called under Section 5 of Article III of this Constitution shall be excluded from the calculations of this section.

(e) Neither house shall proceed upon public business unless a majority of all of its members are actually present.

(f) 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 North Carolina Constitution reads as rewritten:

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

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

SECTION 3. The amendments set out in Sections 1 and 2 of this act shall be submitted to the qualified voters of the State at the next statewide election, primary or otherwise, 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 conforming amendments concerning the date of the beginning of the term."

SECTION 4. If a majority of votes cast on the question are in favor of the amendments set out in Sections 1 and 2 of this act, the State Board of Elections shall certify the amendments to the Secretary of State whereupon the amendments shall become effective. The Secretary of State shall enroll the amendments so certified among the permanent records of that office.

SECTION 5. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 3

Judiciary I Committee Substitute Adopted 2/18/03

PROPOSED HOUSE COMMITTEE SUBSTITUTE S3-CSSW-90 [v.2]

Short Title: NC Motorsports Testing and Research/Funds. (Public)

Sponsors:

Referred to:

February 10, 2003

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FUNDING FOR THE NC MOTORSPORTS TESTING AND RESEARCH COMPLEX AND TO ADJUST THE US 17 INTRASTATE SYSTEM PROJECT.

The General Assembly of North Carolina enacts:

SECTION 1. If House Bill 1414, 2004 Regular Session, becomes law, then Section 2.2(a) of House Bill 1414 is amended by rewriting the entry in the chart for:

(1) Credit to Repairs and Renovations Reserve Account to read:
"Credit to Repairs and Renovations
Reserve Account (76,797,361)";

(2) Beginning Unreserved Credit Balance FY 2004-2005 to read:
" Beginning Unreserved Credit Balance FY
2004-2005 273,200,829";

(3) Total General Fund Availability to read:
" Total General Fund Availability 15,925,812,166";

(4) Revised General Fund Availability for 2004-2005 Fiscal Year to read:
" Revised General Fund Availability for
2004-2005 Fiscal Year 15,918,359,528";
and

(5) Less: Total General Fund Appropriations for 2004-2005 Fiscal Year to read:
" Less: Total General Fund Appropriations
for 2004-2005 Fiscal Year (15,918,359,528)".

SECTION 2. If House Bill 1414, 2004 Regular Session, becomes law, then Section 2.2(f) of S.L. 2003-284, as rewritten by Section 2.2.(b) of House Bill 1414, reads as rewritten:

"**SECTION 2.2.(f)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, the State Controller shall transfer ~~seventy-eight million seven hundred ninety-seven thousand three hundred sixty-one dollars ($78,797,361)~~ seventy-six million seven hundred ninety-seven thousand three hundred sixty-one dollars ($76,797,361) from the unreserved credit balance to the Repairs and Renovations Reserve Account on June 30, 2004. This subsection becomes effective June 30, 2004."

SECTION 3. If House Bill 1414, 2004 Regular Session, becomes law, then Section 32.1 of House Bill 1414 reads as rewritten:

"**SECTION 32.1.** There is appropriated from the General Fund for the 2004-2005 fiscal year the following amount for capital improvements:

Capital Improvements -General Fund 2004-2005

Department of Commerce – State Ports Authority	
Wilmington Port Replace Crane Rail	2,000,000
Radio Island Development and Improvements	2,000,000
Department of Environment and Natural Resources	
Water Resources Development Projects	26,492,000
North Carolina Museum of Art	
Expansion Planning Funds	2,200,000
University of North Carolina System	
Center for Design Innovation	2,000,000
Winston-Salem State University – Dept Life Sciences	2,000,000
UNC-Greensboro and NC A&T Millennium Campus	4,000,000
NC Motor Sports Testing and Research Complex	~~2,000,000~~ 4,000,000
UNC-Wilmington – School of Nursing	500,000

TOTAL CAPITAL IMPROVEMENTS – GENERAL FUND ~~43,192,000~~ 45,192,000"

SECTION 4. G.S. 136-179 reads as rewritten:

"§ 136-179. Projects of Intrastate System funded from Trust Fund.

Funds allocated from the Trust Fund for the Intrastate System may be used only for the following projects of the Intrastate System:

Route	Improvements	Affected Counties
...		
US-17	Complete 4-laning from Virginia Line to South Carolina Line (including Washington, New Bern, Hampstead from Military Cutoff Road in New Hanover County to US 17 north of Hampstead, and Jacksonville Bypasses)	Camden, Pasquotank, Perquimans, Chowan, Bertie, Martin, Beaufort, Craven, Jones, Onslow Pender, New Hanover Brunswick
	..."	

SECTION 5. This act becomes effective July 1, 2004.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 3 A BILL TO BE ENTITLED AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO LIMIT THE LENGTH OF LEGISLATIVE SESSIONS AND TO PROVIDE FOR AN EARLIER CONVENING OF THE GENERAL ASSEMBLY FOR ORGANIZATION.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 1225*
Judiciary I Committee Substitute Adopted 7/12/04
Third Edition Engrossed 7/14/04

Short Title: 2004 Technical Corrections Act. (Public)

Sponsors:

Referred to:

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CORRECTIONS RECOMMENDED BY THE GENERAL STATUTES COMMISSION

SECTION 1. G.S. 62-3 reads as rewritten:

"**§ 62-3. Definitions.**

As used in this Chapter, unless the context otherwise requires, the term:

...

(23) ...

a. "Public utility" means a person, whether organized under the laws of this State or under the laws of any other state or country, now or hereafter owning or operating in this State equipment or facilities for:

1. Producing, generating, transmitting, delivering or furnishing electricity, piped gas, steam or any other like agency for the production of light, heat or power to or for the public for compensation; provided, however, that the term "public utility" shall not include persons who construct or operate an electric generating facility, the primary purpose of which facility is for such person's own use and not for the primary purpose of producing

electricity, heat, or steam for sale to or for the public for compensation;

2. Diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation, or operating a public sewerage system for compensation; provided, however, that the term "public utility" shall not include any person or company whose sole operation consists of selling water to less than 15 residential customers, except that any person or company which constructs a water system in a subdivision with plans for 15 or more lots and which holds itself out by contracts or other means at the time of said construction to serve an area containing more than 15 residential building lots shall be a public utility at the time of such planning or holding out to serve such 15 or more building lots, without regard to the number of actual customers connected;
3. Transporting persons or household goods by street, suburban or interurban bus for the public for compensation;
4. Transporting persons or household goods by motor vehicles or any other form of transportation for the public for compensation, except motor carriers exempted in G.S. 62-260, carriers by rail, and carriers by air;
5. Transporting or conveying gas, crude oil or other fluid substance by pipeline for the public for compensation;
6. Conveying or transmitting messages or communications by telephone or telegraph, or any other means of transmission, where such service is offered to the public for compensation.

b. The term "public utility" shall for rate-making purposes include any person producing, generating or furnishing any of the foregoing services to another person for distribution to or for the public for compensation.

c. The term "public utility" shall include all persons affiliated through stock ownership with a public utility doing business in this State as parent corporation or subsidiary corporation as defined in G.S. 55-2 to such an extent that the Commission shall find that such affiliation has an effect on the rates or service of such public utility.

d. The term "public utility," except as otherwise expressly provided in this Chapter, shall not include a municipality, an authority organized under the North Carolina Water and Sewer Authorities Act, electric or telephone membership corporation;

or any person not otherwise a public utility who furnishes such service or commodity only to himself, his employees or tenants when such service or commodity is not resold to or used by others; provided, however, that any person other than a nonprofit organization serving only its members, who distributes or provides utility service to his employees or tenants by individual meters or by other coin-operated devices with a charge for metered or coin-operated utility service shall be a public utility within the definition and meaning of this Chapter with respect to the regulation of rates and provisions of service rendered through such meter or coin-operated device imposing such separate metered utility charge. If any person conducting a public utility shall also conduct any enterprise not a public utility, such enterprise is not subject to the provisions of this Chapter. A water or sewer system owned by a homeowners' association that provides water or sewer service only to members or leaseholds of members is not subject to the provisions of this Chapter.

e. The term "public utility" shall include the University of North Carolina insofar as said University supplies telephone service, electricity or water to the public for compensation from the University Enterprises defined in G.S. 116-41.1(9).

f. The term "public utility" shall include the Town of Pineville insofar as said town supplies telephone services to the public for compensation. The territory to be served by the Town of Pineville in furnishing telephone services, subject to the Public Utilities Act, shall include the town limits as they exist on May 8, 1973, and shall also include the area proposed to be annexed under the town's ordinance adopted May 3, 1971, until January 1, 1975.

g. The term "public utility" shall not include a hotel, motel, time share or condominium complex operated primarily to serve transient occupants, which imposes charges to occupants for local, long-distance, or wide area telecommunication services when such calls are completed through the use of facilities provided by a public utility, and provided further that the local services received are rated in accordance with the provisions of G.S. 62-110(d) and the applicable charges for telephone calls are prominently displayed in each area where occupant rooms are located.

h. The term "public utility" shall not include the resale of electricity by (i) a campground operated primarily to serve transient occupants, or (ii) a marina; provided that (i) the campground or marina charges no more than the actual cost of

the electricity supplied to it, (ii) the amount of electricity used by each campsite or marina slip occupant is measured by an individual metering device, (iii) the applicable rates are prominently displayed at or near each campsite or marina slip, and (iv) the campground or marina only resells electricity to campsite or marina slip occupants.

i. The term "public utility" shall not include the State, the Office of ~~the State Controller,~~ Information Technology Services, or the Microelectronics Center of North Carolina in the provision or sharing of switched broadband telecommunications services with non-State entities or organizations of the kind or type set forth in G.S. 143B-426.39.

j. The term "public utility" shall not include any person, not otherwise a public utility, conveying or transmitting messages or communications by mobile radio communications service. Mobile radio communications service includes one-way or two-way radio service provided to mobile or fixed stations or receivers using mobile radio service frequencies.

k. The term "public utility" shall not include a regional natural gas district organized and operated pursuant to Article 28 of Chapter 160A of the General Statutes.

...."

SECTION 2. G.S. 111-52 reads as rewritten:

"**§ 111-52. Profits from Highway Vending Fund.**

Profits generated by highway vending locations as of June 30, 1992, and deposited in a special fund in accordance with the ~~Administrative Policies and Procedures Manual~~ policies of the Office of the State Controller shall be reserved for the construction and maintenance of highway vending facility projects."

SECTION 3. G.S. 113-307.1(b) reads as rewritten:

"(b) The State of North Carolina hereby assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes," approved September 2, 1937 (Public Law 415, 75th Congress), and the Wildlife Resources Commission is hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in said act of Congress, in compliance with said act and rules and regulations promulgated by the Secretary of ~~Agriculture~~ the Interior thereunder; and no funds accruing to the State of North Carolina from license fees paid by hunters shall be diverted for any other purpose than the protection and propagation of game and wildlife in North Carolina and administration of the laws enacted for such purposes, which laws are and shall be administered by the Wildlife Resources Commission."

SECTION 4. G.S. 115C-102.5(e) reads as rewritten:

"(e) The Department of Public Instruction, the Department of Community Colleges, and the Office of ~~the State Controller~~ Information Technology Services shall

provide requested professional and clerical staff to the Commission. The Commission may also employ professional and clerical staff and may hire outside consultants to assist it in its work. The Commission shall use an outside consultant to perform a requirements analysis for learning and instructional management technologies on a statewide basis that is based on information gathered from each local school administrative unit and that considers the needs of teachers, students, and administrators."

PART II. OTHER CHANGES

SECTION 5.(a) G.S. 1A-1, Rule 5(d), reads as rewritten:

"(d) Filing. – All pleadings subsequent to the complaint shall be filed with the court. All other papers required to be served upon a party, including requests for admissions, shall be filed with the court either before service or within five days thereafter, except that subpoenas, objections to subpoenas under Rule 45(c)(3), depositions, interrogatories, requests for documents, and answers and responses to those requests may not be filed unless ordered by the court or until used in the proceeding. Briefs and memoranda provided to the court may not be filed with the clerk of the court unless ordered by the court. The party taking a deposition or obtaining material through discovery is responsible for its preservation and delivery to the court if needed or so ordered. With respect to all pleadings and other papers as to which service and return has not been made in the manner provided in Rule 4, proof of service shall be made by filing with the court a certificate either by the attorney or the party that the paper was served in the manner prescribed by this rule, or a certificate of acceptance of service by the attorney or the party to be served. Such certificate shall show the date and method of service or the date of acceptance of service."

SECTION 5.(b) This section becomes effective October 1, 2004, and applies to all pending cases and all cases filed on or after that date.

SECTION 6. G.S. 10A-16(d) reads as rewritten:

"(d) This section applies to notarial acts performed on or before ~~March 1, 2003.~~February 1, 2004."

SECTION 7. G.S. 14-33(d) reads as rewritten:

"(d) Any person who, in the course of an assault, assault and battery, or affray, inflicts serious injury upon another person, or uses a deadly weapon, in violation of subdivision (c)(1) of this section, on a person with whom the person has a personal relationship, and in the presence of a minor, is guilty of a Class A1 misdemeanor. A person convicted under this subsection, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court.

A person committing a second or subsequent violation of this subsection shall be sentenced to an active punishment of no less than 30 days in addition to any other punishment imposed by the court.

The following definitions apply to this subsection:

(1) "Personal relationship" is as defined in G.S. 50B-1(b).

(2) "In the presence of a minor" means that the minor was in a position to have observed the assault.

(3) "Minor" is any person under the age of 18 years who is residing with or is under the care and supervision of, and who has a personal relationship with, the person assaulted or the person committing the assault."

SECTION 8. G.S. 18B-103 is amended by adding a new subdivision to read:

"(11) The delivery, possession, or consumption of alcoholic beverages under the direct supervision of an instructor during a class that is part of an established curriculum at an accredited college or university, including delivery to or possession or consumption by a student who is less than 21 years of age, when the student is required to taste or imbibe the alcoholic beverage during a class conducted pursuant to the curriculum."

SECTION 9. G.S. 18B-1006(m)(2) reads as rewritten:

"(2) The Commission may issue permits listed in G.S. 18B-1001(1), (3), (5), and (10) to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) and may issue permits listed in G.S. 18B-1001(2) and (4) to qualified establishments defined in G.S. 18B-1000(3) in any county that qualifies for issuance of permits pursuant to ~~G.S. 18B-1006(k)(5).~~G.S. 18B-1006(k). These permits may be issued without approval at an election and shall be issued only to qualified establishments that meet ~~any~~ all of the following requirements:

a. Located within one mile of any interstate highway interchange in that ~~county.~~county;

b. Located within one mile of an establishment issued a permit under ~~G.S. 18B-1006(k)(5).~~G.S. 18B-1006(k); and

c. Is, or is located within, one-quarter mile of a hotel with 70 or more rooms."

SECTION 10. G.S. 19A-24(1) reads as rewritten:

"**§ 19A-24. Powers of Board of Agriculture.**

The Board of Agriculture may:

(1) Establish standards for the care of animals at animal shelters, boarding kennels, pet shops, and public auctions. A boarding kennel which offers dog day care services, and has a ratio of dogs to employees or supervisors, or both employees and supervisors, of not more than 10 to one, shall not as to such services be subject to any regulations which restrict the number of dogs that are permitted within any primary enclosure.

...."

SECTION 11.(a) G.S. 20-16.1(b) reads as rewritten:

"(b) ...

(3) Upon conviction of such offense outside the jurisdiction of this State the person so convicted may apply to ~~the resident judge of the superior~~

~~court~~ a district court judge of the district or set of districts as defined in G.S. 7A-41.1(a) in which he resides for limited driving privileges hereinbefore defined. Upon such application the judge shall have the authority to issue such limited driving privileges in the same manner as if he were the trial judge.

...."

"**SECTION 11.(b)** G.S. 97-10.2(j) reads as rewritten:

"(j) Notwithstanding any other subsection in this section, in the event that a judgment is obtained by the employee in an action against a third party, or in the event that a settlement has been agreed upon by the employee and the third party, either party may apply to the resident superior court judge of the county in which the cause of action ~~arose,~~ arose or where the injured employee ~~resides or the~~ resides, or to a presiding judge ~~before whom the cause of action is pending,~~ of either district, to determine the subrogation amount. After notice to the employer and the insurance carrier, after an opportunity to be heard by all interested parties, and with or without the consent of the employer, the judge shall determine, in his discretion, the amount, if any, of the employer's lien, whether based on accrued or prospective workers' compensation benefits, and the amount of cost of the third-party litigation to be shared between the employee and employer. The judge shall consider the anticipated amount of prospective compensation the employer or workers' compensation carrier is likely to pay to the employee in the future, the net recovery to plaintiff, the likelihood of the plaintiff prevailing at trial or on appeal, the need for finality in the litigation, and any other factors the court deems just and reasonable, in determining the appropriate amount of the employer's lien. If the matter is pending in the federal district court such determination may be made by a federal district court judge of that division."

SECTION 12. G.S. 20-179.4 reads as rewritten:

"**§ 20-179.4. Community service alternative punishment; responsibilities of the Department of ~~Crime Control and Public Safety;~~ Correction; fee.**

(a) The Department of ~~Crime Control and Public Safety~~Correction shall conduct a community service alternative punishment program for persons sentenced under G.S. 20-179(i), (j) or (k).

(b) The Secretary of ~~Crime Control and Public Safety~~Correction shall assign at least one coordinator to each district court district as defined in G.S. 7A-133 to assure and report to the court the person's compliance with the community service sentence. The appointment of each coordinator shall be made in consultation with the chief district court judge in the district to which the coordinator is assigned. Each county must provide office space in the courthouse or other convenient place, necessary equipment, and secretarial service for the use of each coordinator assigned to that county.

(c) A fee of two hundred dollars ($200.00) shall be paid by all persons serving a community service sentence. That fee shall be paid to the clerk of court in the county in which the person is convicted. The fee shall be paid in full within two weeks unless the court, upon a showing of hardship by the person, allows additional time to pay the fee. The person may not be required to pay the fee before beginning the community service unless the court specifically orders the person to do so.

(d) Fees collected under this section shall be deposited in the general fund.

(e) The coordinator shall report to the court in which the community service was ordered a significant violation of the terms of the probation judgment related to community service. The court shall then conduct a hearing to determine if there is a willful failure to comply. If the court determines there is a willful failure to pay the prescribed fee or to complete the work as ordered by the coordinator within the applicable time limits, the court shall revoke any limited driving privilege issued in the impaired driving case until the community service requirement has been met and in addition may take any further action authorized by Article 82 of General Statutes Chapter 15A for violation of a condition of probation."

SECTION 13. G.S. 47-2 reads as rewritten:

"**§ 47-2. Officials of the United States, foreign countries, and sister states.**

The execution of all such instruments and writings as are permitted or required by law to be registered may be proved or acknowledged before any one of the following officials of the United States, of the District of Columbia, of the several states and territories of the United States, of countries under the dominion of the United States and of foreign countries: Any judge of a court of record, any clerk of a court of record, any notary public, any commissioner of deeds, any commissioner of oaths, any mayor or chief magistrate of an incorporated town or city, any ambassador, minister, consul, vice-consul, consul general, vice-consul general, associate consul, or any other person authorized by federal law to acknowledge documents as consular officers, or commercial agent of the United States, any justice of the peace of any state or territory of the United States, any officer of the army or air force of the United States or United States marine corps having the rank of warrant officer or higher, any officer of the United States navy or coast guard having the rank of warrant officer, or higher, or any officer of the United States merchant marine having the rank of warrant officer, or higher. No official seal shall be required of said military, naval or merchant marine official, but he shall sign his name, designate his rank, and give the name of his ship or military organization and the date, and for the purpose of certifying said acknowledgment, he shall use a form in substance as follows:

On this the _____ day of _____, ____, before me _____, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be accompanying or serving in or with the armed forces of the United States (or to be the spouse of a person accompanying or serving in or with the armed forces of the United States) and to be the person whose name is subscribed to the within instruments and acknowledged that _____ he _____ executed the same for the purposes therein contained. And the undersigned does further certify that he is at the date of this certificate a commissioned officer of the rank stated below and is in the active service of the armed forces of the United States.

_____

Signature of Officer

_____

Rank of Officer and command to which attached.

If the proof or acknowledgment of the execution of an instrument is had before a justice of the peace of any state of the United States other than this State or of any territory of the United States, the certificate of such justice of the peace shall be accompanied by a certificate of the clerk of some court of record of the county in which such justice of the peace resides, which certificate of the clerk shall be under his hand and official seal, to the effect that such justice of the peace was at the time the certificate of such justice bears date an acting justice of the peace of such county and state or territory and that the genuine signature of such justice of the peace is set to such certificate."

SECTION 14. Article 4 of Chapter 47 of the General Statutes is amended by adding the following new section to read:

"**§ 47-50.1. Register's certificate omitted.**

In all cases prior to October 1, 2004, where it appears from the records of the office of the register of deeds of any county in this State that the execution of a deed of conveyance or other instrument by law required or authorized to be registered was duly signed and acknowledged as required by the laws of this State, and the register of deeds has failed to certify the correctness of the acknowledgment as required by G.S. 47-14(a), the registrations are hereby validated and the instrument so appearing in the office of the register of deeds of that county is effective to the same extent as if the register of deeds had properly certified the correctness of the acknowledgment."

SECTION 15. G.S. 47-53.1 reads as rewritten:

"**§ 47-53.1. Acknowledgment omitting seal of clerk or notary public.**

Where any person has taken an acknowledgment as either a notary public or a clerk of a superior court, deputy clerk of a superior court, or assistant clerk of a superior court and has failed to affix his or her seal and ~~such~~ this acknowledgment has been otherwise duly probated and recorded then ~~such~~ this acknowledgment is hereby declared to be sufficient and ~~valid: Provided this shall apply~~ valid. This section applies only to those deeds and other instruments acknowledged prior to January 1, 1991."

SECTION 16. G.S. 55B-2(6) reads as rewritten:

"**§ 55B-2. Definitions.**

As used in this Chapter, the following words shall, unless the context requires otherwise, have the following meanings:

...

(6) The term "professional service" means any type of personal or professional service of the public which requires as a condition precedent to the rendering of such service the obtaining of a license from a licensing board as herein defined, and pursuant to the following provisions of the General Statutes: Chapter 83A, "Architects"; Chapter 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and the following Articles in Chapter 90: Article 1, "Practice of Medicine," Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy," Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with regard to registered nurses, Article 11, "Veterinarians," Article 12A, "Podiatrists," Article 18A, "Practicing Psychologists," Article 18C,

"Marriage and Family Therapy Licensure," Article 18D, "Occupational Therapy," ~~and~~ Article 22, "Licensure Act for Speech and Language Pathologists and Audiologists," and Article 24, "Licensed Professional Counselors"; Chapter 89C, "Engineering and Land Surveying"; Chapter 89A, "Landscape Architects"; Chapter 90B, "Social Worker Certification and Licensure Act" with regard to Certified [Licensed] Clinical Social Workers as defined by G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B, "Foresters"; and Chapter 89F, "North Carolina Soil Scientist Licensing Act"."

SECTION 17.(a) G.S. 58-2-150 reads as rewritten:

"**§ 58-2-150. Oath required for compliance with law.**

Before issuing license to any insurance company to transact the business of insurance in this State, the Commissioner shall require, in every case, in addition to the other requirements provided for by law, that the company file with him the affidavit of its president or other chief officer that ~~it has not violated any of the provisions of Articles 1 through 64 of this Chapter for the space of 12 months last past, and that~~ it accepts the terms and obligations of Articles 1 through 64 of this Chapter as a part of the consideration of the license."

SECTION 17.(b) G.S. 58-10-20(b) reads as rewritten:

"(b) This Part does not apply to:

...

(4) ~~Any~~ Except as provided in G.S. 58-10-45, any insurer subject to a judicial order of liquidation or rehabilitation.

...."

SECTION 17.(c) G.S. 58-21-65(b)(4) is repealed.

SECTION 17.(d) G.S. 58-22-20 reads as rewritten:

"**§ 58-22-20. Risk retention groups not chartered in this State.**

Risk retention groups that have been chartered in states other than this State and that seek to do business as risk retention groups in this state must observe and abide by the laws of this State as follows:

...

(4) Compliance With Unfair Claims Settlement Practices Law. – A risk retention group and its agents and representatives shall comply with ~~G.S. 58-3-100(5)~~ G.S. 58-3-100(a)(5) and G.S. 58-63-15(11).

...."

SECTION 17.(e) G.S. 58-33-82(e) reads as rewritten:

"(e) Commissions, fees, or other valuable consideration for the sale, solicitation, or negotiation of insurance may be assigned or directed to be paid in the following circumstances:

(1) To a business entity by a person who is an owner, shareholder, member, partner, director, employee, or agent of that business entity.

(2) To a producer in connection with renewals of insurance business originally sold by or through the licensed person or for other deferred commissions.

(3) In connection with the indirect receipt of commissions in circumstances in which a license is not required under ~~G.S. 58-33-26(m).~~G.S. 58-33-26(n)."

SECTION 17.(f) G.S. 58-36-90(e) reads as rewritten:

"(e) Indemnification. – An insurer shall indemnify, defend, and hold agents harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of an agent who obtains or uses credit information or ~~insurance~~ credit scores for an insurer, provided the agent follows the instructions or procedures established by the insurer and complies with any applicable law or regulation. Nothing in this subsection shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this subsection."

SECTION 17.(g) G.S. 58-36-90(f) reads as rewritten:

"(f) Filing. – Insurers that use ~~insurance~~ credit scores to underwrite and rate risks shall file their scoring models, or other scoring processes, with the Department. A filing that includes ~~insurance~~ credit scoring may include loss experience justifying the applicable surcharge or credit. A filer may request that its credit score data be considered a trade secret and may designate parts of its filings accordingly."

SECTION 17.(h) G.S. 97-165(10) reads as rewritten:

"**§ 97-165. Definitions.**

As used in this Article:

...

(10) "Self-insurer" means ~~a single~~ an employer who retains liability under the Act and is licensed under this Article."

SECTION 18. G.S. 58-3-33(a) reads as rewritten:

"(a) A person who claims to have been physically injured or to have incurred property damage where such injury or damage is subject to a policy of nonfleet private passenger automobile insurance may request by certified mail directed to the insurance adjuster or to the insurance company (Attention Corporate Secretary) at its last known principal place of business that the insurance company provide information regarding the policy's limits of coverage under the applicable policy. Upon receipt of such a request, which shall include the policyholder's name, and, if available, policy number, the insurance company shall notify that person within 15 business days, on a form developed by the Department, that the insurer is required to provide this information prior to litigation only if the person seeking the information satisfies all of the following conditions:

(1) The person seeking the information submits to the insurer the person's written consent to all of the person's ~~physicians~~ medical providers to release to the insurer the person's medical records for the three years prior to the date on which the claim ~~arose.~~arose, as well as all medical records pertaining to the claimed injury.

...."

SECTION 19.(a) G.S. 58-85-1 reads as rewritten:

"**§ 58-85-1. Application of fund.**

The money paid into the hands of the treasurer of the North Carolina State Firemen's Association shall be known and remain as the "Firemen's Relief Fund" of North Carolina, and shall be used as a fund for the relief of ~~firemen,~~ firemen and county fire marshals, who are members of ~~such~~ this Association, who may be injured or rendered sick by disease contracted in the actual discharge of duty as ~~firemen,~~ firemen or county fire marshals, and for the relief of widows, children, and if there be no widow or children, then dependent mothers of ~~such~~ the firemen and county fire marshals killed or dying from disease so contracted in ~~such~~ the discharge of duty; to be paid in ~~such~~ the manner and in ~~such~~ the sums to ~~such~~ the individuals of the classes herein named and described as may be provided for and determined upon in accordance with the constitution and bylaws of ~~said~~ the Association, and ~~such~~ any provisions and determinations made ~~pursuant to said~~ under the constitution and bylaws shall be final and conclusive as to the persons entitled to benefits and as to the amount of benefit to be received, and no action at law shall be maintained against ~~said~~ the Association to enforce any claim or recover any benefit under this Article or under the constitution and bylaws of ~~said~~ the Association; but if any officer or committee of ~~said~~ the Association omit or refuse to perform any duty imposed upon him or them, nothing herein contained shall be construed to prevent any proceedings against ~~said~~ that officer or committee to compel him or them to perform ~~such~~ that duty. No fireman or county fire marshal shall be entitled to receive any benefits under this section until the firemen's relief fund of his city or town ~~shall have~~ has been exhausted. Notwithstanding the above provisions, the Executive Board of the North Carolina State Firemen's Association is hereby authorized to grant educational scholarships to members and the children of members, to subsidize premium payments of members over 65 years of age to the Firemen's Fraternal Insurance Fund of the North Carolina State Firemen's Association, and to provide accidental death and dismemberment insurance for members of those fire departments not eligible for benefits pursuant to standards of certification adopted by the State Firemen's Association for the use of local relief funds."

SECTION 19.(b) G.S. 58-85-15 reads as rewritten:

"**§ 58-85-15. Who shall participate in the fund.**

The line of duty entitling one to participate in the fund shall be so construed as to mean actual fire duty only, and any actual duty connected with the fire department or county fire marshal office when directed to perform the same by an officer in charge."

SECTION 19.(c) G.S. 58-85-20 reads as rewritten:

"**§ 58-85-20. Who may become members.**

Any organized fire company in North Carolina, holding itself ready for duty, may, upon compliance with the requirements of ~~said~~ its constitution and bylaws, become a member of the North Carolina State Firemen's Association, and any fireman of good moral character in North Carolina, and belonging to an organized fire company, who ~~will comply~~ complies with the requirements of the constitution and bylaws of the North Carolina State Firemen's Association, may become a member of ~~said~~ the Association. Any county fire marshal office may, upon compliance with the requirements of its constitution and bylaws, become a member of the North Carolina Firemen's Association, and any employee of a county fire marshal office of good moral character

whose sole duty is to act as a fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county, who complies with the requirements of its constitution and bylaws, may become a member of the North Carolina Firemen's Association."

SECTION 19.(d) G.S. 58-85-25 reads as rewritten:

"**§ 58-85-25. Applied to members of regular fire company.**

~~The provisions of~~ G.S. 58-85-1, 58-85-10, 58-85-15, 58-85-20, and 58-85-25 shall apply to any fireman or fire marshal who is a member of a regularly organized fire ~~company,~~ company or county fire marshal office, and is a member in good standing of the North Carolina State Firemen's Association."

SECTION 20. G.S. 62-82(a) reads as rewritten:

"(a) Notice of Application for Certificate for Generating Facility; Hearing; Briefs and Oral Arguments. – Whenever there is filed with the Commission an application for a certificate of public convenience and necessity for the construction of a facility for the generation of electricity under G.S. 62-110.1, the Commission shall require the applicant to publish a notice thereof once a week for four successive weeks in a daily newspaper of general circulation in the county where such facility is proposed to be constructed and thereafter the Commission upon complaint shall, or upon its own initiative may, upon reasonable notice, enter upon a hearing to determine whether such certificate shall be awarded. Any such hearing must be commenced by the Commission not later than three months after the filing of such application, and the procedure for rendering decisions therein shall be given priority over all other cases on the Commission's calendar of hearings and decisions, except rate proceedings referred to in G.S. 62-81. Such applications shall be heard as provided in G.S. 62-60.1, and the Commission shall furnish a transcript of evidence and testimony submitted by the end of the second business day after the taking of each day of testimony. The Commission or panel shall require that briefs and oral arguments in such cases be submitted within 30 days after the conclusion of the hearing, and the Commission or panel shall render its decision in such cases within 60 days after submission of such briefs and arguments. If the Commission or panel does not, upon its own initiative, order a hearing and does not receive a complaint within 10 days after the last day of publication of the notice, the Commission or panel shall enter an order awarding the certificate. Notwithstanding this section, applicants for a certificate for solar photovoltaic facilities of 10 kilowatts or less are exempt from the requirement to publish public notice in newspapers."

SECTION 21. G.S. 66-27.1(a) reads as rewritten:

"(a) No individual, firm, corporation or business shall install, sell or offer for sale any automatic hot water tank or heater of 120-gallon capacity or ~~less~~ less, except for a tankless water heater, which does not have installed thereon by the manufacturer of ~~such~~ the tank or heater an American Society of Mechanical Engineers and National Board of Boiler and Pressure Vessel Inspectors approved type pressure-temperature relief valve set at or below the safe working pressure of the tank as indicated, and so labeled by the manufacturer's identification stamped or cast upon the tank or heater or upon a plate secured to it."

SECTION 22.(a) G.S. 90-171.21(d) reads as rewritten:

"(d) Qualifications. – Of the eight registered nurse members on the Board, one shall be a nurse administrator employed by a hospital or a hospital system, who shall be accountable for the administration of nursing services and not directly involved in patient care; one shall be an individual who meets the requirements to practice as a certified registered nurse anesthetist, a certified nurse midwife, a clinical nurse specialist, or a nurse practitioner; two shall be staff nurses, defined as individuals who are primarily involved in direct patient care regardless of practice setting; one shall be an at-large registered nurse who meets the requirements of sub-subdivisions (1)a., a1., and b. of this subsection, but is not currently an educator in a program leading to licensure or any other degree-granting program; and three shall be nurse educators. Minimum ongoing employment requirements for every registered nurse and licensed practical nurse shall include continuous employment equal to or greater than fifty percent (50%) of a full-time position that meets the criteria for the specified Board member position. Of the three nurse educators, one shall be a practical nurse educator, one shall be an associate degree or diploma nurse educator, and one shall be a baccalaureate or higher degree nurse educator. All nurse educators shall meet the minimum education requirement as established by the Board's education program standards for nurse faculty. Candidates eligible for election to the Board as nurse educators are not eligible for election as the at-large member.

(1) Except for the at-large member, every registered nurse member shall meet the following criteria:

a. Hold a current, unencumbered license to practice as a registered nurse in North Carolina.

a1. Be a resident of North Carolina.

b. Have a minimum of five years of experience as a registered nurse.

c. Have been engaged continuously in a position that meets the criteria for the specified Board position for at least three years immediately preceding election.

d. Show evidence that the employer of the registered nurse is aware that the nurse intends to serve on the Board.

(2) Every licensed practical nurse member shall meet the following criteria:

a. Hold a current, unencumbered license to practice as a licensed practical nurse in North Carolina.

a1. Be a resident of North Carolina.

c. Have a minimum of five years of experience as a licensed practical nurse.

d. Have been engaged continuously in the position of a licensed practical nurse for at least three years immediately preceding election.

e. Show evidence that the employer of the licensed practical nurse is aware that the nurse intends to serve on the Board.

(3) A public member shall not be a provider of health services, employed in the health services field, or hold a vested interest at any level in the provision of health services as defined by the North Carolina Board of Ethics. No public member or person in the public member's immediate family as defined by G.S. 90-405(8) shall be currently employed as a licensed nurse or been previously employed as a licensed nurse.

(4) The nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist member shall be recognized by the Board as a registered nurse who meets the following criteria:

a. Has graduated from or completed a graduate level advanced practice nursing education program accredited by a national accrediting body.

b. Maintains current certification or recertification from a national credentialing body approved by the Board or meets other requirements established by rules adopted by the Board.

c. Practices in a manner consistent with rules adopted by the Board and other applicable law."

SECTION 22.(b) This section is effective when it becomes law and applies to members elected to the Board on or after January 1, 2005.

SECTION 23. G.S. 114-19.50, Article VI. Establishment of Compact Council., subsection (b)(3), reads as rewritten:

"(b) The council must be composed of 15 members, each of whom must be appointed by the Attorney General, as follows:

...

(3) Two at-large members, nominated by the chair of the council once the chair is elected pursuant to ~~subsection (c)(3)~~subsection (c) of this Article VI, each of whom shall serve a three-year term, of whom:

a. One must be a representative of state or local criminal justice agencies; and

b. One must be a representative of state or local noncriminal justice agencies;

...."

SECTION 24.(a) G.S. 115C-522(a) reads as rewritten:

"(a) It shall be the duty of local boards of education to purchase or exchange all supplies, equipment, and materials, and these purchases shall be made in accordance with Article 8 of Chapter 143 of the General Statutes. These purchases may be made from contracts made by the Department of Administration. Title to instructional supplies, office supplies, fuel and janitorial supplies, enumerated in the current expense fund budget and purchased out of State funds, shall be taken in the name of the local board of education which shall be responsible for the custody and replacement: Provided, that no contracts shall be made by any local school administrative unit for purchases unless provision has been made in the budget of the unit to pay for the purchases, unless surplus funds are on hand to pay for the purchases, or unless the contracts are made pursuant to G.S. 115C-47(28) and G.S. 115C-528 and adequate

funds are available to pay in the current fiscal year the sums obligated for the current fiscal year. The State Board of Education shall adopt rules regarding equipment standards for supplies, equipment, and materials related to student transportation. The State Board may adopt guidelines for any commodity that needs safety features. If a commodity that needs safety features is available on statewide term contract, any guidelines adopted by the State Board must at a minimum meet the safety standards of the statewide term contract. Compliance with Article 8 of Chapter 143 of the General Statutes is not mandatory for the purchase of published books, manuscripts, maps, pamphlets, and periodicals.

(1) Where competition is available, local school administrative units may utilize the:

a. E-Quote service of the NC E-Procurement system as one means of solicitation in seeking informal bids for purchases subject to the bidding requirements of G.S. 143-131; and

b. Division of Purchase and Contract's electronic Interactive Purchasing System as one means of advertising formal bids on purchases subject to the bidding requirements of G.S. 143-129 and applicable rules regarding advertising. This sub-subdivision does not prohibit a local school administrative unit from using other methods of advertising.

(2) In order to provide an efficient transition of purchasing procedures, the Secretary of the Department of Administration and the local school administrative units shall establish a local school administrative unit purchasing user group. The user group shall be comprised of a proportionate number of representatives from the Department of Administration and local school administrative unit purchasing and finance officers. The user group shall examine any issues that may arise between the Department of Administration and local school administrative units, including the new relationship between the Department and the local school administrative units, the appropriate exchange of information, the continued efficient use of E-Procurement, appropriate bid procedures, and any other technical assistance that may be necessary for the purchase of supplies and materials."

SECTION 24.(b) This section becomes effective April 1, 2004.

SECTION 25.(a) G.S. 115C-549 reads as rewritten:

"**§ 115C-549. Standardized testing requirements.**

Each private church school or school of religious charter shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after the

testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina."

SECTION 25.(b) G.S. 115C-550 reads as rewritten:

"**§ 115C-550. High school competency testing.**

To assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function in society, each private church school or school of religious charter shall administer at least once in each school year, a nationally standardized test or other nationally standardized equivalent measure selected by the chief administrative officer of such school, to all students enrolled and regularly attending the eleventh grade. The nationally standardized test or other equivalent measurement selected must measure competencies in the verbal and quantitative areas. Each private church school or school of religious charter shall establish a minimum score which must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina."

SECTION 25.(c) G.S. 115C-557 reads as rewritten:

"**§ 115C-557. Standardized testing requirements.**

Each qualified nonpublic school shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after the testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina."

SECTION 25.(d) G.S. 115C-558 reads as rewritten:

"**§ 115C-558. High school competency testing.**

To assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function in society, each qualified nonpublic school shall administer at least once in each school year, a nationally standardized test or other nationally standardized equivalent measure selected by the chief administrative officer of such school, to all students enrolled and regularly attending the eleventh grade. The nationally standardized test or other equivalent measurement selected must measure competencies in the verbal and quantitative areas. Each qualified nonpublic school shall establish a minimum score which must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina."

SECTION 26.(a) G.S. 120-85 reads as rewritten:

"**§ 120-85. Definitions.**

As used in this Article:

(1) "Business with which ~~he is~~ associated" means any enterprise, incorporated or otherwise, doing business in the State of which ~~the legislator~~ the person or any member of ~~his~~ the person's immediate household is a director, officer, owner, partner, employee, or of which the ~~legislator~~ person and ~~his~~ the person's immediate household, either singularly or collectively, is a holder of securities worth five thousand dollars ($5,000) or more at fair market value as of December 31 of the preceding year, or constituting five percent (5%) or more of the outstanding stock of ~~such~~ the enterprise.

(1a) "Economic interest" includes matters involving a business with which the person is associated or a nonprofit corporation or organization with which the person is associated.

(2) "Immediate household" means the ~~legislator, his~~ person, the person's spouse, and all of the person's dependent ~~children of the legislator.~~ children.

(2a) "Nonprofit corporation or organization with which associated" means any public or private enterprise, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the person or any member of the person's immediate household is a director, officer, governing board member, employee or independent contractor as of December 31 of the preceding year.

(3) "Vested trust" as set forth in G.S. 120-96(4) means any trust, annuity or other funds held by a trustee or other third party for the benefit of the ~~member~~ person or a member of ~~his~~ the person's immediate household."

SECTION 26.(b) G.S. 120-87 reads as rewritten:

"**§ 120-87. Disclosure of confidential information.**

(a) No legislator shall use or disclose in any way confidential information gained in the course of the legislator's official activities or by reason of ~~his~~ the legislator's official position ~~or activities in any way~~ that could result in financial gain ~~for himself,~~ for: (i) the legislator; (ii) a business with which ~~he~~ the legislator is ~~associated or~~ associated; (iii) a nonprofit corporation or organization with which the legislator is associated; (iv) a member of ~~his~~ the legislator's immediate ~~household~~ household; or (v) any other person.

(b) As used in this section, "confidential information" means information defined as confidential by statute."

SECTION 26.(c) G.S. 120-96 reads as rewritten:

"**§ 120-96. Contents of statement.**

(a) Any statement of economic interest filed under this Article shall be on a form prescribed by the Committee, and the person filing the statement shall supply all of the following information:

(1) The identity, by name, of ~~any business~~ all businesses, nonprofit corporations or organizations with which ~~he, or any member of his immediate household, is associated;~~ the person is associated.

(2) The character and location of all real estate of a fair market value ~~in excess~~ of more than five thousand dollars ($5,000), other than ~~his~~ the person's personal residence (curtilage), in the State in which ~~he,~~ the person, or a member of ~~his~~ the person's immediate household, has any beneficial interest, including an option to buy and a lease for 10 years or ~~over;~~ more.

(3) The type of each creditor to whom ~~he,~~ the person, or a member of ~~his~~ the person's immediate household, owes ~~money,~~ more than five thousand dollars ($5,000), except indebtedness secured by lien upon ~~his~~ the person's personal residence ~~only, in excess of five thousand dollars ($5,000);~~ only.

(4) The name of each "vested trust" in which ~~he~~ the person or a member of ~~his~~ the person 's immediate household has a financial interest ~~in excess~~ of more than five thousand dollars ($5,000) and the nature of ~~such interest;~~ the interest.

(5) The name and nature of ~~his~~ the person and ~~his~~ the person's immediate household member's respective business or profession or employer and the types of customers and types of clientele ~~served;~~ served.

(6) A list of businesses with which ~~he~~ the person is associated that do business with the State, and a brief description of the nature of ~~such business; and~~ the business.

(6a) A list of nonprofit corporations or organizations with which the person is associated and which receive State funds, and a brief description of the nature of the programs receiving funds.

(7) In the case of ~~professional persons and associations,~~ a person who practices a profession, whether individually or as a member of a professional association, a list of ~~classifications of business clients~~ clients, by the type of business, whom the person or the person's firm or partnership has ~~which classes were~~ charged or who have paid to the person or the person's firm or partnership two thousand five hundred dollars ($2,500) or more for professional services rendered during the previous calendar ~~year for professional services rendered by him, his firm or partnership.~~ year. This list need not include the name of the client but shall list the type of the business of each such client or class of client, and brief description of the nature of the services rendered.

(b) All information provided in the statement of economic interest shall be current as of the last day of December of the year preceding the signature date."

SECTION 26.(d) G.S. 120-99 reads as rewritten:

"**§ 120-99. Creation; composition.**

(a) The Legislative Ethics Committee is created to consist of ten members, five Senators appointed by the President Pro Tempore of the Senate, among them – two from a list of four submitted by the Majority Leader and two from a list of four submitted by the Minority Leader, and five members of the House of Representatives appointed by the Speaker of the House, among them – two from a list of four submitted by the Majority Leader and two from a list of four submitted by the Minority Leader.

(b) The President Pro Tempore of the Senate and the Speaker of the House as the appointing officers shall each designate a cochair of the Legislative Ethics Committee from the respective officer's appointees. The cochair appointed by the President Pro Tempore of the Senate shall preside over the Legislative Ethics Committee during the odd-numbered year, and the cochair appointed by the Speaker of the House shall preside in the even-numbered year. However, a cochair may preside at anytime during the absence of the presiding cochair or upon the presiding cochair's designation. In the event a cochair is unable to act as cochair on a specific matter before the Legislative Ethics Committee, and so indicates in writing to the appointing officer and the Legislative Ethics Committee, the respective officer shall designate from that officer's appointees a member to serve as cochair for that specific matter.

(c) The provisions of G.S. 120-19.1 through G.S. 120-19.8 shall apply to the proceedings of the Legislative Ethics Committee as if it were a joint committee of the General Assembly, except that both cochairs shall sign all subpoenas on behalf of the Committee."

SECTION 26.(e) G.S. 120-100 reads as rewritten:

"**§ 120-100. Term of office; vacancies.**

(a) Appointments to the Legislative Ethics Committee shall be made immediately after the convening of the regular session of the General Assembly in odd-numbered years, and appointees shall serve until the expiration of their then-current terms as members of the General Assembly.

(b) A vacancy occurring for any reason during a term shall be filled for the unexpired term by the authority making the appointment which caused the vacancy, and the person appointed to fill the vacancy shall, if possible, be a member of the same political party as the member who caused the vacancy.

(c) In the event a member of the Legislative Ethics Committee is unable to act on a specific matter before the Legislative Ethics Committee, and so indicates in writing to the appointing officer and the Legislative Ethics Committee, the appointing officer may appoint another member of the respective chamber from a list submitted by the majority leader or minority leader who nominated the member who is unable to act on the matter to serve as a member of the Legislative Ethics Committee for the specific matter only. If on any specific matter, the number of members of the Legislative Ethics Committee who are unable to act on a specific matter exceeds four members, the appropriate appointing officer shall appoint other members of the General Assembly to serve as members of the Legislative Ethics Committee for that specific matter only."

SECTION 26.(f) Subsections (a), (b) and (c) of this section are effective January 1, 2006, and apply to candidates running for office on or after that date, to

persons appointed to fill vacancies for the 2007 and subsequent General Assemblies, and to presiding officers of the 2007 and subsequent General Assemblies. The remainder of this section is effective when it becomes law.

SECTION 26.5. G.S. 122C-22(a) reads as rewritten:

"**§ 122C-22. Exclusions from licensure; deemed status.**

(a) The following are excluded from the provisions of this Article and are not required to obtain licensure under this Article:

(1) Physicians and psychologists engaged in private office practice;

(2) General hospitals licensed under Article 5 of Chapter 131E of the General Statutes, that operate special units for the mentally ill, developmentally disabled, or substance abusers;

(3) State and federally operated facilities;

(4) Adult care homes licensed under Chapter 131D of the General Statutes;

(5) Developmental child care centers licensed under Article 7 of Chapter 110 of the General Statutes;

(6) Persons subject to licensure under rules of the Social Services Commission;

(7) Persons subject to rules and regulations of the Division of Vocational Rehabilitation Services;

(8) Facilities that provide occasional respite care for not more than two individuals at a time; provided that the primary purpose of the facility is other than as defined in G.S. 122C-3(14);

(9) Twenty-four-hour nonprofit facilities established for the purposes of shelter care and recovery from alcohol or other drug addiction through a 12-step, self-help, peer role modeling, and self-governance approach; ~~and~~

(10) Inpatient chemical dependency or substance abuse facilities that provide services exclusively to inmates of the Department of Correction, as described in ~~G.S. 148-19.1.~~G.S. 148-19.1; and

(11) A charitable, non-profit, faith-based, adult residential treatment facility that does not receive any federal or State funding and is part of an international organization serving at least 50 countries that helps persons ages 18-40 overcome life controlling problems and is a religious organization exempt from federal income tax under section 501(a) of the Internal Revenue Code."

SECTION 27.(a) G.S. 135-1(25) reads as rewritten:

"(25) "Teacher" shall mean any teacher, helping teacher, ~~classroom~~ teacher in a job-sharing position ~~as defined in G.S. 115C-302.2(b)~~ under G.S. 115C-326.5 except for a beneficiary in that position, librarian, principal, supervisor, superintendent of public schools or any full-time employee, city or county, superintendent of public instruction, or any full-time employee of Department of Public Instruction, president, dean or teacher, or any full-time employee in any educational

institution supported by and under the control of the State: Provided, that the term "teacher" shall not include any part-time, temporary, or substitute teacher or employee except for a ~~classroom~~ teacher in a job-sharing position, and shall not include those participating in an optional retirement program provided for in G.S. 135-5.1 or G.S. 135-5.4. In all cases of doubt, the Board of Trustees, hereinbefore defined, shall determine whether any person is a teacher as defined in this Chapter. On and after August 1, 2001, a person who is a nonimmigrant alien and who otherwise meets the requirements of this subdivision shall not be excluded from the definition of "teacher" solely because the person holds a temporary or time-limited visa. Notwithstanding the foregoing, the term "teacher" shall not include any nonimmigrant alien employed in elementary or secondary public schools (whether employed in a full-time, part-time, temporary, permanent, or substitute teacher position) and participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part 62."

SECTION 27.(b) G.S. 135-40.2(a2) reads as rewritten:

"(a2) A school employee in a job-sharing position as defined in ~~G.S. 115C-302.2(b)~~ G.S. 115C-326.5(b) shall be eligible for coverage under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-40.3. If these employees elect to participate in the Plan, the employing unit shall pay fifty percent (50%) of the Plan's total noncontributory premiums. Individual employees shall pay the balance of the total noncontributory premiums not paid by the employing unit."

SECTION 28. G.S. 143-34.1(d) reads as rewritten:

"(d) Notwithstanding any other provisions of law relating to the salaries of officers and employees of departments, institutions, and agencies of State government, the Director of the Budget is authorized to provide a plan of flexible compensation to eligible officers and employees of State departments, institutions, and agencies not covered by the provisions of G.S. 116-17.2 for benefits available under Section 125 and related sections of the Internal Revenue Code of 1986 as amended. This plan shall not ~~include those~~ replace, substitute for, or duplicate any benefits provided to employees and officers under Article 1A of Chapter 120 of the General Statutes and Articles 1, 3, 4, and 6 of Chapter 135 of the General ~~Statutes nor any vacation leave, sick leave, or any other leave that may be carried forward from year to year by employees as a form of deferred compensation.~~ Statutes. The plan may, however, include offerings for products and benefits that are supplemental or additional to these statutory benefits. In providing a plan of flexible compensation, the Director of the Budget may authorize State departments, institutions, and agencies to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Director of the Budget decide

to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process."

SECTION 29.(a) Part 3 of Article 3A of Chapter 143 of the General Statutes is repealed.

SECTION 29.(b) G.S. 143-129.8(b) reads as rewritten:

"(b) Contracts for information technology may be entered into under a request for proposals procedure that satisfies the following minimum requirements:

(1) Notice of the request for proposals shall be given in accordance with ~~G.S. 143-129(a)~~G.S. 143-129(b).

(2) Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the awarding authority. Factors to be considered in awarding contracts shall be identified in the request for proposals."

SECTION 30.(a) Article 9 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"**§ 143-143.5. Access to toilets in shopping malls.**

Notwithstanding any other law or rule, a horizontal travel distance of 300 feet for access to public use toilets in shopping malls shall be allowed."

SECTION 30.(b) This section is effective when it becomes law and applies to shopping malls for which building permits are issued on or before July 1, 2005. This section expires July 1, 2005.

SECTION 31.(a) G.S. 157-9 is amended by adding the following new subsection to read:

"(d) A housing authority shall not erect or maintain around any lawfully occupied housing units any fence or gate structure that is electrified or that includes spikes or barbed wire."

SECTION 31.(b) This section is effective when it becomes law and applies to existing fences and gates.

SECTION 32.(a) G.S. 160A-361 reads as rewritten:

"**§ 160A-361. Planning ~~agency.~~boards.**

(a) Any city may by ordinance create or designate one or more ~~agencies~~ boards or commissions to perform the following duties:

(1) Make studies of the area within its jurisdiction and surrounding areas;

(2) Determine objectives to be sought in the development of the study area;

(3) Prepare and adopt plans for achieving these objectives;

(4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

(5) Advise the council concerning the use and amendment of means for carrying out plans;

(6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the council may direct;

(7) Perform any other related duties that the council may direct.

(b) ~~An agency~~ A board or commission created or designated pursuant to this section may include, but shall not be limited to, one or more of the following:

(1) A planning board or commission of any size (with not fewer than three members) or composition deemed appropriate, organized in any manner deemed appropriate;

(2) A joint planning board created by two or more local governments pursuant to Article 20, Part 1, of this Chapter."

SECTION 32.(b) G.S. 160A-363 reads as rewritten:

"**§ 160A-363. Supplemental powers.**

A city or its designated planning ~~agency~~ board may accept, receive, and disburse in furtherance of its functions any funds, grants, and services made available by the federal government and its agencies, the State government and its agencies, any local government and its agencies, and any private and civic sources. Any city, or its designated planning ~~agency~~ board with the concurrence of the council, may enter into and carry out contracts with the State and federal governments or any agencies thereof under which financial or other planning assistance is made available to the city and may agree to and comply with any reasonable conditions that are imposed upon such assistance.

Any city, or its designated planning ~~agency~~ board with the concurrence of the council, may enter into and carry out contracts with any other city, county, or regional council or planning agency under which it agrees to furnish technical planning assistance to the other local government or planning agency. Any city, or its designated planning ~~agency~~ board with the concurrence of its council, may enter into and carry out contracts with any other city, county, or regional council or planning agency under which it agrees to pay the other local government or planning ~~agency~~ board for technical planning assistance.

Any city council is authorized to make any appropriations that may be necessary to carry out any activities or contracts authorized by this Article or to support, and compensate members of, any planning ~~agency~~ board that it may create pursuant to this Article, and to levy taxes for these purposes as a necessary expense."

SECTION 32.(c) G.S. 153A-321 reads as rewritten:

"**§ 153A-321. Planning ~~agency.~~ boards.**

A county may by ordinance create or designate one or more ~~agencies~~ boards or commissions to perform the following duties:

(1) Make studies of the county and surrounding areas;

(2) Determine objectives to be sought in the development of the study area;

(3) Prepare and adopt plans for achieving these objectives;

(4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

(5) Advise the board of commissioners concerning the use and amendment of means for carrying out plans;

(6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the board of commissioners may direct;

(7) Perform any other related duties that the board of commissioners may direct.

~~An agency~~ A board or commission created or designated pursuant to this section may include but shall not be limited to one or more of the following:

(1) A planning board or commission of any size (with not fewer than three members) or composition considered appropriate, organized in any manner considered appropriate;

(2) A joint planning board created by two or more local governments according to the procedures and provisions of Chapter 160A, Article 20, Part 1."

SECTION 32.(d) G.S. 153A-322 reads as rewritten:

"**§ 153A-322. Supplemental powers.**

A county or its designated planning ~~agency~~ board may accept, receive, and disburse in furtherance of its functions funds, grants, and services made available by the federal government or its agencies, the State government or its agencies, any local government or its agencies, and private or civic sources. A county, or its designated planning ~~agency~~ board with the concurrence of the board of commissioners, may enter into and carry out contracts with the State or federal governments or any agencies of either under which financial or other planning assistance is made available to the county and may agree to and comply with any reasonable conditions that are imposed upon the assistance.

A county, or its designated planning ~~agency~~ board with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning agency under which it agrees to furnish technical planning assistance to the other local government or planning agency. A county, or its designated planning ~~agency~~ board with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning ~~agency~~ board under which it agrees to pay the other local government or planning ~~agency~~ board for technical planning assistance.

A county may make any appropriations that may be necessary to carry out an activity or contract authorized by this Article, by Chapter 157A, or by Chapter 160A, Article 19 or to support, and compensate members of, any planning agency that it may create or designate pursuant to this Article."

SECTION 32.(e) G.S. 160A-392 reads as rewritten:

"**§ 160A-392. Part applicable to buildings constructed by State and its subdivisions; exception.**

All of the provisions of this Part are hereby made applicable to the erection, construction, and use of buildings and land by the State of North Carolina and its political subdivisions.

Notwithstanding the provisions of any general or local law or ordinance, no land owned by the State of North Carolina may be included within ~~an overlay district or~~ a

~~special use or~~ conditional ~~use~~ district without approval of the Council of ~~State.~~State or its designate."

SECTION 32.(f) This section becomes effective October 1, 2004.

SECTION 33. The introductory language of subsection (b) of Section 2 of S.L.1997-41, as amended by S.L. 1998-19, S.L. 2001-318, S.L. 2003-55, and S.L. 2003-260 is rewritten to read:

"(b) The Board of the North Carolina Indian Cultural Center, Inc., shall consist of 20 members, appointed as follows:"

SECTION 34.(a) The lead-in language of Section 1 of S.L. 2003-392 is rewritten to read:

"**SECTION 1.** G.S. 153A-225 is amended by adding the following new subsection to read:"

SECTION 34.(b) This section becomes effective August 7, 2003.

SECTION 35. If House Bill 142, 2003 Regular Session, becomes law, then Section 2.1 of that act reads as rewritten:

"**SECTION 2.1.** Privilege tax. – Notwithstanding the provisions of G.S. 153A-152, the Dare County Board of Commissioners may levy a privilege tax of up to three hundred dollars ($300.00) per ~~rental unit~~establishment on each business engaged in the furnishing of any room, lodging, or accommodation within the county the rental of which is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax does not apply to nonprofit charitable, educational, or religious organizations that furnish accommodations in furtherance of their nonprofit purpose. For the purposes of this act, "establishment" has the same meaning as in G.S. 105-129.2."

SECTION 36. If House Bill 1414, 2003 Regular Session, becomes law, then Section 7.22(a) of House Bill 1414 reads as rewritten:

"**HIGH SCHOOL WORKFORCE DEVELOPMENT PROGRAM**

SECTION 7.22.(a) Funds are appropriated in this act for a high school workforce development program. The purpose of the program shall be to identify students who may not plan to attend or be adequately prepared to attend a two- or four-year degree program and to provide the assistance those students need to earn an Associate Degree the year after their senior year in high school. The Department of Public Instruction shall work closely with the Education Cabinet and the New Schools Project in administering the program.

These funds shall be used to establish five pilot projects in which a local school administrative unit, two- and four-year colleges and universities, and local employers work together to ensure that high school and community college curricula operate seamlessly and meet the needs of participating employers. Notwithstanding any other law or rule, a local school administrative unit and two- and four-year colleges and universities shall agree upon the minimum age of the students who participate in the pilot projects."

SECTION 37. If Section 8.17 of House Bill 1414, 2003 Regular Session, becomes law, then a new subsection is added to read:

"**SECTION 8.17.(c)** No request for proposals need be issued for any contract under subdivision (a)(2) of this section."

SECTION 38. If Senate Bill 582, 2003 Regular Session, becomes law, G.S. 130A-475(b), as enacted by that law, reads as rewritten:

"(b) The authority under subsection (a) of this section shall be exercised only when and so long as a public health threat may exist, all other reasonable means for correcting the problem have been exhausted, and no less restrictive alternative exists. Before applying the authority under subdivision (4) or (5) of subsection (a) of this section to livestock or poultry for the purpose of preventing the direct or indirect conveyance of a biological, chemical or nuclear agent to persons, the State Health Director shall consult with the State Veterinarian in the Department of Agriculture and Consumer Services.

The period of limited freedom of movement or access under subdivisions (4) and (5) of subsection (a) of this section shall not exceed 30 calendar days. Any person substantially affected by that limitation may institute, in superior court in Wake County or in the county in which the limitation is imposed, an action to review the limitation. The State Health Director shall give the persons known by the State Health Director to be substantially affected by the limitation reasonable notice under the circumstances of the right to institute an action to review the limitation. If a person or a person's representative requests a hearing, the hearing shall be held within 72 hours of the filing of the request, excluding Saturdays and Sundays. The person substantially affected by that limitation is entitled to be represented by counsel of the person's own choice or if the person is indigent, the person shall be represented by counsel appointed in accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted by the Office of Indigent Defense Services. The court shall reduce or terminate the limitation unless it determines, by the preponderance of the evidence, that the limitation is reasonably necessary to prevent or limit the conveyance of biological, chemical or nuclear agents to others, and may apply such conditions to the limitation as the court deems reasonable and necessary.

If the State Health Director determines that a 30-calendar-day limitation on freedom of movement or access is not adequate to protect the public health, the State Health Director must institute in superior court in the county in which the limitation is imposed, an action to obtain an order extending the period limiting the freedom of movement or access. If the person substantially affected by the limitation has already instituted an action in superior court in Wake County, the State Health Director must institute the action in superior court in Wake County or as a counterclaim in the pending case. The court shall continue the limitation for a period not to exceed 30 days, subject to conditions it deems reasonable and necessary, if it determines by the preponderance of the evidence, that additional limitation is reasonably necessary to prevent or limit the conveyance of biological, chemical, or nuclear agents to others. The court order shall specify the period of time the limitation is to be continued and shall provide for automatic termination of the order upon written determination by the State Health Director or local health director that the ~~quarantine or isolation~~ limitation on freedom of movement or access is no longer necessary to protect the public health. In addition, where the petitioner can prove by a preponderance of the evidence that ~~quarantine or isolation~~ the limitation on freedom of movement or access was not or is no longer

needed for protection of the public health, the person ~~quarantined or isolated~~ so limited may move the trial court to reconsider its order extending ~~quarantine or isolation~~ the limitation on freedom of movement or access before the time for the order otherwise expires and may seek immediate or expedited termination of the order. Before the expiration of an order issued under this section, the State Health Director may move to continue the order for additional periods not to exceed 30 days each."

SECTION 38.1.(a) Section 1 of Chapter 196 of the 1995 Session Laws reads as rewritten:

"Section 1. The provisions of Chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles are applicable to the drives, driveways, roads, roadways, streets, courts, extensions, alleys, and parking lots, by whatever name known, on the properties owned by or under the control of The Colington Harbour Association, Inc., or the Martin's Point Homeowners Association, Inc., and shown on the several plats recorded in the office of the Register of Deeds of Dare County. For purposes of this act, drives, driveways, roads, roadways, streets, courts, extensions, alleys, and parking lots, by whatever name known shall have the same meaning as highways and public vehicular areas pursuant to G.S. 20-4.01. A violation of any of those laws is punishable as prescribed by those laws."

SECTION 38.1.(b) Section 2 of Chapter 196 of the 1995 Session Laws reads as rewritten:

"Sec. 2. This act shall not be construed as in any way interfering with the ownership and control of the drives, driveways, roads, roadways, streets, courts, extensions, alleys, and parking lots, by whatever name known, of The Colington Harbour Association, Inc., or the Martin's Point Homeowners Association, Inc., nor does this require the removal of the private guard gate belonging to ~~the~~ either Association."

SECTION 39. The Department of Transportation shall install highway directional guide signs at the freeway ramp terminals for colleges or universities with a campus located in North Carolina if the campus is within one mile from the freeway ramp terminal, is licensed by the Board of Governors of The University of North Carolina, offers both undergraduate and graduate degree programs, and has a minimum of 350 students enrolled at the campus. The college or university requesting the sign installment shall pay for all charges related to the construction of the sign.

SECTION 40. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 1225*

Judiciary I Committee Substitute Adopted 7/12/04
Third Edition Engrossed 7/14/04
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1225-PCS35509-RU-67

Short Title: 2004 Technical Corrections Act. (Public)

Sponsors:

Referred to:

May 20, 2004

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS, AS APPROVED BY THE HOUSE RULES, CALENDAR, AND OPERATIONS OF THE HOUSE COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. TECHNICAL CORRECTIONS RECOMMENDED BY THE GENERAL STATUTES COMMISSION

SECTION 1. G.S. 62-3 reads as rewritten:

"**§ 62-3. Definitions.**

As used in this Chapter, unless the context otherwise requires, the term:

...

(23) ...

a. "Public utility" means a person, whether organized under the laws of this State or under the laws of any other state or country, now or hereafter owning or operating in this State equipment or facilities for:

1. Producing, generating, transmitting, delivering or furnishing electricity, piped gas, steam or any other like agency for the production of light, heat or power to or for the public for compensation; provided, however, that the term "public utility" shall not include persons who construct or operate an electric generating facility, the primary purpose of which facility is for such person's

own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation;

2. Diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation, or operating a public sewerage system for compensation; provided, however, that the term "public utility" shall not include any person or company whose sole operation consists of selling water to less than 15 residential customers, except that any person or company which constructs a water system in a subdivision with plans for 15 or more lots and which holds itself out by contracts or other means at the time of said construction to serve an area containing more than 15 residential building lots shall be a public utility at the time of such planning or holding out to serve such 15 or more building lots, without regard to the number of actual customers connected;
3. Transporting persons or household goods by street, suburban or interurban bus for the public for compensation;
4. Transporting persons or household goods by motor vehicles or any other form of transportation for the public for compensation, except motor carriers exempted in G.S. 62-260, carriers by rail, and carriers by air;
5. Transporting or conveying gas, crude oil or other fluid substance by pipeline for the public for compensation;
6. Conveying or transmitting messages or communications by telephone or telegraph, or any other means of transmission, where such service is offered to the public for compensation.

b. The term "public utility" shall for rate-making purposes include any person producing, generating or furnishing any of the foregoing services to another person for distribution to or for the public for compensation.

c. The term "public utility" shall include all persons affiliated through stock ownership with a public utility doing business in this State as parent corporation or subsidiary corporation as defined in G.S. 55-2 to such an extent that the Commission shall find that such affiliation has an effect on the rates or service of such public utility.

d. The term "public utility," except as otherwise expressly provided in this Chapter, shall not include a municipality, an authority organized under the North Carolina Water and Sewer

Authorities Act, electric or telephone membership corporation; or any person not otherwise a public utility who furnishes such service or commodity only to himself, his employees or tenants when such service or commodity is not resold to or used by others; provided, however, that any person other than a nonprofit organization serving only its members, who distributes or provides utility service to his employees or tenants by individual meters or by other coin-operated devices with a charge for metered or coin-operated utility service shall be a public utility within the definition and meaning of this Chapter with respect to the regulation of rates and provisions of service rendered through such meter or coin-operated device imposing such separate metered utility charge. If any person conducting a public utility shall also conduct any enterprise not a public utility, such enterprise is not subject to the provisions of this Chapter. A water or sewer system owned by a homeowners' association that provides water or sewer service only to members or leaseholds of members is not subject to the provisions of this Chapter.

e. The term "public utility" shall include the University of North Carolina insofar as said University supplies telephone service, electricity or water to the public for compensation from the University Enterprises defined in G.S. 116-41.1(9).

f. The term "public utility" shall include the Town of Pineville insofar as said town supplies telephone services to the public for compensation. The territory to be served by the Town of Pineville in furnishing telephone services, subject to the Public Utilities Act, shall include the town limits as they exist on May 8, 1973, and shall also include the area proposed to be annexed under the town's ordinance adopted May 3, 1971, until January 1, 1975.

g. The term "public utility" shall not include a hotel, motel, time share or condominium complex operated primarily to serve transient occupants, which imposes charges to occupants for local, long-distance, or wide area telecommunication services when such calls are completed through the use of facilities provided by a public utility, and provided further that the local services received are rated in accordance with the provisions of G.S. 62-110(d) and the applicable charges for telephone calls are prominently displayed in each area where occupant rooms are located.

h. The term "public utility" shall not include the resale of electricity by (i) a campground operated primarily to serve transient occupants, or (ii) a marina; provided that (i) the

campground or marina charges no more than the actual cost of the electricity supplied to it, (ii) the amount of electricity used by each campsite or marina slip occupant is measured by an individual metering device, (iii) the applicable rates are prominently displayed at or near each campsite or marina slip, and (iv) the campground or marina only resells electricity to campsite or marina slip occupants.

i. The term "public utility" shall not include the State, the Office of ~~the State Controller,~~ Information Technology Services, or the Microelectronics Center of North Carolina in the provision or sharing of switched broadband telecommunications services with non-State entities or organizations of the kind or type set forth in G.S. 143B-426.39.

j. The term "public utility" shall not include any person, not otherwise a public utility, conveying or transmitting messages or communications by mobile radio communications service. Mobile radio communications service includes one-way or two-way radio service provided to mobile or fixed stations or receivers using mobile radio service frequencies.

k. The term "public utility" shall not include a regional natural gas district organized and operated pursuant to Article 28 of Chapter 160A of the General Statutes.

...."

SECTION 2. G.S. 111-52 reads as rewritten:

"**§ 111-52. Profits from Highway Vending Fund.**

Profits generated by highway vending locations as of June 30, 1992, and deposited in a special fund in accordance with the ~~Administrative Policies and Procedures Manual~~ policies of the Office of the State Controller shall be reserved for the construction and maintenance of highway vending facility projects."

SECTION 3. G.S. 113-307.1(b) reads as rewritten:

"(b) The State of North Carolina hereby assents to the provisions of the act of Congress entitled "An act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes," approved September 2, 1937 (Public Law 415, 75th Congress), and the Wildlife Resources Commission is hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in said act of Congress, in compliance with said act and rules and regulations promulgated by the Secretary of ~~Agriculture~~ the Interior thereunder; and no funds accruing to the State of North Carolina from license fees paid by hunters shall be diverted for any other purpose than the protection and propagation of game and wildlife in North Carolina and administration of the laws enacted for such purposes, which laws are and shall be administered by the Wildlife Resources Commission."

SECTION 4. G.S. 115C-102.5(e) reads as rewritten:

"(e) The Department of Public Instruction, the Department of Community Colleges, and the Office of ~~the State Controller~~ Information Technology Services shall provide requested professional and clerical staff to the Commission. The Commission may also employ professional and clerical staff and may hire outside consultants to assist it in its work. The Commission shall use an outside consultant to perform a requirements analysis for learning and instructional management technologies on a statewide basis that is based on information gathered from each local school administrative unit and that considers the needs of teachers, students, and administrators."

PART II. OTHER CHANGES

SECTION 5.(a) G.S. 1A-1, Rule 5(d), reads as rewritten:

"(d) Filing. – All pleadings subsequent to the complaint shall be filed with the court. All other papers required to be served upon a party, including requests for admissions, shall be filed with the court either before service or within five days thereafter, except that subpoenas, objections to subpoenas under Rule 45(c)(3), depositions, interrogatories, requests for documents, and answers and responses to those requests may not be filed unless ordered by the court or until used in the proceeding. Briefs and memoranda provided to the court may not be filed with the clerk of the court unless ordered by the court. The party taking a deposition or obtaining material through discovery is responsible for its preservation and delivery to the court if needed or so ordered. With respect to all pleadings and other papers as to which service and return has not been made in the manner provided in Rule 4, proof of service shall be made by filing with the court a certificate either by the attorney or the party that the paper was served in the manner prescribed by this rule, or a certificate of acceptance of service by the attorney or the party to be served. Such certificate shall show the date and method of service or the date of acceptance of service."

SECTION 5.(b) This section becomes effective October 1, 2004, and applies to all pending cases and all cases filed on or after that date.

SECTION 6. G.S. 10A-16(d) reads as rewritten:

"(d) This section applies to notarial acts performed on or before ~~March 1, 2003.~~February 1, 2004."

SECTION 7. G.S. 14-33(d) reads as rewritten:

"(d) Any person who, in the course of an assault, assault and battery, or affray, inflicts serious injury upon another person, or uses a deadly weapon, in violation of subdivision (c)(1) of this section, on a person with whom the person has a personal relationship, and in the presence of a minor, is guilty of a Class A1 misdemeanor. A person convicted under this subsection, who is sentenced to a community punishment, shall be placed on supervised probation in addition to any other punishment imposed by the court.

A person committing a second or subsequent violation of this subsection shall be sentenced to an active punishment of no less than 30 days in addition to any other punishment imposed by the court.

The following definitions apply to this subsection:

(1) "Personal relationship" is as defined in G.S. 50B-1(b).

(2) "In the presence of a minor" means that the minor was in a position to have observed the assault.

(3) "Minor" is any person under the age of 18 years who is residing with or is under the care and supervision of, and who has a personal relationship with, the person assaulted or the person committing the assault."

SECTION 8. G.S. 18B-103 is amended by adding a new subdivision to read:

"(11) Under the direct supervision of an instructor during a culinary class that is part of an established culinary curriculum at an accredited college or university, the delivery to or possession or consumption by a student who is less than 21 years of age, when the student is required to taste or imbibe the alcoholic beverage during a culinary class conducted pursuant to the curriculum."

SECTION 9. G.S. 18B-603(f) reads as rewritten:

"(f) Permits Not Dependent on Elections. – The Commission may issue the following kinds of permits without approval at an election:

(1) Special occasion permits;

(2) Limited special occasion permits;

(3) Brown-bagging permits for private clubs and congressionally chartered veterans organizations;

(4) Culinary permits, except as restricted by subdivision (d)(5);

(5) Special one-time permits issued under G.S. 18B-1002;

(6) All permits listed in G.S. 18B-1100;

(7) ~~On-premises malt beverage permits and on-premises unfortified wine permits for a tourism ABC establishment;~~ The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism ABC establishments;

(8) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for tourism resorts;

(9) The permits authorized by G.S. 18B-1001(1), (3), (5), and (10) for historic ABC establishments."

SECTION 10. G.S. 18B-1006(m)(2) reads as rewritten:

"(2) The Commission may issue permits listed in G.S. 18B-1001(1), (3), (5), and (10) to qualified establishments defined in G.S. 18B-1000(4), (6), and (8) and may issue permits listed in G.S. 18B-1001(2) and (4) to qualified establishments defined in G.S. 18B-1000(3) in any county that qualifies for issuance of permits pursuant to ~~G.S. 18B-1006(k)(5).~~G.S. 18B-1006(k). These permits may be issued without approval at an election and shall be issued only to qualified establishments that meet ~~any~~ all of the following requirements:

a. Located within one mile of any interstate highway interchange in that ~~county.~~county;

b. Located within one mile of an establishment issued a permit under ~~G.S. 18B-1006(k)(5).~~G.S. 18B-1006(k); and

c. Is, or is located within one-quarter mile of, a hotel with 70 or more rooms."

SECTION 11. G.S. 18B-1101(6) reads as rewritten:

"**§ 18B-1101. Authorization of unfortified winery permit.**

The holder of an unfortified winery permit may:

...

(6) Sell the wine ~~owned~~ manufactured by the winery or produced under the winery's label under subdivision (2a) of this section for on- or off-premise consumption at no more than three other locations in the State, upon obtaining the appropriate permit under G.S. 18B-1001; and

...."

SECTION 12. G.S. 19A-24(1) reads as rewritten:

"**§ 19A-24. Powers of Board of Agriculture.**

The Board of Agriculture may:

(1) Establish standards for the care of animals at animal shelters, boarding kennels, pet shops, and public auctions. A boarding kennel that offers dog day care services and has a ratio of dogs to employees or supervisors, or both employees and supervisors, of not more than 10 to one, shall not as to such services be subject to any regulations that restrict the number of dogs that are permitted within any primary enclosure.

...."

SECTION 13.(a) G.S. 20-16.1(b) reads as rewritten:

"(b) ...

(3) Upon conviction of such offense outside the jurisdiction of this State the person so convicted may apply to ~~the resident judge of the superior court~~ a district court judge of the district or set of districts as defined in G.S. 7A-41.1(a) in which he resides for limited driving privileges hereinbefore defined. Upon such application the judge shall have the authority to issue such limited driving privileges in the same manner as if he were the trial judge.

...."

SECTION 13.(b) G.S. 97-10.2(j) reads as rewritten:

"(j) Notwithstanding any other subsection in this section, in the event that a judgment is obtained by the employee in an action against a third party, or in the event that a settlement has been agreed upon by the employee and the third party, either party may apply to the resident superior court judge of the county in which the cause of action ~~arose,~~ arose or where the injured employee ~~resides or the~~ resides, or to a presiding judge ~~before whom the cause of action is pending,~~ of either district, to determine the subrogation amount. After notice to the employer and the insurance carrier, after an opportunity to be heard by all interested parties, and with or without the consent of the employer, the judge shall determine, in his discretion, the amount, if any, of the employer's lien, whether based on accrued or prospective workers' compensation benefits, and the amount of cost of the third-party litigation to be shared between the

employee and employer. The judge shall consider the anticipated amount of prospective compensation the employer or workers' compensation carrier is likely to pay to the employee in the future, the net recovery to plaintiff, the likelihood of the plaintiff prevailing at trial or on appeal, the need for finality in the litigation, and any other factors the court deems just and reasonable, in determining the appropriate amount of the employer's lien. If the matter is pending in the federal district court such determination may be made by a federal district court judge of that division."

SECTION 14. G.S. 20-179.4 reads as rewritten:

"**§ 20-179.4. Community service alternative punishment; responsibilities of the Department of ~~Crime Control and Public Safety;~~ Correction; fee.**

(a) The Department of ~~Crime Control and Public Safety~~Correction shall conduct a community service alternative punishment program for persons sentenced under G.S. 20-179(i), (j) or (k).

(b) The Secretary of ~~Crime Control and Public Safety~~Correction shall assign at least one coordinator to each district court district as defined in G.S. 7A-133 to assure and report to the court the person's compliance with the community service sentence. The appointment of each coordinator shall be made in consultation with the chief district court judge in the district to which the coordinator is assigned. Each county must provide office space in the courthouse or other convenient place, necessary equipment, and secretarial service for the use of each coordinator assigned to that county.

(c) A fee of two hundred dollars ($200.00) shall be paid by all persons serving a community service sentence. That fee shall be paid to the clerk of court in the county in which the person is convicted. The fee shall be paid in full within two weeks unless the court, upon a showing of hardship by the person, allows additional time to pay the fee. The person may not be required to pay the fee before beginning the community service unless the court specifically orders the person to do so.

(d) Fees collected under this section shall be deposited in the general fund.

(e) The coordinator shall report to the court in which the community service was ordered a significant violation of the terms of the probation judgment related to community service. The court shall then conduct a hearing to determine if there is a willful failure to comply. If the court determines there is a willful failure to pay the prescribed fee or to complete the work as ordered by the coordinator within the applicable time limits, the court shall revoke any limited driving privilege issued in the impaired driving case until the community service requirement has been met and in addition may take any further action authorized by Article 82 of General Statutes Chapter 15A for violation of a condition of probation."

SECTION 15. G.S. 35A-1251(23) reads as rewritten:

"(23) To create a trust for the benefit of the ward pursuant to 42 United States Code § 1396p(d)(4), provided that all amounts remaining in the trust upon the death of the ward, other than those amounts which must be paid to a state ~~government,~~government and those amounts retained by a nonprofit association as set forth in 42 United States Code § 1396p(d)(4)(C), are to be paid to the estate of the ward."

SECTION 16. G.S. 47-2 reads as rewritten:

"**§ 47-2. Officials of the United States, foreign countries, and sister states.**

The execution of all such instruments and writings as are permitted or required by law to be registered may be proved or acknowledged before any one of the following officials of the United States, of the District of Columbia, of the several states and territories of the United States, of countries under the dominion of the United States and of foreign countries: Any judge of a court of record, any clerk of a court of record, any notary public, any commissioner of deeds, any commissioner of oaths, any mayor or chief magistrate of an incorporated town or city, any ambassador, minister, consul, vice-consul, consul general, vice-consul general, associate consul, or any other person authorized by federal law to acknowledge documents as consular officers, or commercial agent of the United States, any justice of the peace of any state or territory of the United States, any officer of the army or air force of the United States or United States marine corps having the rank of warrant officer or higher, any officer of the United States navy or coast guard having the rank of warrant officer, or higher, or any officer of the United States merchant marine having the rank of warrant officer, or higher. No official seal shall be required of said military, naval or merchant marine official, but he shall sign his name, designate his rank, and give the name of his ship or military organization and the date, and for the purpose of certifying said acknowledgment, he shall use a form in substance as follows:

On this the _____ day of _____, ____, before me _____, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be accompanying or serving in or with the armed forces of the United States (or to be the spouse of a person accompanying or serving in or with the armed forces of the United States) and to be the person whose name is subscribed to the within instruments and acknowledged that _____ he _____ executed the same for the purposes therein contained. And the undersigned does further certify that he is at the date of this certificate a commissioned officer of the rank stated below and is in the active service of the armed forces of the United States.

_____

Signature of Officer

_____

Rank of Officer and command to which attached.

If the proof or acknowledgment of the execution of an instrument is had before a justice of the peace of any state of the United States other than this State or of any territory of the United States, the certificate of such justice of the peace shall be accompanied by a certificate of the clerk of some court of record of the county in which such justice of the peace resides, which certificate of the clerk shall be under his hand and official seal, to the effect that such justice of the peace was at the time the certificate of such justice bears date an acting justice of the peace of such county and state or territory and that the genuine signature of such justice of the peace is set to such certificate."

SECTION 17. Article 4 of Chapter 47 of the General Statutes is amended by adding the following new section to read:

"**§ 47-50.1. Register's certificate omitted.**

In all cases prior to October 1, 2004, where it appears from the records of the office of the register of deeds of any county in this State that the execution of a deed of conveyance or other instrument by law required or authorized to be registered was duly signed and acknowledged as required by the laws of this State, and the register of deeds has failed to certify the correctness of the acknowledgment as required by G.S. 47-14(a), the registrations are hereby validated and the instrument so appearing in the office of the register of deeds of that county is effective to the same extent as if the register of deeds had properly certified the correctness of the acknowledgment."

SECTION 18. G.S. 47-53.1 reads as rewritten:

"**§ 47-53.1. Acknowledgment omitting seal of clerk or notary public.**

Where any person has taken an acknowledgment as either a notary public or a clerk of a superior court, deputy clerk of a superior court, or assistant clerk of a superior court and has failed to affix his or her seal and ~~such~~ this acknowledgment has been otherwise duly probated and recorded then ~~such~~ this acknowledgment is hereby declared to be sufficient and ~~valid: Provided this shall apply~~ valid. This section applies only to those deeds and other instruments acknowledged prior to January 1, 1991."

SECTION 19. G.S. 55B-2(6) reads as rewritten:

"**§ 55B-2. Definitions.**

As used in this Chapter, the following words shall, unless the context requires otherwise, have the following meanings:

...

(6) The term "professional service" means any type of personal or professional service of the public which requires as a condition precedent to the rendering of such service the obtaining of a license from a licensing board as herein defined, and pursuant to the following provisions of the General Statutes: Chapter 83A, "Architects"; Chapter 84, "Attorneys-at-Law"; Chapter 93, "Public Accountants"; and the following Articles in Chapter 90: Article 1, "Practice of Medicine," Article 2, "Dentistry," Article 6, "Optometry," Article 7, "Osteopathy," Article 8, "Chiropractic," Article 9A, "Nursing Practice Act," with regard to registered nurses, Article 11, "Veterinarians," Article 12A, "Podiatrists," Article 18A, "Practicing Psychologists," Article 18C, "Marriage and Family Therapy Licensure," Article 18D, "Occupational Therapy," ~~and~~ Article 22, "Licensure Act for Speech and Language Pathologists and Audiologists," and Article 24, "Licensed Professional Counselors"; Chapter 89C, "Engineering and Land Surveying"; Chapter 89A, "Landscape Architects"; Chapter 90B, "Social Worker Certification and Licensure Act" with regard to Certified [Licensed] Clinical Social Workers as defined by G.S. 90B-3; Chapter 89E, "Geologists"; Chapter 89B, "Foresters"; and Chapter 89F, "North Carolina Soil Scientist Licensing Act"."

SECTION 20.(a) G.S. 58-2-150 reads as rewritten:

"**§ 58-2-150. Oath required for compliance with law.**

Before issuing license to any insurance company to transact the business of insurance in this State, the Commissioner shall require, in every case, in addition to the other requirements provided for by law, that the company file with him the affidavit of its president or other chief officer that ~~it has not violated any of the provisions of Articles 1 through 64 of this Chapter for the space of 12 months last past, and that~~ it accepts the terms and obligations of Articles 1 through 64 of this Chapter as a part of the consideration of the license."

SECTION 20.(b) G.S. 58-10-20(b) reads as rewritten:

"(b) This Part does not apply to:

...

(4) ~~Any~~ Except as provided in G.S. 58-10-45, any insurer subject to a judicial order of liquidation or rehabilitation.

...."

SECTION 20.(c) G.S. 58-21-65(b)(4) is repealed.

SECTION 20.(d) G.S. 58-22-20 reads as rewritten:

"**§ 58-22-20. Risk retention groups not chartered in this State.**

Risk retention groups that have been chartered in states other than this State and that seek to do business as risk retention groups in this state must observe and abide by the laws of this State as follows:

...

(4) Compliance With Unfair Claims Settlement Practices Law. – A risk retention group and its agents and representatives shall comply with ~~G.S. 58-3-100(5)~~ G.S. 58-3-100(a)(5) and G.S. 58-63-15(11).

...."

SECTION 20.(e) G.S. 58-33-82(e) reads as rewritten:

"(e) Commissions, fees, or other valuable consideration for the sale, solicitation, or negotiation of insurance may be assigned or directed to be paid in the following circumstances:

(1) To a business entity by a person who is an owner, shareholder, member, partner, director, employee, or agent of that business entity.

(2) To a producer in connection with renewals of insurance business originally sold by or through the licensed person or for other deferred commissions.

(3) In connection with the indirect receipt of commissions in circumstances in which a license is not required under ~~G.S. 58-33-26(m).~~G.S. 58-33-26(n)."

SECTION 20.(f) G.S. 58-36-90(e) reads as rewritten:

"(e) Indemnification. – An insurer shall indemnify, defend, and hold agents harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of an agent who obtains or uses credit information or ~~insurance~~ credit scores for an insurer, provided the agent follows the instructions or procedures established by the insurer and complies with any applicable law or regulation. Nothing in this subsection shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this subsection."

SECTION 20.(g) G.S. 58-36-90(f) reads as rewritten:

"(f) Filing. – Insurers that use ~~insurance~~ credit scores to underwrite and rate risks shall file their scoring models, or other scoring processes, with the Department. A filing that includes ~~insurance~~ credit scoring may include loss experience justifying the applicable surcharge or credit. A filer may request that its credit score data be considered a trade secret and may designate parts of its filings accordingly."

SECTION 20.(h) G.S. 97-165(10) reads as rewritten:

"**§ 97-165. Definitions.**

As used in this Article:

...

(10) "Self-insurer" means ~~a single~~ an employer who retains liability under the Act and is licensed under this Article."

SECTION 21. G.S. 58-3-33(a) reads as rewritten:

"(a) A person who claims to have been physically injured or to have incurred property damage where such injury or damage is subject to a policy of nonfleet private passenger automobile insurance may request by certified mail directed to the insurance adjuster or to the insurance company (Attention Corporate Secretary) at its last known principal place of business that the insurance company provide information regarding the policy's limits of coverage under the applicable policy. Upon receipt of such a request, which shall include the policyholder's name, and, if available, policy number, the insurance company shall notify that person within 15 business days, on a form developed by the Department, that the insurer is required to provide this information prior to litigation only if the person seeking the information satisfies all of the following conditions:

(1) The person seeking the information submits to the insurer the person's written consent to all of the person's ~~physicians~~ medical providers to release to the insurer the person's medical records for the three years prior to the date on which the claim ~~arose.~~ arose, as well as all medical records pertaining to the claimed injury.

...."

SECTION 22.(a) G.S. 58-85-1 reads as rewritten:

"**§ 58-85-1. Application of fund.**

The money paid into the hands of the treasurer of the North Carolina State Firemen's Association shall be known and remain as the "Firemen's Relief Fund" of North Carolina, and shall be used as a fund for the relief of ~~firemen,~~ firemen and county fire marshals, who are members of ~~such~~ this Association, who may be injured or rendered sick by disease contracted in the actual discharge of duty as ~~firemen,~~ firemen or county fire marshals, and for the relief of widows, children, and if there be no widow or children, then dependent mothers of ~~such~~ the firemen and county fire marshals killed or dying from disease so contracted in ~~such~~ the discharge of duty; to be paid in ~~such~~ the manner and in ~~such~~ the sums to ~~such~~ the individuals of the classes herein named and described as may be provided for and determined upon in accordance with the constitution and bylaws of ~~said~~ the Association, and ~~such~~ any provisions and determinations made ~~pursuant to said~~ under the constitution and bylaws shall be final

and conclusive as to the persons entitled to benefits and as to the amount of benefit to be received, and no action at law shall be maintained against ~~said~~ the Association to enforce any claim or recover any benefit under this Article or under the constitution and bylaws of ~~said~~ the Association; but if any officer or committee of ~~said~~ the Association omit or refuse to perform any duty imposed upon him or them, nothing herein contained shall be construed to prevent any proceedings against ~~said~~ that officer or committee to compel him or them to perform ~~such~~ that duty. No fireman or county fire marshal shall be entitled to receive any benefits under this section until the firemen's relief fund of his city or town ~~shall have~~ has been exhausted. Notwithstanding the above provisions, the Executive Board of the North Carolina State Firemen's Association is hereby authorized to grant educational scholarships to members and the children of members, to subsidize premium payments of members over 65 years of age to the Firemen's Fraternal Insurance Fund of the North Carolina State Firemen's Association, and to provide accidental death and dismemberment insurance for members of those fire departments not eligible for benefits pursuant to standards of certification adopted by the State Firemen's Association for the use of local relief funds."

SECTION 22.(b) G.S. 58-85-15 reads as rewritten:

"**§ 58-85-15. Who shall participate in the fund.**

The line of duty entitling one to participate in the fund shall be so construed as to mean actual fire duty only, and any actual duty connected with the fire department or county fire marshal office when directed to perform the same by an officer in charge."

SECTION 22.(c) G.S. 58-85-20 reads as rewritten:

"**§ 58-85-20. Who may become members.**

Any organized fire company in North Carolina, holding itself ready for duty, may, upon compliance with the requirements of ~~said~~ its constitution and bylaws, become a member of the North Carolina State Firemen's Association, and any fireman of good moral character in North Carolina, and belonging to an organized fire company, who ~~will comply~~ complies with the requirements of the constitution and bylaws of the North Carolina State Firemen's Association, may become a member of ~~said~~ the Association. Any county fire marshal office may, upon compliance with the requirements of its constitution and bylaws, become a member of the North Carolina Firemen's Association, and any employee of a county fire marshal office of good moral character whose sole duty is to act as a fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county, who complies with the requirements of its constitution and bylaws, may become a member of the North Carolina Firemen's Association."

SECTION 22.(d) G.S. 58-85-25 reads as rewritten:

"**§ 58-85-25. Applied to members of regular fire company.**

~~The provisions of~~ G.S. 58-85-1, 58-85-10, 58-85-15, 58-85-20, and 58-85-25 shall apply to any fireman or fire marshal who is a member of a regularly organized fire ~~company,~~ company or county fire marshal office, and is a member in good standing of the North Carolina State Firemen's Association."

SECTION 23. G.S. 62-82(a) reads as rewritten:

"(a) Notice of Application for Certificate for Generating Facility; Hearing; Briefs and Oral Arguments. – Whenever there is filed with the Commission an application for

a certificate of public convenience and necessity for the construction of a facility for the generation of electricity under G.S. 62-110.1, the Commission shall require the applicant to publish a notice thereof once a week for four successive weeks in a daily newspaper of general circulation in the county where such facility is proposed to be constructed and thereafter the Commission upon complaint shall, or upon its own initiative may, upon reasonable notice, enter upon a hearing to determine whether such certificate shall be awarded. Any such hearing must be commenced by the Commission not later than three months after the filing of such application, and the procedure for rendering decisions therein shall be given priority over all other cases on the Commission's calendar of hearings and decisions, except rate proceedings referred to in G.S. 62-81. Such applications shall be heard as provided in G.S. 62-60.1, and the Commission shall furnish a transcript of evidence and testimony submitted by the end of the second business day after the taking of each day of testimony. The Commission or panel shall require that briefs and oral arguments in such cases be submitted within 30 days after the conclusion of the hearing, and the Commission or panel shall render its decision in such cases within 60 days after submission of such briefs and arguments. If the Commission or panel does not, upon its own initiative, order a hearing and does not receive a complaint within 10 days after the last day of publication of the notice, the Commission or panel shall enter an order awarding the certificate. Notwithstanding this section, applicants for a certificate for solar photovoltaic facilities of 10 kilowatts or less are exempt from the requirement to publish public notice in newspapers."

SECTION 24. G.S. 66-27.1(a) reads as rewritten:

"(a) No individual, firm, corporation or business shall install, sell or offer for sale any automatic hot water tank or heater of 120-gallon capacity or ~~less~~ less, except for a tankless water heater, which does not have installed thereon by the manufacturer of ~~such~~ the tank or heater an American Society of Mechanical Engineers and National Board of Boiler and Pressure Vessel Inspectors approved type pressure-temperature relief valve set at or below the safe working pressure of the tank as indicated, and so labeled by the manufacturer's identification stamped or cast upon the tank or heater or upon a plate secured to it."

SECTION 25. G.S. 90-85.21A(a) reads as rewritten:

"(a) Any pharmacy operating outside the State which ships, mails, or delivers in any manner a dispensed legend drug into this State shall annually register with the Board on a form provided by the Board. In order to satisfy the registration requirements of this subsection, a pharmacy shall certify that the pharmacy employs a pharmacist who is responsible for dispensing, shipping, mailing, or delivering dispensed legend drugs into this State or in a state approved by the Board and has met requirements for licensure equivalent to the requirements for licensure in this State. In order for the pharmacy's certification of the pharmacists to be valid, a pharmacist shall agree in writing, on a form approved by the Board, to be subject to the jurisdiction of the Board, the provisions of this Article, and the rules adopted by the Board. If the Board revokes this certification, the pharmacy shall no longer have authority to dispense, ship, mail, or deliver in any manner a dispensed legend drug into this State."

SECTION 26.(a) G.S. 90-171.21(d) reads as rewritten:

"(d) Qualifications. – Of the eight registered nurse members on the Board, one shall be a nurse administrator employed by a hospital or a hospital system, who shall be accountable for the administration of nursing services and not directly involved in patient care; one shall be an individual who meets the requirements to practice as a certified registered nurse anesthetist, a certified nurse midwife, a clinical nurse specialist, or a nurse practitioner; two shall be staff nurses, defined as individuals who are primarily involved in direct patient care regardless of practice setting; one shall be an at-large registered nurse who meets the requirements of sub-subdivisions (1)a., a1., and b. of this subsection, but is not currently an educator in a program leading to licensure or any other degree-granting program; and three shall be nurse educators. Minimum ongoing employment requirements for every registered nurse and licensed practical nurse shall include continuous employment equal to or greater than fifty percent (50%) of a full-time position that meets the criteria for the specified Board member position. Of the three nurse educators, one shall be a practical nurse educator, one shall be an associate degree or diploma nurse educator, and one shall be a baccalaureate or higher degree nurse educator. All nurse educators shall meet the minimum education requirement as established by the Board's education program standards for nurse faculty. Candidates eligible for election to the Board as nurse educators are not eligible for election as the at-large member.

(1) Except for the at-large member, every registered nurse member shall meet the following criteria:
   a. Hold a current, unencumbered license to practice as a registered nurse in North Carolina.
   a1. Be a resident of North Carolina.
   b. Have a minimum of five years of experience as a registered nurse.
   c. Have been engaged continuously in a position that meets the criteria for the specified Board position for at least three years immediately preceding election.
   d. Show evidence that the employer of the registered nurse is aware that the nurse intends to serve on the Board.

(2) Every licensed practical nurse member shall meet the following criteria:
   a. Hold a current, unencumbered license to practice as a licensed practical nurse in North Carolina.
   a1. Be a resident of North Carolina.
   c. Have a minimum of five years of experience as a licensed practical nurse.
   d. Have been engaged continuously in the position of a licensed practical nurse for at least three years immediately preceding election.
   e. Show evidence that the employer of the licensed practical nurse is aware that the nurse intends to serve on the Board.

(3) A public member shall not be a provider of health services, employed in the health services field, or hold a vested interest at any level in the provision of health services as defined by the North Carolina Board of Ethics. No public member or person in the public member's immediate family as defined by G.S. 90-405(8) shall be currently employed as a licensed nurse or been previously employed as a licensed nurse.

(4) The nurse practitioner, nurse anesthetist, nurse midwife, or clinical nurse specialist member shall be recognized by the Board as a registered nurse who meets the following criteria:

a. Has graduated from or completed a graduate level advanced practice nursing education program accredited by a national accrediting body.

b. Maintains current certification or recertification from a national credentialing body approved by the Board or meets other requirements established by rules adopted by the Board.

c. Practices in a manner consistent with rules adopted by the Board and other applicable law."

SECTION 26.(b) This section is effective when it becomes law and applies to members elected to the Board on or after January 1, 2005.

SECTION 27.(a) Article 28B of Chapter 106 of the General Statutes is repealed.

SECTION 27.(b) G.S. 120-123(36) is repealed.

SECTION 27.(c) G.S. 143B-431(a)(2)(i) is repealed.

SECTION 27.(d) G.S. 143B-433(l)(i) is repealed.

SECTION 27.(e) G.S. 106-577 reads as rewritten:

"**§ 106-557. Notice of referendum; statement of amount, basis and purpose of assessment; maximum assessment.**

With respect to any referendum conducted under the provisions of this Article, the duly certified commission, council, board or other agency shall, before calling and announcing such referendum, fix, determine and publicly announce at least 30 days before the date determined upon for such referendum, the date, hours and polling places for voting in such referendum, the amount and basis of the assessment proposed to be collected, the means by which such assessment shall be collected if authorized by the growers, and the general purposes to which said amount so collected shall be applied; no annual assessment levied under the provisions of this Article shall exceed one half of one percent (1/2 of 1%) of the value of the year's production of such agricultural commodity grown by any farmer, producer or grower included in the group to which such referendum is submitted. Provided, that the assessment for the research and promotion programs of the American Dairy Association of North Carolina may be fixed on the volume of milk sold not to exceed one percent (1%) of the statewide blend price paid to all North Carolina producers during the previous calendar year for three and one-half percent (3.5%) milk as computed by the ~~North Carolina Milk Commission.~~ United States Department of Agriculture. Provided further, that the assessment authorized by this Article and collected by the Commissioner of Agriculture to be paid

to the North Carolina Yam Commission, Inc., or other duly certified agencies entitled thereto for research, marketing and promotional programs related to yams or sweet potatoes may be levied at a rate not to exceed two percent (2%) of the value of the year's production of that agricultural commodity grown by any farmer, producer or grower included in the group to which the referendum is submitted, and when authorized by two-thirds or more of the farmers, producers or growers in the area in which the referendum is conducted, the rate of the assessment may remain in effect for the length of time provided in the referendum. Provided further, that the assessment authorized by this Article on peanuts may not exceed two percent (2%) of the price paid to the producer."

SECTION 27.(f) G.S. 44-69.3 reads as rewritten:

"**§ 44-69.3. Liens on tangible and intangible assets of milk distributors.**

(a) A producer, or an association of producers who supplies milk either through an agreement of sale or on consignment to a distributor shall, upon complying with the provisions of this section, have a lien upon the tangible and intangible assets, including but not limited to the accounts receivable of the distributor to secure payment for such milk. ~~For purposes of this section the term "milk" is as defined in Article 28B of Chapter 106 of the General Statutes.~~For the purposes of this section, 'milk' means the lacteal secretion of cows and includes all skim, butterfat, or other constituents obtained from separation or other process.

(b) The lien claimed by the producer or association of producers must be filed in the office of the clerk of court for the county of the distributor's principal place of business. Provided that if the distributor is not a resident of the State a filing must be made with the clerk of superior court for the county in which the distributor's registered office is located. The clerk shall note the claim of lien on the judgment docket and index the same under the name of the distributor at the time the claim is filed.

(c) A producer or association of producers claiming nonpayment for milk sold to a distributor shall file with the clerk a notarized statement of nonpayment. The statement shall contain at a minimum all of the following information:

(1) The name of the distributor who received the ~~milk;~~milk.

(2) The date and quantity of milk shipped for which payment has not been ~~received; and~~received.

~~(3) A statement from the North Carolina Milk Commission certifying the amount due from the distributor, and the date payment was due.~~

The producer or association of producers shall furnish a copy of the statement as provided by this subsection to the distributor, which shall constitute a notice of claim of lien. The notice shall be served personally by a person authorized by law to serve process or by certified mail. The lien granted by this section shall be effective as of the time it is filed with the clerk of court. Provided the distributor shall have the right to contest the validity of such lien by filing, with the clerk of court and serving on the producer within 10 days after he receives notice that the producer has filed a claim of lien, a notice that the distributor contest the amount due thereunder. In the event the distributor fails to contest the lien or is unsuccessful in obtaining a discharge of the lien, the lien shall be perfected as of the date of filing with the clerk of court.

(d) The lien created by this section may be discharged in any of the following manner:

~~(1) By filing with the clerk of superior court a receipt of acknowledgment signed by the chairman of the North Carolina Milk Commission or his designee, that the lien has been discharged;~~

(2) By depositing with the clerk of superior court money equal to the amount of the claim, which money shall be held for the benefit of the ~~producer; or~~producer.

(3) By an entry in the lien docket that the action on the part of the lien claimant to enforce the lien has been dismissed or a judgment has been rendered against the claimant in such action.

(4) By filing with the clerk a sworn statement signed by the producer or an official of an association of producers that the lien or claim of lien has been satisfied.

(e) Action to enforce the lien created by this section may be instituted in any court of competent jurisdiction in the county where the lien was filed not later than 90 days following the maturity of the distributor's obligation to pay for the milk. In the event no action to enforce the lien is commenced within the 90-day period the lien created hereby shall no longer be valid. ~~Nothing herein shall prohibit the North Carolina Milk Commission from acting as a mediator or an arbitrator between the distributor and producer or association of producers when there is a claim of nonpayment at any time before or after claim of lien is filed but before a judgment is rendered.~~"

SECTION 28. G.S. 114-19.50, Article VI. Establishment of Compact Council., subsection (b)(3), reads as rewritten:

"(b) The council must be composed of 15 members, each of whom must be appointed by the Attorney General, as follows:

...

(3) Two at-large members, nominated by the chair of the council once the chair is elected pursuant to ~~subsection (c)(3)~~subsection (c) of this Article VI, each of whom shall serve a three-year term, of whom:

a. One must be a representative of state or local criminal justice agencies; and

b. One must be a representative of state or local noncriminal justice agencies;

...."

SECTION 29.(a) G.S. 115C-522(a) reads as rewritten:

"(a) It shall be the duty of local boards of education to purchase or exchange all supplies, equipment, and materials, and these purchases shall be made in accordance with Article 8 of Chapter 143 of the General Statutes. These purchases may be made from contracts made by the Department of Administration. Title to instructional supplies, office supplies, fuel and janitorial supplies, enumerated in the current expense fund budget and purchased out of State funds, shall be taken in the name of the local board of education which shall be responsible for the custody and replacement: Provided, that no contracts shall be made by any local school administrative unit for

purchases unless provision has been made in the budget of the unit to pay for the purchases, unless surplus funds are on hand to pay for the purchases, or unless the contracts are made pursuant to G.S. 115C-47(28) and G.S. 115C-528 and adequate funds are available to pay in the current fiscal year the sums obligated for the current fiscal year. The State Board of Education shall adopt rules regarding equipment standards for supplies, equipment, and materials related to student transportation. The State Board may adopt guidelines for any commodity that needs safety features. If a commodity that needs safety features is available on statewide term contract, any guidelines adopted by the State Board must at a minimum meet the safety standards of the statewide term contract. Compliance with Article 8 of Chapter 143 of the General Statutes is not mandatory for the purchase of published books, manuscripts, maps, pamphlets, and periodicals.

(1) Where competition is available, local school administrative units may utilize the:

a. E-Quote service of the NC E-Procurement system as one means of solicitation in seeking informal bids for purchases subject to the bidding requirements of G.S. 143-131; and

b. Division of Purchase and Contract's electronic Interactive Purchasing System as one means of advertising formal bids on purchases subject to the bidding requirements of G.S. 143-129 and applicable rules regarding advertising. This sub-subdivision does not prohibit a local school administrative unit from using other methods of advertising.

(2) In order to provide an efficient transition of purchasing procedures, the Secretary of the Department of Administration and the local school administrative units shall establish a local school administrative unit purchasing user group. The user group shall be comprised of a proportionate number of representatives from the Department of Administration and local school administrative unit purchasing and finance officers. The user group shall examine any issues that may arise between the Department of Administration and local school administrative units, including the new relationship between the Department and the local school administrative units, the appropriate exchange of information, the continued efficient use of E-Procurement, appropriate bid procedures, and any other technical assistance that may be necessary for the purchase of supplies and materials."

SECTION 29.(b) This section becomes effective April 1, 2004.

SECTION 30.(a) G.S. 115C-549 reads as rewritten:

"**§ 115C-549. Standardized testing requirements.**

Each private church school or school of religious charter shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades three, six and nine. The nationally

standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after the testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina."

SECTION 30.(b) G.S. 115C-550 reads as rewritten:

"**§ 115C-550. High school competency testing.**

To assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function in society, each private church school or school of religious charter shall administer at least once in each school year, a nationally standardized test or other nationally standardized equivalent measure selected by the chief administrative officer of such school, to all students enrolled and regularly attending the eleventh grade. The nationally standardized test or other equivalent measurement selected must measure competencies in the verbal and quantitative areas. Each private church school or school of religious charter shall establish a minimum score which must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina."

SECTION 30.(c) G.S. 115C-557 reads as rewritten:

"**§ 115C-557. Standardized testing requirements.**

Each qualified nonpublic school shall administer, at least once in each school year, a nationally standardized test or other nationally standardized equivalent measurement selected by the chief administrative officer of such school, to all students enrolled or regularly attending grades three, six and nine. The nationally standardized test or other equivalent measurement selected must measure achievement in the areas of English grammar, reading, spelling and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after the testing, all records shall be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina."

SECTION 30.(d) G.S. 115C-558 reads as rewritten:

"**§ 115C-558. High school competency testing.**

To assure that all high school graduates possess those minimum skills and that knowledge thought necessary to function in society, each qualified nonpublic school shall administer at least once in each school year, a nationally standardized test or other nationally standardized equivalent measure selected by the chief administrative officer of such school, to all students enrolled and regularly attending the eleventh grade. The nationally standardized test or other equivalent measurement selected must measure competencies in the verbal and quantitative areas. Each qualified nonpublic school shall establish a minimum score which must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall

be made available, subject to ~~the provision of G.S. 115C-196,~~ G.S. 115C-174.13, at the principal office of such school, at all reasonable times, for annual inspection by a duly authorized representative of the State of North Carolina."

SECTION 31.(a) G.S. 120-85 reads as rewritten:

"**§ 120-85. Definitions.**

As used in this Article:

(1) "Business with which ~~he is~~ associated" means any enterprise, incorporated or otherwise, doing business in the State of which ~~the legislator~~ the person or any member of ~~his~~ the person's immediate household is a director, officer, owner, partner, employee, or of which the ~~legislator~~ person and ~~his~~ the person's immediate household, either singularly or collectively, is a holder of securities worth five thousand dollars ($5,000) or more at fair market value as of December 31 of the preceding year, or constituting five percent (5%) or more of the outstanding stock of ~~such~~ the enterprise.

(1a) "Economic interest" includes matters involving a business with which the person is associated or a nonprofit corporation or organization with which the person is associated.

(2) "Immediate household" means the ~~legislator, his~~ person, the person's spouse, and all of the person's dependent ~~children of the legislator.~~ children.

(2a) "Nonprofit corporation or organization with which associated" means any public or private enterprise, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the person or any member of the person's immediate household is a director, officer, governing board member, employee or independent contractor as of December 31 of the preceding year.

(3) "Vested trust" as set forth in G.S. 120-96(4) means any trust, annuity or other funds held by a trustee or other third party for the benefit of the ~~member~~ person or a member of ~~his~~ the person's immediate household."

SECTION 31.(b) G.S. 120-87 reads as rewritten:

"**§ 120-87. Disclosure of confidential information.**

(a) No legislator shall use or disclose in any way confidential information gained in the course of the legislator's official activities or by reason of ~~his~~ the legislator's official position ~~or activities in any way~~ that could result in financial gain ~~for himself,~~ for: (i) the legislator; (ii) a business with which ~~he~~ the legislator is ~~associated or~~ associated; (iii) a nonprofit corporation or organization with which the legislator is associated; (iv) a member of ~~his~~ the legislator's immediate ~~household~~ household; or (v) any other person.

(b) As used in this section, "confidential information" means information defined as confidential by statute."

SECTION 31.(c) G.S. 120-96 reads as rewritten:

"§ 120-96. Contents of statement.

(a) Any statement of economic interest filed under this Article shall be on a form prescribed by the Committee, and the person filing the statement shall supply all of the following information:

(1) The identity, by name, of ~~any business~~ all businesses, nonprofit corporations or organizations with which ~~he, or any member of his immediate household, is associated;~~ the person is associated.

(2) The character and location of all real estate of a fair market value ~~in excess~~ of more than five thousand dollars ($5,000), other than ~~his~~ the person's personal residence (curtilage), in the State in which ~~he,~~ the person, or a member of ~~his~~ the person's immediate household, has any beneficial interest, including an option to buy and a lease for 10 years or ~~over;~~ more.

(3) The type of each creditor to whom ~~he,~~ the person, or a member of ~~his~~ the person's immediate household, owes ~~money,~~ more than five thousand dollars ($5,000), except indebtedness secured by lien upon ~~his~~ the person's personal residence ~~only, in excess of five thousand dollars ($5,000);~~ only.

(4) The name of each "vested trust" in which ~~he~~ the person or a member of ~~his~~ the person's immediate household has a financial interest ~~in excess~~ of more than five thousand dollars ($5,000) and the nature of ~~such interest;~~ the interest.

(5) The name and nature of ~~his~~ the person and ~~his~~ the person's immediate household member's respective business or profession or employer and the types of customers and types of clientele ~~served;~~ served.

(6) A list of businesses with which ~~he~~ the person is associated that do business with the State, and a brief description of the nature of ~~such business; and~~ the business.

(6a) A list of nonprofit corporations or organizations with which the person is associated and which receive State funds, and a brief description of the nature of the programs receiving funds.

(7) In the case of ~~professional persons and associations,~~ a person who practices a profession, whether individually or as a member of a professional association, a list of ~~classifications of business clients~~ clients, by the type of business, whom the person or the person's firm or partnership has ~~which classes were~~ charged or who have paid to the person or the person's firm or partnership two thousand five hundred dollars ($2,500) or more for professional services rendered during the previous calendar ~~year for professional services rendered by him, his firm or partnership.~~ year. This list need not include the name of the client but shall list the type of the business of each such client or class of client, and brief description of the nature of the services rendered.

(b) All information provided in the statement of economic interest shall be current as of the last day of December of the year preceding the signature date."

SECTION 31.(d) G.S. 120-99 reads as rewritten:

"**§ 120-99. Creation; composition.**

(a) The Legislative Ethics Committee is created to consist of ten members, five Senators appointed by the President Pro Tempore of the Senate, among them – two from a list of four submitted by the Majority Leader and two from a list of four submitted by the Minority Leader, and five members of the House of Representatives appointed by the Speaker of the House, among them – two from a list of four submitted by the Majority Leader and two from a list of four submitted by the Minority Leader.

(b) The President Pro Tempore of the Senate and the Speaker of the House as the appointing officers shall each designate a cochair of the Legislative Ethics Committee from the respective officer's appointees. The cochair appointed by the President Pro Tempore of the Senate shall preside over the Legislative Ethics Committee during the odd-numbered year, and the cochair appointed by the Speaker of the House shall preside in the even-numbered year. However, a cochair may preside at anytime during the absence of the presiding cochair or upon the presiding cochair's designation. In the event a cochair is unable to act as cochair on a specific matter before the Legislative Ethics Committee, and so indicates in writing to the appointing officer and the Legislative Ethics Committee, the respective officer shall designate from that officer's appointees a member to serve as cochair for that specific matter.

(c) The provisions of G.S. 120-19.1 through G.S. 120-19.8 shall apply to the proceedings of the Legislative Ethics Committee as if it were a joint committee of the General Assembly, except that both cochairs shall sign all subpoenas on behalf of the Committee."

SECTION 31.(e) G.S. 120-100 reads as rewritten:

"**§ 120-100. Term of office; vacancies.**

(a) Appointments to the Legislative Ethics Committee shall be made immediately after the convening of the regular session of the General Assembly in odd-numbered years, and appointees shall serve until the expiration of their then-current terms as members of the General Assembly.

(b) A vacancy occurring for any reason during a term shall be filled for the unexpired term by the authority making the appointment which caused the vacancy, and the person appointed to fill the vacancy shall, if possible, be a member of the same political party as the member who caused the vacancy.

(c) In the event a member of the Legislative Ethics Committee is unable to act on a specific matter before the Legislative Ethics Committee, and so indicates in writing to the appointing officer and the Legislative Ethics Committee, the appointing officer may appoint another member of the respective chamber from a list submitted by the majority leader or minority leader who nominated the member who is unable to act on the matter to serve as a member of the Legislative Ethics Committee for the specific matter only. If on any specific matter, the number of members of the Legislative Ethics Committee who are unable to act on a specific matter exceeds four members, the appropriate appointing officer shall appoint other members of the General Assembly to serve as members of the Legislative Ethics Committee for that specific matter only."

SECTION 31.(f) Subsections (a), (b) and (c) of this section are effective January 1, 2006, and apply to candidates running for office on or after that date, to persons appointed to fill vacancies for the 2007 and subsequent General Assemblies, and to presiding officers of the 2007 and subsequent General Assemblies. The remainder of this section is effective when it becomes law.

SECTION 32. G.S. 122C-22(a) reads as rewritten:

"**§ 122C-22. Exclusions from licensure; deemed status.**

(a) The following are excluded from the provisions of this Article and are not required to obtain licensure under this Article:

(1) Physicians and psychologists engaged in private office practice;

(2) General hospitals licensed under Article 5 of Chapter 131E of the General Statutes, that operate special units for the mentally ill, developmentally disabled, or substance abusers;

(3) State and federally operated facilities;

(4) Adult care homes licensed under Chapter 131D of the General Statutes;

(5) Developmental child care centers licensed under Article 7 of Chapter 110 of the General Statutes;

(6) Persons subject to licensure under rules of the Social Services Commission;

(7) Persons subject to rules and regulations of the Division of Vocational Rehabilitation Services;

(8) Facilities that provide occasional respite care for not more than two individuals at a time; provided that the primary purpose of the facility is other than as defined in G.S. 122C-3(14);

(9) Twenty-four-hour nonprofit facilities established for the purposes of shelter care and recovery from alcohol or other drug addiction through a 12-step, self-help, peer role modeling, and self-governance approach; ~~and~~

(10) Inpatient chemical dependency or substance abuse facilities that provide services exclusively to inmates of the Department of Correction, as described in ~~G.S. 148-19.1.~~G.S. 148-19.1; and

(11) A charitable, nonprofit, faith-based, adult residential treatment facility that does not receive any federal or State funding and is part of an international organization serving at least 50 countries that helps persons ages 18 through 40 overcome life-controlling problems and is a religious organization exempt from federal income tax under section 501(a) of the Internal Revenue Code."

SECTION 33. G.S. 130A-475(b), as enacted by S.L. 2004-80, reads as rewritten:

"(b) The authority under subsection (a) of this section shall be exercised only when and so long as a public health threat may exist, all other reasonable means for correcting the problem have been exhausted, and no less restrictive alternative exists. Before applying the authority under subdivision (4) or (5) of subsection (a) of this

section to livestock or poultry for the purpose of preventing the direct or indirect conveyance of a biological, chemical or nuclear agent to persons, the State Health Director shall consult with the State Veterinarian in the Department of Agriculture and Consumer Services.

The period of limited freedom of movement or access under subdivisions (4) and (5) of subsection (a) of this section shall not exceed 30 calendar days. Any person substantially affected by that limitation may institute, in superior court in Wake County or in the county in which the limitation is imposed, an action to review the limitation. The State Health Director shall give the persons known by the State Health Director to be substantially affected by the limitation reasonable notice under the circumstances of the right to institute an action to review the limitation. If a person or a person's representative requests a hearing, the hearing shall be held within 72 hours of the filing of the request, excluding Saturdays and Sundays. The person substantially affected by that limitation is entitled to be represented by counsel of the person's own choice or if the person is indigent, the person shall be represented by counsel appointed in accordance with Article 36 of Chapter 7A of the General Statutes and the rules adopted by the Office of Indigent Defense Services. The court shall reduce or terminate the limitation unless it determines, by the preponderance of the evidence, that the limitation is reasonably necessary to prevent or limit the conveyance of biological, chemical or nuclear agents to others, and may apply such conditions to the limitation as the court deems reasonable and necessary.

If the State Health Director determines that a 30-calendar-day limitation on freedom of movement or access is not adequate to protect the public health, the State Health Director must institute in superior court in the county in which the limitation is imposed, an action to obtain an order extending the period limiting the freedom of movement or access. If the person substantially affected by the limitation has already instituted an action in superior court in Wake County, the State Health Director must institute the action in superior court in Wake County or as a counterclaim in the pending case. The court shall continue the limitation for a period not to exceed 30 days, subject to conditions it deems reasonable and necessary, if it determines by the preponderance of the evidence, that additional limitation is reasonably necessary to prevent or limit the conveyance of biological, chemical, or nuclear agents to others. The court order shall specify the period of time the limitation is to be continued and shall provide for automatic termination of the order upon written determination by the State Health Director or local health director that the ~~quarantine or isolation~~ limitation on freedom of movement or access is no longer necessary to protect the public health. In addition, where the petitioner can prove by a preponderance of the evidence that ~~quarantine or isolation~~ the limitation on freedom of movement or access was not or is no longer needed for protection of the public health, the person ~~quarantined or isolated~~ so limited may move the trial court to reconsider its order extending ~~quarantine or isolation~~ the limitation on freedom of movement or access before the time for the order otherwise expires and may seek immediate or expedited termination of the order. Before the expiration of an order issued under this section, the State Health Director may move to continue the order for additional periods not to exceed 30 days each."

SECTION 34.(a) G.S. 135-1(25) reads as rewritten:

"(25) "Teacher" shall mean any teacher, helping teacher, ~~classroom~~ teacher in a job-sharing position ~~as defined in G.S. 115C-302.2(b)~~ under G.S. 115C-326.5 except for a beneficiary in that position, librarian, principal, supervisor, superintendent of public schools or any full-time employee, city or county, superintendent of public instruction, or any full-time employee of Department of Public Instruction, president, dean or teacher, or any full-time employee in any educational institution supported by and under the control of the State: Provided, that the term "teacher" shall not include any part-time, temporary, or substitute teacher or employee except for a ~~classroom~~ teacher in a job-sharing position, and shall not include those participating in an optional retirement program provided for in G.S. 135-5.1 or G.S. 135-5.4. In all cases of doubt, the Board of Trustees, hereinbefore defined, shall determine whether any person is a teacher as defined in this Chapter. On and after August 1, 2001, a person who is a nonimmigrant alien and who otherwise meets the requirements of this subdivision shall not be excluded from the definition of "teacher" solely because the person holds a temporary or time-limited visa. Notwithstanding the foregoing, the term "teacher" shall not include any nonimmigrant alien employed in elementary or secondary public schools (whether employed in a full-time, part-time, temporary, permanent, or substitute teacher position) and participating in an exchange visitor program designated by the United States Department of State pursuant to 22 C.F.R. Part 62."

SECTION 34.(b) G.S. 135-40.2(a2) reads as rewritten:

"(a2) A school employee in a job-sharing position as defined in ~~G.S. 115C-302.2(b)~~ G.S. 115C-326.5(b) shall be eligible for coverage under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-40.3. If these employees elect to participate in the Plan, the employing unit shall pay fifty percent (50%) of the Plan's total noncontributory premiums. Individual employees shall pay the balance of the total noncontributory premiums not paid by the employing unit."

SECTION 35. G.S. 143-34.1(d) reads as rewritten:

"(d) Notwithstanding any other provisions of law relating to the salaries of officers and employees of departments, institutions, and agencies of State government, the Director of the Budget is authorized to provide a plan of flexible compensation to eligible officers and employees of State departments, institutions, and agencies not covered by the provisions of G.S. 116-17.2 for benefits available under Section 125 and related sections of the Internal Revenue Code of 1986 as amended. This plan shall not ~~include those~~ replace, substitute for, or duplicate any benefits provided to employees and officers under Article 1A of Chapter 120 of the General Statutes and Articles 1, 3, 4, and 6 of Chapter 135 of the General ~~Statutes nor any vacation leave, sick leave, or any other leave that may be carried forward from year to year by employees as a form of deferred compensation.~~ Statutes. The plan may, however, include offerings for

products and benefits that are supplemental or additional to these statutory benefits. In providing a plan of flexible compensation, the Director of the Budget may authorize State departments, institutions, and agencies to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Director of the Budget decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process."

SECTION 36.(a) Part 3 of Article 3A of Chapter 143 of the General Statutes is repealed.

SECTION 36.(b) G.S. 143-129.8(b) reads as rewritten:

"(b) Contracts for information technology may be entered into under a request for proposals procedure that satisfies the following minimum requirements:

(1) Notice of the request for proposals shall be given in accordance with ~~G.S. 143-129(a)~~G.S. 143-129(b).

(2) Contracts shall be awarded to the person or entity that submits the best overall proposal as determined by the awarding authority. Factors to be considered in awarding contracts shall be identified in the request for proposals."

SECTION 37.(a) Article 9 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"**§ 143-143.5. Access to toilets in shopping malls.**

Notwithstanding any other law or rule, a horizontal travel distance of 300 feet for access to public use toilets in covered mall buildings shall be allowed."

SECTION 37.(b) This section is effective when it becomes law and applies to covered mall buildings for which building permits are issued on or before December 1, 2005. This section expires December 1, 2005.

SECTION 38. G.S. 143-64 reads as rewritten:

"**§ 143-64. Beverages contracts.**

Notwithstanding any other provision of law, local school administrative units, community colleges, and constituent institutions of The University of North Carolina shall competitively bid contracts that involve the sale of juice or bottled water. Contracts for the sale of juice and contracts for the sale of bottled water shall each be bid separately from each other and separately from any other contract, including contracts for other beverages or vending machine services. The local school administrative units, community colleges, and constituent institutions may set quality standards for these beverages, and these standards may be used to accept or reject a bid."

SECTION 39.(a) G.S. 153A-442 reads as rewritten:

"**§ 153A-442. Animal shelters.**

A county may establish, equip, operate, and maintain an animal shelter or may contribute to the support of an animal shelter, and for these purposes may appropriate funds not otherwise limited as to use by law. The animal shelters shall meet the same standards as animal shelters regulated by the Department of Agriculture pursuant to its authority under Chapter 19A of the General Statutes."

SECTION 39.(b) G.S. 160A-493 reads as rewritten:

"**§ 160A-493. Animal shelters.**

A city may establish, equip, operate, and maintain an animal shelter or may contribute to the support of an animal shelter, and for these purposes may appropriate funds not otherwise limited as to use by law. The animal shelters shall meet the same standards as animal shelters regulated by the Department of Agriculture pursuant to its authority under Chapter 19A of the General Statutes."

SECTION 40.(a) G.S. 157-9 is amended by adding the following new subsection to read:

"(d) A housing authority shall not erect or maintain around any lawfully occupied housing units any fence or gate structure that is electrified or that includes spikes or barbed wire."

SECTION 40.(b) This section is effective when it becomes law and applies to existing fences and gates.

SECTION 41.(a) G.S. 160A-361 reads as rewritten:

"**§ 160A-361. Planning ~~agency.~~boards.**

(a) Any city may by ordinance create or designate one or more ~~agencies~~ boards or commissions to perform the following duties:

(1) Make studies of the area within its jurisdiction and surrounding areas;
(2) Determine objectives to be sought in the development of the study area;
(3) Prepare and adopt plans for achieving these objectives;
(4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
(5) Advise the council concerning the use and amendment of means for carrying out plans;
(6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the council may direct;
(7) Perform any other related duties that the council may direct.

(b) ~~An agency~~ A board or commission created or designated pursuant to this section may include, but shall not be limited to, one or more of the following:

(1) A planning board or commission of any size (with not fewer than three members) or composition deemed appropriate, organized in any manner deemed appropriate;
(2) A joint planning board created by two or more local governments pursuant to Article 20, Part 1, of this Chapter."

SECTION 41.(b) G.S. 160A-363 reads as rewritten:

"**§ 160A-363. Supplemental powers.**

A city or its designated planning ~~agency~~ board may accept, receive, and disburse in furtherance of its functions any funds, grants, and services made available by the federal government and its agencies, the State government and its agencies, any local government and its agencies, and any private and civic sources. Any city, or its designated planning ~~agency~~ board with the concurrence of the council, may enter into and carry out contracts with the State and federal governments or any agencies thereof under which financial or other planning assistance is made available to the city and may agree to and comply with any reasonable conditions that are imposed upon such assistance.

Any city, or its designated planning ~~agency~~ board with the concurrence of the council, may enter into and carry out contracts with any other city, county, or regional council or planning agency under which it agrees to furnish technical planning assistance to the other local government or planning agency. Any city, or its designated planning ~~agency~~ board with the concurrence of its council, may enter into and carry out contracts with any other city, county, or regional council or planning agency under which it agrees to pay the other local government or planning ~~agency~~ board for technical planning assistance.

Any city council is authorized to make any appropriations that may be necessary to carry out any activities or contracts authorized by this Article or to support, and compensate members of, any planning ~~agency~~ board that it may create pursuant to this Article, and to levy taxes for these purposes as a necessary expense."

SECTION 41.(c) G.S. 153A-321 reads as rewritten:

"**§ 153A-321. Planning ~~agency.~~boards.**

A county may by ordinance create or designate one or more ~~agencies~~ boards or commissions to perform the following duties:

(1) Make studies of the county and surrounding areas;

(2) Determine objectives to be sought in the development of the study area;

(3) Prepare and adopt plans for achieving these objectives;

(4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

(5) Advise the board of commissioners concerning the use and amendment of means for carrying out plans;

(6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the board of commissioners may direct;

(7) Perform any other related duties that the board of commissioners may direct.

~~An agency~~ A board or commission created or designated pursuant to this section may include but shall not be limited to one or more of the following:

(1) A planning board or commission of any size (with not fewer than three members) or composition considered appropriate, organized in any manner considered appropriate;

(2) A joint planning board created by two or more local governments according to the procedures and provisions of Chapter 160A, Article 20, Part 1."

SECTION 41.(d) G.S. 153A-322 reads as rewritten:

"**§ 153A-322. Supplemental powers.**

A county or its designated planning ~~agency~~ board may accept, receive, and disburse in furtherance of its functions funds, grants, and services made available by the federal government or its agencies, the State government or its agencies, any local government or its agencies, and private or civic sources. A county, or its designated planning ~~agency~~ board with the concurrence of the board of commissioners, may enter into and carry out contracts with the State or federal governments or any agencies of either under which financial or other planning assistance is made available to the county and may agree to and comply with any reasonable conditions that are imposed upon the assistance.

A county, or its designated planning ~~agency~~ board with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning agency under which it agrees to furnish technical planning assistance to the other local government or planning agency. A county, or its designated planning ~~agency~~ board with the concurrence of the board of commissioners, may enter into and carry out contracts with any other county, city, regional council, or planning ~~agency~~ board under which it agrees to pay the other local government or planning ~~agency~~ board for technical planning assistance.

A county may make any appropriations that may be necessary to carry out an activity or contract authorized by this Article, by Chapter 157A, or by Chapter 160A, Article 19 or to support, and compensate members of, any planning agency that it may create or designate pursuant to this Article."

SECTION 41.(e) G.S. 160A-392 reads as rewritten:

"**§ 160A-392. Part applicable to buildings constructed by State and its subdivisions; exception.**

All of the provisions of this Part are hereby made applicable to the erection, construction, and use of buildings and land by the State of North Carolina and its political subdivisions.

Notwithstanding the provisions of any general or local law or ordinance, no land owned by the State of North Carolina may be included within ~~an overlay district or a special use or~~ conditional use district without approval of the Council of ~~State.~~State or its designate."

SECTION 41.(f) This section becomes effective October 1, 2004.

SECTION 42. Section 11 of Chapter 149 of the 1931 Session Laws reads as rewritten:

"The term of the School Board shall be for two years. In case of any vacancy on the Board, the vacancy shall be filled by an election by the governing body of the City of Asheville. As soon as practicable after the first Monday of April, 1931, and each biennial year thereafter, the Board shall meet and elect a chairman, who shall preside over the meetings of the Board. A majority of the members of the Board shall constitute a quorum. The chairman or any two members may call a meeting."

SECTION 43.(a) Section 5 of Chapter 208 of the 1993 Session Laws, as amended by Section 1 of S.L. 2004-66, is amended by adding the phrase "Pitt County" before the word "Brunswick".

SECTION 43.(b) Section 6 of Chapter 208 of the 1993 Session Laws, as amended by Section 2 of S.L. 2004-66, is amended by adding the phrase "Pitt County," before the word "Brunswick".

SECTION 43.(c) Section 9 of Chapter 208 of the 1993 Session Laws, as amended by Section 3 of S.L. 2004-66, is amended by adding the word "Pitt," before the word "Brunswick".

SECTION 44.(a) Section 1 of Chapter 196 of the 1995 Session Laws reads as rewritten:

"Section 1. The provisions of Chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles are applicable to the drives, driveways, roads, roadways, streets, courts, extensions, alleys, and parking lots, by whatever name known, on the properties owned by or under the control of The Colington Harbour Association, Inc., or the Martin's Point Homeowners Association, Inc., and shown on the several plats recorded in the office of the Register of Deeds of Dare County. For purposes of this act, drives, driveways, roads, roadways, streets, courts, extensions, alleys, and parking lots, by whatever name known shall have the same meaning as highways and public vehicular areas pursuant to G.S. 20-4.01. A violation of any of those laws is punishable as prescribed by those laws."

SECTION 44.(b) Section 2 of Chapter 196 of the 1995 Session Laws reads as rewritten:

"Sec. 2. This act shall not be construed as in any way interfering with the ownership and control of the drives, driveways, roads, roadways, streets, courts, extensions, alleys, and parking lots, by whatever name known, of The Colington Harbour Association, Inc., or the Martin's Point Homeowners Association, Inc., nor does this require the removal of the private guard gate belonging to ~~the~~ either Association."

SECTION 45. The introductory language of subsection (b) of Section 2 of S.L. 1997-41, as amended by S.L. 1998-19, S.L. 2001-318, S.L. 2003-55, and S.L. 2003-260 reads as rewritten:

"(b) The Board of the North Carolina Indian Cultural Center, Inc., shall consist of 20 members, appointed as follows:".

SECTION 46.(a) The lead-in language of Section 1 of S.L. 2003-392 reads as rewritten:

"**SECTION 1.** G.S. 153A-225 is amended by adding the following new subsection to read:".

SECTION 46.(b) This section becomes effective August 7, 2003.

SECTION 47.(a) If House Bill 281, Regular Session 2003, becomes law, Section 20 of House Bill 281, 2003 Regular Session, is repealed.

SECTION 47.(b) G.S. 14-298 reads as rewritten:

"**§ 14-298. ~~Gaming tables, illegal punchboards, slot machines, and prohibited video game machines to be destroyed by police officers.~~Seizure of illegal gaming items.**

~~All sheriffs and officers of police are hereby authorized and directed, on information made to them on oath~~Upon a determination that probable cause exists to believe that any gaming table prohibited to be used by G.S. 14-289 through G.S. 14-300, any illegal punchboard or illegal slot machine, or any video game machine prohibited to be used by G.S. 14-306 or G.S. 14-306.1, is in the illegal possession or use of any person within the limits of their jurisdiction, all sheriffs and law enforcement officers are authorized to seize the items in accordance with applicable State law.~~to destroy the same by every means in their power; and they shall call to their aid all the good citizens of the county, if necessary, to effect its destruction.~~ Any law enforcement agency in possession of that item shall retain the item pending a disposition order from a district or superior court judge. Upon application by the law enforcement agency, district attorney, or owner, and after notice and opportunity to be heard by all parties, if the court determines that the item is unlawful to possess, it shall enter an order releasing the item to the law enforcement agency for destruction or for training purposes. If the court determines that the item is not unlawful to possess and will not be used in violation of the law, the item shall be ordered released to its owner upon satisfactory proof of ownership. The foregoing procedures for release shall not apply, however, with respect to an item seized for use as evidence in any criminal action or proceeding until after entry of final judgment."

SECTION 47.(c) This section becomes effective October 1, 2004.

SECTION 48. If House Bill 281, 2003 Regular Session, becomes law, then G.S. 148-32.1(a), as amended by Section 54 of House Bill 281, 2003 Regular Session, reads as rewritten:

"(a) The Department of Correction shall pay each local confinement facility a standard sum set by the General Assembly in its appropriation acts at a per day, per inmate rate, for the cost of providing food, clothing, personal items, supervision and necessary ordinary medical services to those inmates committed to the custody of the local confinement facility to serve criminal sentences of 30 days or more. This reimbursement shall not include any period of detention prior to actual commitment by the sentencing court. The Department shall also pay to the local confinement facility extraordinary medical expenses incurred for the inmates, defined as follows:

(1) Medical expenses incurred as a result of providing health care to an inmate as an inpatient (hospitalized);

(2) Other medical expenses when the total cost exceeds thirty-five dollars ($35.00) per occurrence or illness as a result of providing health care to an inmate as an outpatient (nonhospitalized); and

(3) Cost of replacement of eyeglasses and dental prosthetic devices if those eyeglasses or devices are broken while the inmate is incarcerated, provided the inmate was using the eyeglasses or devices at the time of his commitment and then only if prior written consent of the Department is obtained by the local facility.

In order to obtain reimbursement for any of the expenses authorized by this section, a local confinement facility shall submit an invoice to the Department within ~~one year~~ 90 days of the date of commitment by the sentencing court."

SECTION 49. If House Bill 669, 2003 Regular Session, becomes law, then G.S. 131E-76(6) and (7), as amended by Section 1.1 of House Bill 669, 2003 Regular Session, reads as rewritten:

"**§ 131E-76. Definitions.**

As used in this article, unless otherwise specified:

...

(6) "Critical access hospital" means a hospital which has been designated as a critical access hospital by the North Carolina Department of Health and Human Services, Office of ~~Rural Health and Resource~~ Research, Demonstrations and Rural Health Development. To be designated as a critical access hospital under this subdivision, the hospital must meet the requirements of federal law for certification as a critical access hospital.

(7) "Rural hospital network" means an alliance of members that shall include at least one critical access hospital and one other hospital. To qualify as a rural hospital network, the critical access hospital must submit a comprehensive, written memorandum of understanding to the Department of Health and Human ~~Services~~ Services, Office of Research, Demonstrations and Rural Health Development, for the Department's approval. The memorandum of understanding must include provisions for patient referral and transfer, a plan for network-wide emergency services, and a plan for sharing patient information and services between hospital members including medical staff credentialing, risk management, quality assurance, and peer review."

SECTION 50. If House Bill 951, 2003 Regular Session, becomes law, then G.S. 50C-1(5) as enacted by Section 1 of House Bill 951, 2003 Regular Session is repealed.

SECTION 51. If House Bill 1264, 2003 Regular Session, becomes law, then the first paragraph of Section 6.1 of House Bill 1264, 2003 Regular Session, reads as rewritten:

"**SECTION 6.1.** To ensure that the State's citizens are academically prepared and equipped for current job opportunities and jobs of the future in North Carolina's growing knowledge economy, the Board of Governors of The University of North ~~Carolina, in collaboration with the State Board of Community Colleges,~~Carolina and the State Board of Community Colleges shall, within 60 days after this act becomes law, contract with a private consulting firm that has experience in higher education to conduct a comprehensive study of the mission and educational program needs for the University System and the Community College System. The Board of Governors and the State Board may enter into contracts with consultants for the purposes authorized in this section without complying with the provisions of Article 3C of Chapter 143 of the General Statutes. The study shall include all of the following:".

SECTION 52. If Section 17.6A of House Bill 1414, 2003 Regular Session, becomes law, then Section 22 of House Bill 281, 2003 Regular Session, is repealed.

SECTION 53. If House Bill 1414, 2003 Regular Session, becomes law, then Section 7.22(a) of House Bill 1414 reads as rewritten:

"**HIGH SCHOOL WORKFORCE DEVELOPMENT PROGRAM**

SECTION 7.22.(a) Funds are appropriated in this act for a high school workforce development program. The purpose of the program shall be to identify students who may not plan to attend or be adequately prepared to attend a two- or four-year degree program and to provide the assistance those students need to earn an Associate Degree the year after their senior year in high school. The Department of Public Instruction shall work closely with the Education Cabinet and the New Schools Project in administering the program.

These funds shall be used to establish five pilot projects in which a local school administrative unit, two- and four-year colleges and universities, and local employers work together to ensure that high school and community college curricula operate seamlessly and meet the needs of participating employers. Notwithstanding any other law or rule, a local school administrative unit and two- and four-year colleges and universities shall agree upon the minimum age of the students who participate in the pilot projects."

SECTION 54. If House Bill 1414, 2003 Regular Session, becomes law, then Part VII, Public Schools, of House Bill 1414, 2003 Regular Session, is amended by adding a new section to read:

"**IMPLEMENT DPI REORGANIZATION**

SECTION 7.34. Notwithstanding G.S. 143-23, the State Board of Education may reorganize the Department of Public Instruction and transfer funds within the budget of the Department to the extent necessary to implement the reorganizations outlined in the reorganization study completed by the Office of State Budget and Management."

SECTION 55. If Section 8.17 of House Bill 1414, 2003 Regular Session, becomes law, then a new subsection is added to read:

"**SECTION 8.17.(b1)** No request for proposals need be issued for any contract under subdivision (a)(2) of this section."

SECTION 56. If House Bill 1414, 2003 Regular Session, becomes law, G.S. 20-147.1, as enacted by Section 30.6 of House Bill 1414, 2003 Regular Session, reads as rewritten:

"**§ 20-147.1. Passenger vehicle towing other vehicles to keep right.**

Whenever a noncommercial passenger vehicle as defined in G.S. 20-4.01(27)g. is towing another vehicle as defined in G.S. 20-4.01(49), the driver of the towing vehicle shall at all times cause that vehicle to travel on the right half of the highway, ~~or if the highway is divided into two or more lanes in the right most lane of travel, unless that lane is obstructed or impassable.~~and upon any highway having four or more lanes for moving traffic and providing for two-way movement of traffic, the vehicle shall not be driven in the left-most lane of the right half of the highway except when overtaking and passing another vehicle proceeding in the same direction, when preparing for a left turn, or the right lanes are obstructed or impassable. These towing vehicles shall also comply with all signage for vehicles of three or more axles erected pursuant to G.S. 20-146(d)(3)."

SECTION 57.(a) If House Bill 1414, 2003 Regular Session, becomes law, then G.S. 135-3(8)c. 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 during the 12-month period immediately following the effective date of retirement or 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 six months and has not been employed in any capacity, except as a substitute teacher or a part-time tutor, with a public school for at least six months immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach on a substitute, interim, or permanent basis in a public ~~school.~~ school or a charter school. The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit or a charter school under the provisions of this sub-subdivision and as a retired teacher as the term is defined under the provisions of 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 57.(b) If House Bill 1414, 2003 Regular Session, becomes law, then G.S. 115C-325(a)(5a) 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 six months, has not been employed in any capacity, other than as a substitute teacher or a part-time tutor, with a local board of education or a charter school for at least six months, immediately preceding the effective date of reemployment, is determined by a local board of education or a charter school to have had satisfactory performance during the last year of employment by a local board of ~~education,~~ education or a charter school, and who is employed to teach as provided in G.S. 135-3(8) c. A retired teacher at a school other than a charter school shall be treated the same as a probationary teacher except that (i) a retired teacher is not eligible for career status and (ii) the performance of a retired teacher who had attained career status prior to retirement shall be evaluated in accordance with a local board of education's policies and procedures applicable to career teachers."

SECTION 57.(c) This section expires June 30, 2005.

SECTION 58. If Senate Bill 916, 2003 Regular Session, becomes law, then G.S. 95-271 as enacted by Section 1 of Senate Bill 916, 2003 Regular Session, reads as rewritten:

"**§ 95-271. Scope of Article; other remedies available.**

This Article does not expand, diminish, alter, or modify ~~the~~ any duty of any employer to provide a safe workplace for employees and other persons. This Article does not limit the ability of an employer, employee, or victim to pursue any other civil or criminal remedy provided by law. This Article does not apply in circumstances where an employee or representative of employees is engaged in union organizing, union activity, a labor dispute, or any activity or action protected by the National Labor Relations Act, 29 U.S.C. § 151, et seq. Nothing in this Article is intended to change the National Labor Relations Act's preemptive regulation of legally protected activities, nor to change the right of the State and its courts to regulate activities not protected by the National Labor Relations Act."

SECTION 59. If Senate Bill 1083, 2003 Regular Session, becomes law, then Section 11 of Senate Bill 1083, 2003 Regular Session reads as rewritten:

"**SECTION 11.** ~~This act becomes effective January 1, 2005.~~Sections 1 through 9 of this act become effective January 1, 2006. Section 10 of this act becomes effective October 1, 2004. Section 11 of this act becomes effective when this act becomes law."

SECTION 60.(a). If Senate Bill 1145, 2003 Regular Session, becomes law then G.S. 153A-155(f1), as enacted in Section 42.(a) of Senate Bill 1145, 2003 Regular Session, reads as rewritten:

"(f1) Use. – The proceeds of a room occupancy tax shall not be used ~~directly or indirectly~~ for development or construction of a hotel or another transient lodging facility."

SECTION 60.(b). If Senate Bill 1145, 2003 Regular Session, becomes law then G.S. 160A-215(f1), as enacted in Section 42.(b) of Senate Bill 1145, 2003 Regular Session, reads as rewritten:

"(f1) Use. – The proceeds of a room occupancy tax shall not be used ~~directly or indirectly~~ for development or construction of a hotel or another transient lodging facility."

SECTION 61. The Department of Transportation shall install highway directional guide signs at limited-access highway terminals for the nonresidential campuses of colleges or universities located in North Carolina, if the nonresidential campus is located within one mile from the limited-access highway terminal and if the college or university is licensed by the Board of Governors of The University of North Carolina, offers both undergraduate and graduate degree programs, and has a minimum of 350 students enrolled at the nonresidential campus. The college or university requesting the sign installment shall pay for all charges related to the construction of the sign.

SECTION 62. Except as otherwise provided, this act is effective when it becomes law.

SENATE BILL 1225:
2004 Technical Corrections Act.

BILL ANALYSIS

Committee:	**House Rules**	**Introduced by:**	Sen. Hartsell
Date:	**July 17, 2004**	**Summary by:**	Robin Johnson and Walker Reagan, Staff Attorneys
Version:	**S1225-CSRU-67**		

SUMMARY: ***The proposed committee substitute for Senate Bill 1225 makes technical corrections and other changes to various statutes and session laws. Part I of the bill (Sections 1 through 4) was recommended by the General Statutes Commission and is summarized in a separate document by the Commission's staff. This summary covers Part II of the proposed committee substitute, and contains changes identified by legislative staff, agency staff, and others.***

BILL ANALYSIS:

Sections 1-4. Pages 1-5.

- Please see the separate summary (attached) on these sections, which are recommended by the General Statutes Commission.

Section 5. – Page 5.

- Amends G.S. 1A-1, Rule 5(d) of the Rules of Civil Procedure to exempt from court filing requirements in civil actions subpoenas and objections to subpoenas. Changes made in 2003 expanding notice requirements to parties in civil actions inadvertently required certain documents to be filed in the court file.

Section 6. - Page 5.

- Amends G.S. 10A-16(d), the notary public curative statute, by extending from March 1, 2003 to February 1, 2004 the validation of certain defective notarial acts performed by statutorily curing the defects.
- Effective October 1, 2004 and applies to all pending cases and all cases filed on or after that date.

Section 7. – Pages 5-6.

- Amends G.S. 14-33(d) to clarify and conform the sentencing language for certain serious assaults to the punishment level specified for those offenses in subsection (c) of the same statute.

Section 8. - Page 6.

- Amends G.S. 18B-103 to allow the delivery, possession, or consumption of alcoholic beverages by persons less than age 21 when under the direct supervision of an instructor in a culinary class that is part of established culinary curriculum at an accredited college or university.

Section 9. – Page 6.

- Amends G.S. 18B-603(f) to authorize tourism ABC establishments to sell on-premises fortified wine and mixed beverages. Tourism ABC establishments include restaurants or hotels within 1.5 miles of a ramp of the Blue Ridge Parkway.

Section 10. – Pages 6-7.

- Amends G.S. 18B-1006(m)(2) to correct a repealed reference to a statute intended to permit ABC permits to be issued for certain establishments located within a mile of an interstate highway, and within a mile of a residential private club or sports club. This amendment further restricts the application of this provision to a 70 or more bed hotel or an establishment located with ¼ mile of such a hotel.

Section 11. – Page 7.

- Amends G.S. 18B-1101(6) to clarify that only wine manufactured by the winery or produced from crops owned by the winery can be sold by the winery at other retail locations.

Section 12. – Page 7.

- Amends G.S. 19A-24(1) of the Department of Agriculture laws to clarify that dog day care facilities are not subject to regulations applicable to boarding kennels with respect to separate runs for the dogs, so long as the dogs are not boarded overnight.

Section 13. – Pages 7-8.

- Amends G.S. 20-16.1(b) to allow district court judges instead of resident superior court judges to issue limited driving privileges to persons whose drivers licenses are suspended in NC for an out-of-state speeding violation of more than 15 miles per hour about the speed limit and in excess of 55, or in excess of 80 miles per hour.
- Amends G.S. 97-10.2(j) (Workers' Compensation – third party liability) to allow any presiding judge in the district where the cause of action arose or the injured employee resides to sign a subrogation order.

Section 14. – Page 8.

- Amends G.S. 20-179.4 (community service program) to make conforming changes to the law changed in 2001 transferring this program from Department of Crime Control and Public Safety to the Department of Corrections.

Section 15. – Page 8.

- Amends G.S. 35A-1251(23) to provide that amounts in a trust established pursuant to federal social security law for the benefit of an incompetent person that are retained by a nonprofit association under a pooled trust (42 USC 1396p(d)(4)(C)) shall be deducted from the ward's estate upon the ward's death.

Section 16. – Pages 8-9.

- Amends G.S. 47-2 by adding associate consuls and other persons authorized by federal law to acknowledge documents as Consular officers as a notary public would do, to conform to changes in federal law that defines persons in US Consulates who are authorized to acknowledge deeds and other documents requiring a sworn acknowledgement.

Section 17. – Pages 9-10.

- Amends Article 4 of Chapter 47 to create a new curative statute to make registrations in the Register of Deeds offices valid to the same extent as if the register of deeds had properly certified the correctness of the notary acknowledgement when the document was otherwise legally acknowledged.

Section 18. – Page 10.

- Amends G.S. 47-53.1 to add clerks of courts to the curative statute that declares acknowledgments that are otherwise duly probated and recorded to be valid notwithstanding the fact that the seal of the person taking the acknowledgement is omitted. Applies to acknowledgments before January 1, 1991.

Section 19. – Page 10.

- Amends G.S. 55B-2(6) to add Speech and Language Pathologists and Audiologists to the list of persons who may form as professional corporations or professional limited liability companies (LLC's).

Section 20. – Pages 10-12.

- Requested by the Department of Insurance.
- Amends G.S. 58-2-150 to make a conforming amendment due to statutory change last year in G.S. 58-6-15.
- Amends G.S. 58-10-20(b) to eliminate an internal conflict within Part 2 of Article 10.
- Repeals G.S. 58-21-65(b)(4), which would remove a $10,000 bond requirement currently applicable only to resident surplus lines licensees. The applicability to non-resident licensees was preempted by recent federal law (Graham-Leach-Bliley Act).
- Amends G.S. 58-22-20 to correct a statutory citation.
- Amends G.S. 58-33-82(e) to correct a statutory citation.
- Amends G.S. 58-36-90(e) and (f) to correct incorrect terminology inadvertently included in S.L. 2003-216.
- Amends G.S. 97-165 to correct a statutory error recently discovered in order to conform statute to original intent of Department of Insurance and to longstanding policy.

Section 21. – Page 12.

- Amends G.S. 58-3-33 to clarify that insurance companies may obtain all medical records from all medical providers (not just the claimant's physician) relating to a current auto insurance claim.

Section 22. – Pages 12-13.

- Amends G.S. 58-85-1, 58-85-15, 58-85-20, and 58-85-25, to add county fire marshals to the Firemen's Relief Fund.

Section 23. – Pages 13-14.

- Amends G.S. 62-82(a) of the Utilities laws by exempting applicants for a certificate for solar photovoltaic facilities of no more than 10 kilowatts from the requirement that they must first publish public notice in newspapers. These are facilities that will generate electricity.

Section 24. – Page 14.

- Amends G.S. 66-27.1(a) to exempt tankless water heaters from the requirement that water heaters have manufacturer-installed pressure valves. (Apparently it is either impossible or very difficult and expensive to install pressure valves on tankless water heaters, which might not have been in existence when the statute was enacted in the mid-1960.)

Section 25. – Page 14.

- Amends G.S. 90-85.21A(a) to require a pharmacy operating outside the State which ships, mails, or delivers drugs in this State registering with the NC Board of Pharmacy to certify that it has a pharmacist on staff responsible for dispensing and shipping drugs who has met licensure requirements equivalent to North Carolina requirements.

Section 26. – Pages 14-16.

- Amends G.S. 90-171.21(d), which defines the qualifications for the Board of Nursing, to restore a requirement that registered nurses and licensed practical nurses appointed to the Board of Nursing must be employed at least half –time in the specialty for the position for which they fill on the Board while serving on the Board. This provision was inadvertently omitted from a rewriting of the Board of Nursing laws last year.
- Effective when it becomes law and applies to new board members seated on or after January 1, 2005.

Section 27. – Pages 16-18.

- Repeals the Milk Commission in the Department of Commerce, and makes conforming amendments to that repeal.

Section 28. – Page 18.

- Amends G.S. 114-19.50 that adopts the National Crime Prevention and Privacy Compact for NC, to correct an incorrect citation in the compact.

Section 29. – Pages 18-19.

- Amends G.S. 115C-522(a) by exempting local boards of education from the requirement that they comply with formal bidding procedures for the purchase of published books, manuscripts, maps, pamphlets, and periodicals.
- This section is effective retroactively to April 1, 2004.

Section 30. – Pages 19-21.

- Amends G.S. 115C several educational testing statutes to correct references to a repealed statute.

Section 31. – Pages 21-24.

- Amends Legislative Ethics Act to require disclosures of associations with nonprofit corporations and organizations.
- Amends G.S. 120-85 to add to the definition of economic interest matters involving a nonprofit corporation or organization with which the person is associated.
- Amends G.S. 120-87 to prohibit a legislator from using or disclosing confidential information gained in the course of the legislator's official activities or by reason of legislator's official position in any way that can result in financial gain for a nonprofit corporation or organization with which the legislator is associated. It defines "confidential information" as information confidential by statute.

- Amends G.S. 120-96 to require statements of economic interest to include a list of nonprofits with which the person is associated and which receive State funds, and a brief description of the nature of the programs receiving these funds.
- These provisions are effective January 1, 2006, and apply to candidates running for office on or after that date, to persons appointed to fill vacancies beginning with the 2007 General Assembly, and to presiding officers beginning with the 2007 General Assembly.
- Also amends G.S. 120-99 and 120-100 to provide for designation of a substitute cochair or substitute members, or both, of the Legislative Ethics Committee, when a cochair is unable to act as a cochair on a specific matter or when a member is unable to act on a specific matter, or both.

Section 32. – Page 24.

- Amends G.S. 122C-22(a) to exempt international, charitable, non-profit, faith-based, adult residential treatment facilities that are exempt from federal income tax under Section 501(a) from the requirement of obtaining a facilities license under Article 2 of Chapter 122C. The facility could opt to obtain such a license.

Section 33. – Pages 24-25.

- Conforms new language added to G.S. 130A-475(b) by S.L. 2004-80. Currently, G.S. 130A-475 uses the phrase "limitation on freedom of movement or access" – not "quarantine or isolation." Even though they mean similar things, quarantine and isolation generally apply to communicable diseases. G.S. 130A-475 addresses terrorist incidents using nuclear, biological or chemical agents.

Section 34. – Page 26.

- Amends G.S. 135-1(25) and G.S. 135-40.2(a2) in the State Retirement System law to correct two statutory references to job sharing arrangements by teachers.

Section 35. – Pages 26-27.

- Amends G.S. 143-34.1(d) to clarify the authority of the NC-Flex plan to offer products that supplement, but not replace, substitute or duplicate benefits already provided by the State.

Section 36. - Page 27.

- Repeals Part 3 of Article 3A of Chapter 143 because this statute is redundant because electronic auction of surplus property by counties and cities is already provided for in G.S. 160A-270(c).
- Amends G.S. 143-129.8(b) to correct a statutory reference.

Section 37. – Page 27.

- Amends the Building Code Council and Building Code law by adding a new G.S. 143-143.5 that would conform the State codes applicable to covered mall buildings to the international standard of 300 feet for access to public use toilets in those malls.
- This section would apply to construction where building permits were issued on or before December 1, 2005 and the statute would expire on December 1, 2005.

Section 38. – Page 27.

- Amends G.S. 143-64 to clarify that contracts for the sale of juice or bottled water in public schools, community colleges, and universities shall be bid separately from each other and separately from any other contract.

Section 39. – Pages 27-28.

- Amends G.S. 153A-442 and G.S. 160A-493 to require that animal shelters established, equipped, operated or maintained or contributed to by a county or city meet the same standards as animal shelters operated by private organizations regulated under Chapter 19A, Protection of Animals, by the Department of Agriculture.

Section 40. – Page 28.

- Amends G.S. 157-9 by adding a new subsection that would prohibit local housing authorities from building or maintaining a gate or fence that is electrified or has barbed wire and is around a lawfully occupied housing unit. The provision would apply to existing fences and gates. A housing authority, generally, is a unit of local government created to provide public housing.

Section 41. – Pages 28-30.

- Amends local government planning authority statutes by changing the phrase "planning agency" to "planning board or commission".
- Amends G.S. 160A-392 to make the provisions of the local governments planning and regulation of development applicable to the use of State lands in addition to State buildings.
- Effective October 1, 2004.

Section 42. – Page 30.

- Amends a 1931 local act to allow the Asheville City School Board to fall under generally applicable law for compensation of the board members.

Section 43. – Page 31.

- Amends a local hunting act to apply the provisions to Pitt County, allowing open season on fox hunting by weapon between December 1 and January 1 of each year, and open season on fox hunting by trap between January 2 and January 31 of each year.

Section 44. – Page 31.

- Amends a 1995 local act to allow the motor vehicle laws relating to the use of highways and operation of motor vehicles to be enforced in the Martin's Point subdivision in Dare County.

Section 45. – Page 31.

- Amends introductory language so that total number of members is the same as actual members listed in the statute for the Board of the North Carolina Indian Cultural Center, Inc.

Section 46. – Page 31.

- Corrects a statutory citation in S.L. 2003-392.
- Effective when that law took effect – August 7, 2003.

Section 47. – Pages 31-32.

- If House Bill 281 (2003 Technical Corrections Act) becomes law, Section 20 of that bill is repealed to remove language inadvertently included and replaced with the correct substitute language.

Section 48. – Page 32.

- If House Bill 281 (2003 Technical Corrections Act) becomes law, G.S. 148-32.1(a) as amended by that bill is further amended to reflect current practice of requiring local jails to submit an invoice for payment for housing qualifying Department of Correction inmates within 90 days of the date of commitment.

Section 49. – Page 33.

- If House Bill 669 (Hospitals/LTC Quality Assurance) becomes law, G.S. 131E-76 is amended to specify the office within the Department of Health and Human Services to which the memorandum of understanding must be submitted to qualify as a rural hospital network.

Section 50. – Page 33.

- If House Bill 951 (Create Civil No-Contact Order) becomes law, then the definition of sexual penetration is deleted to allow the definition established by case law to apply.

Section 51. – Page 33.

- If House Bill 1264 (Finance Health and Research Bldgs. Act) becomes law, this section clarifies that the UNC Board of Governors and State Board of Community Colleges will together enter into a contract with a consultant for a study of higher education programming and facility needs.

Section 52. – Page 33.

- If House Bill 1414 (2004 Appropriations Act) becomes law, a duplicate provision in House Bill 281 (2003 Technical Corrections Act) is repealed. These provisions protect the confidentiality of witnesses or persons designated to carry out executions.

Section 53. – Page 34.

- If House Bill 1414 (2004 Appropriations Act) becomes law, Sec. 7.22(a) is amended to allow the local school administrative unit and the two- and four-year colleges to decide the minimum age of students participating in the pilot project for the High School Workforce Development Program.

Section 54. – Page 34.

- If House Bill 1414 (2004 Appropriations Act) becomes law, a new section is added to permit the Department of Public Instruction to transfer funds within the Department's budget to implement a reorganization study completed by the Office of State Budget and Management.

Section 55. – Page 34.

- If House Bill 1414 (2004 Appropriations Act) becomes law, a new section is added to exempt the operation and development of a military business center for Fayetteville Community College from the contract bidding requirements under the purchase and contracts laws. The center is authorized in HB 1414.

Section 56. -- Page 34.

- If House Bill 1414 (2004 Appropriations Act) becomes law, G.S. 20-147.1, as amended by that act is further amended to clarify that the towing vehicle shall not drive in the left-most lane of a four or more lane highway except to pass, to prepare for a left turn, or when the right lanes are obstructed or impassable.

Section 57. – Pages 35-36.

- If House Bill 1414 (2004 Appropriations Act) becomes law, G.S. 135-3(8)c. and 115C-325(a)(5a) would be amended to allow retired teachers to return to teaching in a charter school and continue to collect retirement benefits, thereby treating them the same as retired teachers who return to traditional public schools.

Section 58. – Page 36.

- If Senate Bill 916 (Workplace Violence) becomes law, the scope of the article is amended to clarify that the provisions do not alter any existing duty of employers to provide a safe workplace.

Section 59 – Page 36.

- If Senate Bill 1083 (Staggered Plates/Safety Inspection Change) becomes law, the effective date is delayed to allow time for the Department of Transportation to make needed computer programming changes in order to implement the changes in the act. The effective date for the exemption from inspection of historic vehicles is October 1, 2004.

Section 60. – Pages 36-37.

- If Senate Bill 1145 (Revenue Laws Technical Changes) becomes law, the new provision restricting the use of room occupancy tax revenue is clarified.

Section 61. –Page 37.

- Directs the Department of Transportation to install highway directional signs at the limited-access highway exit ramp for a college or university with a non-residential campus in NC that is located within one mile of the ramp, is licensed by the UNC Board of Governors, offers both undergraduate and graduate programs, and has at least 350 enrolled students at the campus. Requires the college or university to pay for the installation of the signs.

Section 62. – Page 37.

- **EFFECTIVE DATE:** Unless otherwise provided, the act is effective when it becomes law.

S1225-SMRH-007

MEMORANDUM

TO: Senate Judiciary I Committee

FROM: General Statutes Commission

DATE: July 9, 2003

RE: House Bill 281 (Technical Corrections Act)

General Comments

Part I of the proposed committee substitute for House Bill 281 contains corrections of a technical nature to the General Statutes that are recommended by the General Statutes Commission. These amendments include correcting typographical and redlining errors, repealing obsolete provisions, making conforming changes, removing duplicative references, eliminating legalese and updating archaic drafting language, recodifying poorly placed provisions, and adding cross-references to benefit the users of the General Statutes.

Specific Comments

Section 1. This section amends G.S. 14-402(c)(3) to correct a typographical error in the definition of "crossbow" that appears in this section. A crossbow is a device, not a devise. The section also makes a pronoun correction.

Section 2. This section amends G.S. 20-7(b1) to correct a redlining error. S.L. 2001-424, s. 27.10A (s. 27.10A), amended G.S. 20-7 to add statutory requirements for proof of residency and social security numbers in obtaining a drivers license and to explicitly extend these requirements to learners permits and identification cards issued by the Division of Motor Vehicles. In the opening phrase of subsection (b1) of G.S. 20-7, s. 27.10A changed the wording from "To obtain a drivers license ..." to "To obtain an identification card, learners permit, or drivers license ..." but without showing the change by underlining and strikeouts, with the result that the actual wording in G.S. 20-7(b1) was not changed. The amendment in this section makes that change.

Section 3. This section repeals G.S. 49-13.1, which has become obsolete. G.S. 49-13.1 was enacted in 1969; it has not been amended since that time. It is the final section in an article dealing with legitimation of illegitimate children, and it provides that legitimation under the article does not affect the sufficiency of a mother's consent to the adoption of her child or make the father's consent necessary if it was not necessary under "G.S. 48-6(a)," a provision in the former adoptions law. Under G.S. 48-6(a) as it existed in 1969 (it has been repealed), the consent of the father of an illegitimate child was not necessary to an adoption unless the father legitimated the child before the mother consented. The law on paternal consent to adoptions has changed considerably since 1969, but, as the adoptions chapter, Chapter 48, was amended over time, conforming amendments were not made to G.S. 49-13.1. Chapter 48 itself curently deals with the relationship between legitimation and parental consent requirements, rendering G.S. 49-13.1 unnecessary as well as outdated (see Part 6 of Article 3). The General Statutes Commission therefore recommends that G.S. 49-13.1 be repealed.

Section 4. This section amends G.S. 55B-2(6) to correct a redlining error. S.L. 1999-313 amended Chapter 90B of the General Statutes to change the term, "Certified Clinical Social Worker" to "Licensed Clinical Social Worker" and required that these persons be licensed rather than certified. Two years later, S.L. 2001-87, s. 40(d), made one conforming change in G.S. 55B-2(6), but that act made an outright substitution of the new term "Licensed Clinical Social Worker" for "Certified Clinical Social Worker" in G.S. 55B-2(6) instead of showing the change by underlining and strikeouts, rendering it ineffective. The amendment in this section makes that change.

Section 5. This section makes the same change to several sections of the General Statutes. These sections contain references to population estimates by the "State Planning Officer.". The State Planning Office was merged into the Office of State Budget and Management in 2000 (see S.L. 2000-140). The General Statutes Commission is informed that there is no longer a separate State Planning Officer and these conforming amendments changing "State Planning Officer" to "State Budget Officer" are appropriate.

Section 6. This section amends G.S. 78A-17 to make a conforming amendment to subdivision (13) by replacing the word "corporation" with the word "entity" in clause (iv). The amendment is required because subdivision (13) was amended in 2001 by two different session laws. S.L. 2001-197 added clause (iv), while S.L. 2001-201 changed "corporation" to "entity" throughout subdivision (13) as it existed before the addition of clause (iv) by S.L. 2001-197. The section also updates the style of the introductory language of G.S. 78A-17 and conforms the punctuation at the end of the subdivisions to current practice.

Section 7. This section amends G.S. 90-210.69(c) to correct a redlining error. S.L. 1997-399, s. 29, amended G.S. 90-210.69(c) but in the process the word "adopted" was dropped instead of being shown as stricken through. The word technically remains in the subdivision, and the amendment in this section deletes the word.

Section 8. This section amends G.S. 96-4(t)(2) to correct the terminology and to update a stylistic point. G.S. 96-4(t)(2) is properly termed a subdivision, not a subsection; the "2" is actually an Arabic numeral rather than a Roman numberal; and drafting style in this State now

views as unnecessarily redundant a reference to "(2)" in the phrase "this subdivision (2)" when the reference is in subdivision (2).

Section 9. This section amends G.S. 110-136.13(a) to correct a typographical error in a citation. The reference to G.S. 110-14 should have been to G.S. 110-36.14.

Section 10. This section amends G.S. 143-129.8(b) to correct a citation. The reference to G.S. 132-129(a) should have been to G.S. 132-129(b), which is the subsection in G.S. 132-129 that deals with notice.

Section 11. This section amends G.S. 147-69 to remove a duplicative reference to the Commissioner of Banks, to make references to the State Auditor and the State Treasurer gender neutral, and to replace two references to "such" with alternatives recommended by the General Assembly's drafting manual. S.L. 2001-193 transferred the Savings Institutions Division of the Department of Commerce to the Office of the Commissioner of Banks. The act also directed the Revisor of Statutes to replace references to the Administrator of the Savings Institutions Division with references to the Commissioner of Banks. In G.S. 147-69, this direction resulted in an unnecessary double reference to the Commissioner.

Section 12. This section (i) recodifies a poorly placed definitions section, and (ii) adds to the article-wide definitions in G.S. 163-278.6 various cross references to more specific definitions that apply to only a part of the article.

Article 22A of Chapter 163 (on campaign finance) has a definitions section, G.S. 163-278.6, that applies to the entire article. However, Part 1A of that article, dealing with disclosure requirements in political advertisements, has its own definitions section, G.S. 163-278.39B, that redefines one of the terms defined in G.S. 163-278.6 ("candidate") and contains other special definitions that use same or related terminology as that found in the article-wide definitions, e.g. "media" is defined in G.S. 163-278.6 and "print media" is defined in G.S. 163-278.39B. Moreover, rather than appearing as the first or second section of Part 1A, G.S. 163-278.39B appears towards the end of the part. As a result, it is easy for someone to miss the fact that Part 1A has its own definitions that supplement or replace the article-wide definitions. Subsection (a) of this section recodifies G.S. 163-39B as G.S. 163-38Z, which moves the section to the beginning of Part 1A. Subsection (b) adds at the end of several of the article-wide definitions a cross-reference to the related special definition to warn the user of the special definition's existence.

Section 13. This section effectively amends G.S. 160A-58.1 to recombine subsections (b) and (b1) into one subsection. Over time, various local acts have amended G.S. 160A-58.1 either to repeal G.S. 160A-58.1(b)(5) or to state that that subdivision does not apply to a particular locality. S.L. 2001-37 repealed (b)(5) for more than 10 localities, so it was codified in 2001 as a subsection (b1). By 2002, however, the number of localities where a local act specifically declared that (b)(5) did not apply to a particular locality also reached 10, and these were codified in the paragraph currently appearing as a second paragraph of (b)(5). There is no effective difference between repealing a provision for a locality and stating that the provision does not apply to that locality, so there is no need to continue to carry two subsections.

State of North Carolina
General Statutes Commission
9001 Mail Service Center
RALEIGH, NORTH CAROLINA
27699-9001

MEMORANDUM

TO: Senate Judiciary I Committee

FROM: General Statutes Commission

DATE: July 2, 2004

RE: Senate Bill 1225 (2004 Technical Corrections Act)

General Comments

Part I of the proposed committee substitute for this bill contains corrections of a technical nature to the General Statutes that are recommended by the General Statutes Commission. These amendments update outdated references and make conforming changes to various sections of the General Statutes.

Specific Comments

Sections 1 and 4. These sections make the same conforming change to G.S. 62-3(23)i. and G.S. 115C-102.5(e) to change the reference to the Office of the State Controller to a reference to the Office of Information Technology Services (ITS). The existing reference was placed into these provisions when ITS was located in the Office of the State Controller and was not updated when ITS was moved out of that Office.

Section 2. This section amends G.S. 111-52 to update a reference. The Office of the State Controller no longer has the "Administrative Policies and Procedures Manual" referenced in G.S. 111-52, although it has a collection of policies.

Section 3. This section makes a conforming amendment to G.S. 113-307.1(b) to change the reference to the federal Secretary of Agriculture to a reference to the federal Secretary of the Interior, which now has authority at the federal level over wildlife restoration projects.

Part I of the bill is effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1225*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1225-AST-76 [v.1]

Date _____,2004

Comm. Sub. [YES]
Amends Title [NO]
S1225-PCS35509-RU-67

Representative _____

moves to amend the bill on page 30, line 37 by rewriting ~~that line~~ to read:

"**SECTION 42.** Section 11 of Chapter 149 of the 1931 Session Laws, as amended by Chapter 255 of the 1947 Session Laws and Chapter 745 of the 1953 Session Laws and Chapter 20 of the 1985 Session Laws ~~reads as~~ is rewritten to read:

and on page 30, line 39 by deleting the word "two" and substituting the word "four".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____ DATE _____

S. B. No. _____ Amendment No. _____
(to be filled in by Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Owens
)
Sen.)

moves to amend the bill on page 28, line 13

( ) WHICH CHANGES THE TITLE

by deleting the phrase "SECTION 40.(a)" and substituting the phrase "SECTION 40." ;

and on page 28, lines 18-19 by deleting those lines.

SIGNED W C Owens

ADOPTED ✓ FAILED _____ TABLED _____

GA-33-A

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1225*

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1225-AST-77 [v.1]

Date _____,2004

Comm. Sub. [YES]
Amends Title [NO]
S1225-PCS35509-RU-67

Representative _____

moves to amend the bill on page 31, line 8 by deleting phrase "Pitt," and substituting the phrase "Pitt County and".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 1225 A BILL TO BE ENTITLED AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, AND TO MAKE VARIOUS 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July 18, 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Grady McNeill	N.C. Conservation Network
Bill Brooks	NCFAC
David Crawford	AIA
Al Rigsby	NC Justice Ctr
Paul Stock	NC Bankers Assoc
Barbara Carsley	BSEGR
Wm H. Potter Jr	NCOS & NCPTO
Johanna Reese	DENR
Heather M. Dillon	Bonner Assoc.
Kevin G. Leonard	WCSR
DEAN PLUNKETT	NCBWWA
John Patterson	AT&T
Jim Blackburn	County Commissioners Assoc

VISITOR REGISTRATION SHEET

Rules — 7-18-04

Name of Committee — Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Ralph W. Sims	NCHBA
Rick Zechini	NC Assoc. of Realtors
Amy Jo Horne	NCMS
Tim Minton	NC Home Builders
Gardner Payne	Edwards & Webb
Patrick Clancy	Speaker's Office
Dean Plunkett	NEBWWA
Ashley K. Clark	R. Clark & Assoc.
Jean Mott	ACCA
Jon Mabry	BOU CONSULTS
HUGH TILSON	
Donna Rosefield	DCR
Ann McArthur	Governor's Ofc.
Karen Geor	NC ACDSS
Sofie Schmidt	NC Justice Center
Frida Hayes	SBE/DPI
Gill Scoggin	KCCH
Charles Wilson	S-A-A Staff
Kevin G. Leonard	WCSR
Mary K Hackney	NCFA Intern
Andy Romanet	NCLM
Johanna Reese	DENR
Donna Rosefield	DCR
Heyward McKinney	DCR
Elizabeth Dalton	Bond Assoc.
[illegible]	CAPA
[illegible]	Hunton & Williams
Lori Ann Harris	LAHA

VISITOR REGISTRATION SHEET

Rules, Calendar and Operations of the House — July ~~17~~ 18 2004

Name of Committee — **Date**

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
	ACRA
Eddie Caldwell	Hagler + Caldwell P.A.
Rev. MARK CREECH	CAL
David Huskins	MOTOROLA
Barbara Canales	BSEGR
	JD, AL., PA
Tiger	MP, SA
~~CASANDRA~~ STANDER	NCCPS
Joanne Stevens	NCNA
Jack Molloy	[illegible]

VISITOR REGISTRATION SHEET

DATE 7-18-04

VISITOR: Please sign below and return to clerk.

NAME	FIRM OR STATE AGENCY	TELEPHONE
Michelle Frazier	NC Bar Ass'n	
Joanne Stevens	NCNA	
Eddie Caldwell	Hafer & Caldwell, P.A.	
[illegible]	[illegible]	
[illegible]	[illegible]	
Kevin Fitzgerald	VNC CA.	
[illegible]	[illegible]	
[illegible]	NC Press Assoc	
[illegible]	NC RA	
[illegible]	NCRA	
David Hudgins	Motorola	
[illegible]	JD, A.L., P.A.	
Rick Harrison	—	
[illegible]	[illegible]	
[illegible]	[illegible]	

VISITOR REGISTRATION SHEET

DATE 7-18-04

VISITOR: Please sign below and return to clerk.

NAME	FIRM OR STATE AGENCY	TELEPHONE
[illegible]	GSK	
Butch Ownnelly	NCSBA	
Al Ripley	NC Justice Ctr	
Greg Peirce	Duke Energy	
Kathy Hawkins	Progress Energy	
John McArthur	Duke Energy	

COMMITTEE ON RULES, CALENDAR AND OPERATIONS OF THE HOUSE

HOUSE MEMBERS ONLY ROOM
LEGISLATIVE BUILDING
JULY 18, 2004
3:30 A.M.
AGENDA

CALL TO ORDER

CONSIDERATION OF BILLS

COMMITTEE SUBSTITUTE FOR SENATE BILL 64-AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND TO MAKE VARIOUS CHANGES TO BOARDS AND COMMISSIONS

ADJOURNMENT

MINUTES OF THE COMMITTEE ON RULES, CALENDAR
AND OPERATIONS OF THE HOUSE

July 18, 2004

The Committee on Rules, Calendar and Operations of the House met on July 18, 2004 at 3:30 a.m. in the House Members Only Room The following members were present: Representatives Culpepper, Chairman; Hackney, Vice Chairman; Brubaker, Church Crawford, Howard, Justus, McComas, Owens, Setzer and Sherrill.

The following bill was considered:

COMMITTEE SUBSTITUTE FOR SENATE BILL 64- AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND TO MAKE VARIOUS CHANGES TO BOARDS AND COMMISSIONS. A proposed House committee substitute changing the title to AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TO MODIFY THE MEMBERS OF THE CENTENNIAL AUTHORITY was offered. Representative Owens moved that the proposed House committee substitute be adopted. Without objection, the chairman so ordered. Representative Owens moved that the proposed House committee substitute be given a favorable report, unfavorable to the Senate committee substitute. The motion passed.

The meeting adjourned at 3:35 a.m.

Representative Bill Culpepper
Chairman

Dorothy C. Crocker
Dorothy C. Crocker
Committee Assistant

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S 3

SENATE BILL 64

Rules and Operations of the Senate Committee Substitute Adopted 7/17/04
Third Edition Engrossed 7/17/04

Short Title: 2004 Pro Tem Appointments Bill. (Public)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President Pro Tempore of the Senate; and

Whereas, the President Pro Tempore of the Senate has made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. PRESIDENT PRO TEMPORE'S RECOMMENDATIONS.

SECTION 1.1.(a) Ken Morehead of Durham County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2006.

SECTION 1.1.(b) Barbara Berry of Wake County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2007.

SECTION 1.2. Robert Timberlake, Jr. of Wake County, Jimmy A. Harrell, Jr. of Camden County, and Deborah Mae Johnson of Sampson County are appointed to the North Carolina Agricultural Finance Authority for terms expiring on June 30, 2007.

SECTION 1.3.(a) Ralph Brown of Iredell County is appointed to the Alarm Systems Licensing Board for a term expiring on June 30, 2005.

SECTION 1.3.(b) Anita Pfaff of Forsyth County is appointed to the Alarm Systems Licensing Board for a term expiring on June 30, 2007.

SECTION 1.4. Henry Faircloth of Sampson County is appointed to the North Carolina Appraisal Board for a term expiring on June 30, 2005.

SECTION 1.5.(a) Gladys Brooks of Buncombe County is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2006.

SECTION 1.5.(b) Honor Moor of Buncombe County is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2008.

SECTION 1.6. Lloyd Meekins, Jr. of Robeson County is appointed to the North Carolina Auctioneers Commission for a term expiring on June 30, 2006.

SECTION 1.7.(a) Dr. W. Eric Loch of Cumberland County is appointed to the North Carolina Board of Athletic Trainer Examiners for a term expiring on July 31, 2005.

SECTION 1.7.(b) Florence C. Moses of Wake County and Rick Proctor of Guilford County are appointed to the North Carolina Board of Athletic Trainer Examiners for terms expiring on July 31, 2006.

SECTION 1.8. John Houser of Gaston County is appointed to the State Banking Commission for a term expiring on March 31, 2008.

SECTION 1.9. Frances Walker of Currituck County is appointed to the North Carolina Bridge Authority for a term expiring on June 30, 2007.

SECTION 1.10.(a) Willy E. Stewart of Wake County is appointed to the State Building Commission for a term expiring on June 30, 2005.

SECTION 1.10.(b) Alan Lassiter of Perquimans County is appointed to the State Building Commission for a term expiring on June 30, 2006.

SECTION 1.10.(c) Paul Boney of New Hanover County is appointed to the State Building Commission for a term expiring on June 30, 2007.

SECTION 1.11. George Matthew Wood of Pasquotank County, Reef C. Ivey of Wake County, Wendell Murphy of Duplin County, George Daniel of Caswell County, and Frank Daniels, III of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2007.

SECTION 1.12. Margaret Ann Biddle of Wake County and Beth Rector of Columbus County are appointed to the North Carolina Child Care Commission for terms expiring on June 30, 2006.

SECTION 1.13. Richard P. Coleman of Columbus County is appointed to the Clean Water Management Trust Fund Board of Trustees for a term expiring on June 30, 2007, to fill the unexpired term of Alex McFadyen.

SECTION 1.14.(a) James Kennedy of Forsyth County and Lisa Privette of Harnett County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on June 30, 2005.

SECTION 1.14.(b) Deborah Simpson of Cumberland County is appointed to the North Carolina Code Officials Qualification Board for a term expiring on June 30, 2006.

SECTION 1.15. Anna McCoy Smith of Forsyth County is appointed to the State Board of Cosmetic Art Examiners for a term expiring on June 30, 2005.

SECTION 1.16. Joyce Cutler of Beaufort County is appointed to the Crime Victims Compensation Commission for a term expiring on June 30, 2005.

SECTION 1.17. Wade Anders of Cumberland County, Terry Waterfield of Pasquotank County, Robert C. Lewis of Wake County, and Bonnie Boyette of Nash

County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2005.

SECTION 1.18. T. Craig Wright of Columbus County is appointed to the Criminal Justice Information Network Governing Board for a term expiring on June 30, 2005.

SECTION 1.19. Marguerite P. Watts of Pasquotank County is appointed to the Disciplinary Commission of the North Carolina State Bar for a term expiring on June 30, 2007.

SECTION 1.20.(a) Barbara Arnold of Wayne County, Jan Capps of Durham County, Dr. Deborah Weismann of Orange County, and Lynn Bryant of Dare County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2005.

SECTION 1.20.(b) Effective September 1, 2004, Sharon Hunt of Robeson County, Senator Ellie Kinnaird of Orange County, Sergeant John Guard of Pitt County, The Honorable Colon Willoughby, Jr. of Wake County, and The Honorable Dina Foster of Cleveland County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2006.

SECTION 1.21. Thelma White of Guilford County and Margaret Wingate of Mecklenburg County are appointed to the North Carolina Board of Electrolysis Examiners for terms expiring on June 30, 2005.

SECTION 1.22. Dr. Steven Edward Landau of Johnston County is appointed to the Emergency Medical Services Advisory Council for a term expiring on June 30, 2005.

SECTION 1.23. Jon Hamm of Wake County is appointed to the e-NC Authority for a term expiring on December 31, 2004.

SECTION 1.24. The Honorable Thomas K. Jenkins of Macon County is appointed to the Environmental Management Commission for a term expiring on June 30, 2005.

SECTION 1.25. Reverend David Franzen of Durham County is appointed to the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors for a term expiring on September 30, 2006.

SECTION 1.26. M. Durwood Stephenson of Johnston County, Reginald Kenan of Duplin County, and Dell Murphy of Duplin County are appointed to the North Carolina Global TransPark Authority for terms expiring on June 30, 2007.

SECTION 1.27. Bobby Bollinger of Mecklenburg County, Jo Anne Jeffries of Durham County, Emily Moore of Lenoir County, Marva M. Robinson of Brunswick County, and Louise Fisher of Wake County are appointed to the Governor's Advocacy Council for Persons with Disabilities for terms expiring on June 30, 2007.

SECTION 1.28. Effective July 1, 2004, if Senate Bill 1223 of the 2004 Regular Session of the 2003 General Assembly becomes law, Bruce Beasley of Wilson County is appointed to the North Carolina Health Insurance Innovations Commission for a term expiring on June 30, 2006.

SECTION 1.29. Kathryn Ahlport of Guilford County, Jesse Basnight of Orange County, Marian Duncan of Columbus County, Senator William Purcell of

Scotland County, Senator Eric Reeves of Wake County, and Carolyn Tracy of Cumberland County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms expiring on June 30, 2005.

SECTION 1.30. David G. Jones of Orange County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring on June 30, 2007.

SECTION 1.31. Patricia Garrett of Mecklenburg County, William D. Hedgepath of Cumberland County, and Robert Yatko of Gaston County are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30, 2007.

SECTION 1.32. Dean Carpenter of Gaston County, Gerald Holleman of Wake County, Ed Moran of Craven County, Jeffrey Null of Cumberland County, and Jeanne Tedrow of Wake County are appointed to the North Carolina Housing Partnership for terms expiring on August 31, 2005.

SECTION 1.33. Paul Brooks of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2005.

SECTION 1.34. Effective September 1, 2004, Sean P. Devereux of Buncombe County is appointed to the Commission on Indigent Defense Services for a term expiring on August 31, 2008.

SECTION 1.35. Janet Smith of Forsyth County is appointed to the Information Resource Management Commission for a term expiring on June 30, 2007.

SECTION 1.36. Jane Griffin of Martin County is appointed to the State Judicial Council for a term expiring on December 31, 2005.

SECTION 1.37. Ronald Cox of Wake County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2006.

SECTION 1.38. Johnnie Burgess of Onslow County and Larry Garner of Mecklenburg County are appointed to the North Carolina Manufactured Housing Board for terms expiring on June 30, 2007.

SECTION 1.39. Wayne Paul Seville of Guilford County is appointed to the North Carolina Board of Massage and Bodywork Therapy for a term expiring on June 30, 2006.

SECTION 1.40. Bernard Sullivan of Gaston County and Porter McAteer of Gaston County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2005.

SECTION 1.41. Elizabeth Wellons of Johnston County is appointed to the Board of Trustees of the North Carolina Museum of Art for a term expiring on June 30, 2005.

SECTION 1.42. The Honorable Robert B. Spivey of Bertie County, Ray Hollowell of Dare County, Ernie Bowden of Dare County, Elsie Griggs Hollowell Pugh of Camden County, Ben Berry of Pasquotank County, and Larry Johnson of Camden County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2005.

SECTION 1.43. Effective January 1, 2005, Cindy Morgan of Moore County is appointed to the North Carolina Board of Nursing for a term expiring December 31, 2008.

SECTION 1.44. Susan Neeley of Gaston County is appointed to the Board of Directors for the North Carolina Center for Nursing for a term expiring on June 30, 2006, to fill the unexpired term of Marti Davies.

SECTION 1.45. Wanda Boyette of Sampson County is appointed to the North Carolina Nursing Scholars Commission for a term expiring on June 30, 2007.

SECTION 1.46.(a) Edwin Holbrook of Cleveland County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2005.

SECTION 1.46.(b) Harriet Farrior of Duplin County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2006.

SECTION 1.46.(c) Timothy L. Aydlett of Perquimans County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2007.

SECTION 1.47. Tannis F. Nelson of New Hanover County is appointed to the Board of Directors of the North Carolina Partnership for Children, Inc., for a term expiring on December 31, 2004, to fill the unexpired term of Susan Eaves.

SECTION 1.48. Robin Adams Anderson of Wake County is appointed to the State Personnel Commission for a term expiring on June 30, 2009.

SECTION 1.49. William Witherspoon of Wake County, Douglas Howey of Wake County, Tom C. Mehder of Mecklenburg County, Michael Richard Hare of Perquimans County, and Anne Coan of Wake County are appointed to the North Carolina Petroleum Underground Storage Tank Funds Council for terms expiring on June 30, 2005.

SECTION 1.49A.(a) Daryl Garner of Carteret County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2005.

SECTION 1.49A.(b) Laura Wilson of New Hanover County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2006.

SECTION 1.50. Cecilie Lewis of Wake County is appointed to the North Carolina Principal Fellows Commission for a term expiring on June 30, 2007.

SECTION 1.51.(a) Richard Allen of Anson County, Keith Shannon of Mecklenburg County, and Mack Donaldson of Guilford County are appointed to the Private Protective Services Board for terms expiring on June 30, 2006.

SECTION 1.51.(b) Sheriff Rodney Midgett of Dare County is appointed to the Private Protective Services Board for a term expiring on June 30, 2006, to fill the unexpired term of Sheriff Bert Austin.

SECTION 1.52. Terry Wheeler of Dare County is appointed to the Property Tax Commission for a term expiring on June 30, 2007.

SECTION 1.53. Richard Burton of Durham County is appointed to the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan for a term expiring on June 30, 2005.

SECTION 1.54. David Walker of Robeson County is appointed to the Public Officers and Employees Liability Insurance Commission for a term expiring on June 30, 2007.

SECTION 1.55. Tom Morrow of Wake County and Anthony Copeland of Wake County are appointed to the Board of Public Telecommunications Commissioners of the North Carolina Agency for Public Telecommunications for terms expiring on June 30, 2005.

SECTION 1.56. Beverly McCracken of Guilford County is appointed to the Board of Trustees of the University of North Carolina Center for Public Television for a term expiring on June 30, 2005.

SECTION 1.57. Robert Bleeker of Cumberland County and Murray Greason of Forsyth County are appointed to the North Carolina Railroad Board of Directors for terms expiring on June 30, 2007.

SECTION 1.58. Marsha Jordan of Lincoln County is appointed to the North Carolina Real Estate Commission for a term expiring on July 31, 2005.

SECTION 1.59. Bruce Rubin of Forsyth County and Ralph Webb of Pitt County are appointed to the North Carolina Respiratory Care Board for terms expiring on October 31, 2006.

SECTION 1.60.(a) Tod B. Clissold of Dare County and Moncie L. Daniels of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2005.

SECTION 1.60.(b) William Kealy of Dare County, The Honorable Bobby Owens of Dare County, and Joanne Williams of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2006.

SECTION 1.61.(a) David R. Twiddy of Pasquotank County, Thomas Hilliard, III of Wake County, and Jim Funderburke of Gaston County are appointed to the Rules Review Commission for terms expiring on June 30, 2005.

SECTION 1.61.(b) Robert Saunders of Wake County is appointed to the Rules Review Commission for a term expiring on June 30, 2006.

SECTION 1.62. David Smith of Durham County is appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for a term expiring on June 30, 2007.

SECTION 1.63. Kirk Alan Preiss of Wake County is appointed to the North Carolina Board of Science and Technology for a term expiring on June 30, 2005.

SECTION 1.64. Russell Lee Stetson of Dare County is appointed to the North Carolina Seafood Industrial Park Authority for a term expiring on June 30, 2005.

SECTION 1.65. Michael Robertson of Lee County is appointed to the North Carolina Sheriff's Education and Training Standards Commission for a term expiring on June 30, 2005.

SECTION 1.66.(a) Edward Hearn of Wake County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2005.

SECTION 1.66.(b) Charles Martin of Franklin County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2007.

SECTION 1.67. Dr. Delilah Blanks of Columbus County and J. C. Batchelor, Jr. of Cumberland County are appointed to the Southeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2007.

SECTION 1.68. Howard Nifong of Mecklenburg County and William Tesh of Cumberland County are appointed to the Structural Pest Control Committee for terms expiring on June 30, 2006.

SECTION 1.69. David Turpin of Wake County is appointed to the North Carolina Substance Abuse Professional Certification Board for a term expiring on June 30, 2005.

SECTION 1.70.(a) Dr. Joseph Jenkins of Cumberland County is appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring on June 30, 2005.

SECTION 1.70.(b) Glenn Marek of Orange County is appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring on June 30, 2006.

SECTION 1.71. John H. Cilley, IV of Catawba County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2005.

SECTION 1.72.(a) Colleen Lanier of Forsyth County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2007.

SECTION 1.72.(b) Franz Holscher of Gaston County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2008.

SECTION 1.73.(a) Wilson Martin of Iredell County is appointed to the Well Contractors Certification Commission for a term expiring on June 30, 2005.

SECTION 1.73.(b) Michael Floyd of Mecklenburg County is appointed to the Well Contractors Certification Commission for a term expiring on June 30, 2006.

SECTION 1.74. J.W. Davis of Henderson County, Jewell Wilson of Buncombe County, and Tommy Jenkins of Macon County are appointed to the Western North Carolina Regional Economic Development Commission for terms expiring on June 30, 2007.

SECTION 1.75. John Pechmann of Cumberland County, Bobby Purcell of Wake County, Russell Maughn Hull, Jr. of Pasquotank County, and Eugene Price of Wayne County are appointed to the Wildlife Resources Commission for terms expiring on April 24, 2005.

SECTION 1.76. Belinda Gurkins of Pitt County, Leigh Horner of Orange County, and James R. Montgomery of Catawba County are appointed to the Wireless 911 Board for terms expiring on June 30, 2006.

PART II. EFFECTIVE DATE.

SECTION 2.1. The headings to the parts and sections of this act are a convenience to the reader and are for reference only.

SECTION 2.2. Except as otherwise provided in this act, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2003

S D

SENATE BILL 64

Rules and Operations of the Senate Committee Substitute Adopted 7/17/04
Third Edition Engrossed 7/17/04
PROPOSED HOUSE COMMITTEE SUBSTITUTE S64-PCS35514-LG-42

Short Title: 2004 Appointments Bill. (Public)

Sponsors:

Referred to:

February 18, 2003

A BILL TO BE ENTITLED

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TO MODIFY THE MEMBERS OF THE CENTENNIAL AUTHORITY.

Whereas, G.S. 120-121 authorizes the General Assembly to make certain appointments to public offices upon the recommendation of the President Pro Tempore of the Senate and the Speaker of the House of Representatives; and

Whereas, the President Pro Tempore of the Senate and the Speaker of the House of Representatives have made recommendations; Now, therefore,

The General Assembly of North Carolina enacts:

PART I. PRESIDENT PRO TEMPORE'S RECOMMENDATIONS.

SECTION 1.1.(a) Ken Morehead of Durham County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2006.

SECTION 1.1.(b) Barbara Berry of Wake County is appointed to the Acupuncture Licensing Board for a term expiring on June 30, 2007.

SECTION 1.2. Robert Timberlake, Jr. of Wake County, Jimmy A. Harrell, Jr. of Camden County, and Deborah Mae Johnson of Sampson County are appointed to the North Carolina Agricultural Finance Authority for terms expiring on June 30, 2007.

SECTION 1.3.(a) Ralph Brown of Iredell County is appointed to the Alarm Systems Licensing Board for a term expiring on June 30, 2005.

SECTION 1.3.(b) Anita Pfaff of Forsyth County is appointed to the Alarm Systems Licensing Board for a term expiring on June 30, 2007.

SECTION 1.4. Henry Faircloth of Sampson County is appointed to the North Carolina Appraisal Board for a term expiring on June 30, 2005.

SECTION 1.5.(a) Gladys Brooks of Buncombe County is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2006.

SECTION 1.5.(b) Honor Moor of Buncombe County is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2008.

SECTION 1.6. Lloyd Meekins, Jr. of Robeson County is appointed to the North Carolina Auctioneers Commission for a term expiring on June 30, 2006.

SECTION 1.7.(a) Dr. W. Eric Loch of Cumberland County is appointed to the North Carolina Board of Athletic Trainer Examiners for a term expiring on July 31, 2005.

SECTION 1.7.(b) Florence C. Moses of Wake County and Rick Proctor of Guilford County are appointed to the North Carolina Board of Athletic Trainer Examiners for terms expiring on July 31, 2006.

SECTION 1.8. John Houser of Gaston County is appointed to the State Banking Commission for a term expiring on March 31, 2008.

SECTION 1.9. Frances Walker of Currituck County is appointed to the North Carolina Bridge Authority for a term expiring on June 30, 2007.

SECTION 1.10.(a) Willy E. Stewart of Wake County is appointed to the State Building Commission for a term expiring on June 30, 2005.

SECTION 1.10.(b) Alan Lassiter of Perquimans County is appointed to the State Building Commission for a term expiring on June 30, 2006.

SECTION 1.10.(c) Paul Boney of New Hanover County is appointed to the State Building Commission for a term expiring on June 30, 2007.

SECTION 1.11. George Matthew Wood of Pasquotank County, Reef C. Ivey of Wake County, Wendell Murphy of Duplin County, George Daniel of Caswell County, and Frank Daniels, III of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2007.

SECTION 1.12. Margaret Ann Biddle of Wake County and Beth Rector of Columbus County are appointed to the North Carolina Child Care Commission for terms expiring on June 30, 2006.

SECTION 1.13. Richard P. Coleman of Columbus County is appointed to the Clean Water Management Trust Fund Board of Trustees for a term expiring on June 30, 2007, to fill the unexpired term of Alex McFadyen.

SECTION 1.14.(a) James Kennedy of Forsyth County and Lisa Privette of Harnett County are appointed to the North Carolina Code Officials Qualification Board for terms expiring on June 30, 2005.

SECTION 1.14.(b) Deborah Simpson of Cumberland County is appointed to the North Carolina Code Officials Qualification Board for a term expiring on June 30, 2006.

SECTION 1.15. Anna McCoy Smith of Forsyth County is appointed to the State Board of Cosmetic Art Examiners for a term expiring on June 30, 2005.

SECTION 1.16. Joyce Cutler of Beaufort County is appointed to the Crime Victims Compensation Commission for a term expiring on June 30, 2005.

SECTION 1.17. Wade Anders of Cumberland County, Terry Waterfield of Pasquotank County, Robert C. Lewis of Wake County, and Bonnie Boyette of Nash County are appointed to the North Carolina Criminal Justice Education and Training Standards Commission for terms expiring on June 30, 2005.

SECTION 1.18. T. Craig Wright of Columbus County is appointed to the Criminal Justice Information Network Governing Board for a term expiring on June 30, 2005.

SECTION 1.19. Marguerite P. Watts of Pasquotank County is appointed to the Disciplinary Commission of the North Carolina State Bar for a term expiring on June 30, 2007.

SECTION 1.20.(a) Barbara Arnold of Wayne County, Jan Capps of Durham County, Dr. Deborah Weismann of Orange County, and Lynn Bryant of Dare County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2005.

SECTION 1.20.(b) Effective September 1, 2004, Sharon Hunt of Robeson County, Senator Ellie Kinnaird of Orange County, Sergeant John Guard of Pitt County, The Honorable Colon Willoughby, Jr. of Wake County, and The Honorable Dina Foster of Cleveland County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2006.

SECTION 1.21. Thelma White of Guilford County and Margaret Wingate of Mecklenburg County are appointed to the North Carolina Board of Electrolysis Examiners for terms expiring on June 30, 2005.

SECTION 1.22. Dr. Steven Edward Landau of Johnston County is appointed to the Emergency Medical Services Advisory Council for a term expiring on June 30, 2005.

SECTION 1.23. Jon Hamm of Wake County is appointed to the e-NC Authority for a term expiring on December 31, 2004.

SECTION 1.24. The Honorable Thomas K. Jenkins of Macon County is appointed to the Environmental Management Commission for a term expiring on June 30, 2005.

SECTION 1.25. Reverend David Franzen of Durham County is appointed to the North Carolina State Board of Examiners of Fee-Based Practicing Pastoral Counselors for a term expiring on September 30, 2006.

SECTION 1.26. M. Durwood Stephenson of Johnston County, Reginald Kenan of Duplin County, and Dell Murphy of Duplin County are appointed to the North Carolina Global TransPark Authority for terms expiring on June 30, 2007.

SECTION 1.27. Bobby Bollinger of Mecklenburg County, Jo Anne Jeffries of Durham County, Emily Moore of Lenoir County, Marva M. Robinson of Brunswick County, and Louise Fisher of Wake County are appointed to the Governor's Advocacy Council for Persons with Disabilities for terms expiring on June 30, 2007.

SECTION 1.28. Effective July 1, 2004, if Senate Bill 1223 of the 2004 Regular Session of the 2003 General Assembly becomes law, Bruce Beasley of Wilson County is appointed to the North Carolina Health Insurance Innovations Commission for a term expiring on June 30, 2006.

SECTION 1.29. Kathryn Ahlport of Guilford County, Jesse Basnight of Orange County, Marian Duncan of Columbus County, Senator William Purcell of Scotland County, Senator Eric Reeves of Wake County, and Carolyn Tracy of Cumberland County are appointed to the Justus-Warren Heart Disease and Stroke Prevention Task Force for terms expiring on June 30, 2005.

SECTION 1.30. David G. Jones of Orange County is appointed to the North Carolina Home Inspector Licensure Board for a term expiring on June 30, 2007.

SECTION 1.31. Patricia Garrett of Mecklenburg County, William D. Hedgepath of Cumberland County, and Robert Yatko of Gaston County are appointed to the North Carolina Housing Finance Agency Board of Directors for terms expiring on June 30, 2007.

SECTION 1.32. Dean Carpenter of Gaston County, Gerald Holleman of Wake County, Ed Moran of Craven County, Jeffrey Null of Cumberland County, and Jeanne Tedrow of Wake County are appointed to the North Carolina Housing Partnership for terms expiring on August 31, 2005.

SECTION 1.33. Paul Brooks of Robeson County is appointed to the North Carolina State Commission of Indian Affairs for a term expiring on June 30, 2005.

SECTION 1.34. Effective September 1, 2004, Sean P. Devereux of Buncombe County is appointed to the Commission on Indigent Defense Services for a term expiring on August 31, 2008.

SECTION 1.35. Janet Smith of Forsyth County is appointed to the Information Resource Management Commission for a term expiring on June 30, 2007.

SECTION 1.36. Jane Griffin of Martin County is appointed to the State Judicial Council for a term expiring on December 31, 2005.

SECTION 1.37. Ronald Cox of Wake County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2006.

SECTION 1.38. Johnnie Burgess of Onslow County and Larry Garner of Mecklenburg County are appointed to the North Carolina Manufactured Housing Board for terms expiring on June 30, 2007.

SECTION 1.39. Wayne Paul Seville of Guilford County is appointed to the North Carolina Board of Massage and Bodywork Therapy for a term expiring on June 30, 2006.

SECTION 1.40. Bernard Sullivan of Gaston County and Porter McAteer of Gaston County are appointed to the Commission for Mental Health, Developmental Disabilities, and Substance Abuse Services for terms expiring on June 30, 2005.

SECTION 1.41. Elizabeth Wellons of Johnston County is appointed to the Board of Trustees of the North Carolina Museum of Art for a term expiring on June 30, 2005.

SECTION 1.42. The Honorable Robert B. Spivey of Bertie County, Ray Hollowell of Dare County, Ernie Bowden of Dare County, Elsie Griggs Hollowell Pugh of Camden County, Ben Berry of Pasquotank County, and Larry Johnson of Camden County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2005.

SECTION 1.43. Effective January 1, 2005, Cindy Morgan of Moore County is appointed to the North Carolina Board of Nursing for a term expiring December 31, 2008.

SECTION 1.44. Susan Neeley of Gaston County is appointed to the Board of Directors for the North Carolina Center for Nursing for a term expiring on June 30, 2006, to fill the unexpired term of Marti Davies.

SECTION 1.45. Wanda Boyette of Sampson County is appointed to the North Carolina Nursing Scholars Commission for a term expiring on June 30, 2007.

SECTION 1.46.(a) Edwin Holbrook of Cleveland County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2005.

SECTION 1.46.(b) Harriet Farrior of Duplin County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2006.

SECTION 1.46.(c) Timothy L. Aydlett of Perquimans County is appointed to the North Carolina Parks and Recreation Authority for a term expiring on June 30, 2007.

SECTION 1.47. Tannis F. Nelson of New Hanover County is appointed to the Board of Directors of the North Carolina Partnership for Children, Inc., for a term expiring on December 31, 2004, to fill the unexpired term of Susan Eaves.

SECTION 1.48. Robin Adams Anderson of Wake County is appointed to the State Personnel Commission for a term expiring on June 30, 2009.

SECTION 1.49. William Witherspoon of Wake County, Douglas Howey of Wake County, Tom C. Mehder of Mecklenburg County, Michael Richard Hare of Perquimans County, and Anne Coan of Wake County are appointed to the North Carolina Petroleum Underground Storage Tank Funds Council for terms expiring on June 30, 2005.

SECTION 1.49A.(a) Derryl Garner of Carteret County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2005.

SECTION 1.49A.(b) Laura Wilson of New Hanover County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2006.

SECTION 1.50. Cecilie Lewis of Wake County is appointed to the North Carolina Principal Fellows Commission for a term expiring on June 30, 2007.

SECTION 1.51.(a) Richard Allen of Anson County, Keith Shannon of Mecklenburg County, and Mack Donaldson of Guilford County are appointed to the Private Protective Services Board for terms expiring on June 30, 2006.

SECTION 1.51.(b) Sheriff Rodney Midgett of Dare County is appointed to the Private Protective Services Board for a term expiring on June 30, 2006, to fill the unexpired term of Sheriff Bert Austin.

SECTION 1.52. Terry Wheeler of Dare County is appointed to the Property Tax Commission for a term expiring on June 30, 2007.

SECTION 1.53. Richard Burton of Durham County is appointed to the Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan for a term expiring on June 30, 2005.

SECTION 1.54. David Walker of Robeson County is appointed to the Public Officers and Employees Liability Insurance Commission for a term expiring on June 30, 2007.

SECTION 1.55. Tom Morrow of Wake County and Anthony Copeland of Wake County are appointed to the Board of Public Telecommunications Commissioners of the North Carolina Agency for Public Telecommunications for terms expiring on June 30, 2005.

SECTION 1.56. Beverly McCracken of Guilford County is appointed to the Board of Trustees of the University of North Carolina Center for Public Television for a term expiring on June 30, 2005.

SECTION 1.57. Robert Bleeker of Cumberland County and Murray Greason of Forsyth County are appointed to the North Carolina Railroad Board of Directors for terms expiring on June 30, 2007.

SECTION 1.58. Marsha Jordan of Lincoln County is appointed to the North Carolina Real Estate Commission for a term expiring on July 31, 2005.

SECTION 1.59. Bruce Rubin of Forsyth County and Ralph Webb of Pitt County are appointed to the North Carolina Respiratory Care Board for terms expiring on October 31, 2006.

SECTION 1.60.(a) Tod B. Clissold of Dare County and Moncie L. Daniels of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2005.

SECTION 1.60.(b) William Kealy of Dare County, The Honorable Bobby Owens of Dare County, and Joanne Williams of Dare County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2006.

SECTION 1.61.(a) David R. Twiddy of Pasquotank County, Thomas Hilliard, III of Wake County, and Jim Funderburke of Gaston County are appointed to the Rules Review Commission for terms expiring on June 30, 2005.

SECTION 1.61.(b) Robert Saunders of Wake County is appointed to the Rules Review Commission for a term expiring on June 30, 2006.

SECTION 1.62. David Smith of Durham County is appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for a term expiring on June 30, 2007.

SECTION 1.63. Kirk Alan Preiss of Wake County is appointed to the North Carolina Board of Science and Technology for a term expiring on June 30, 2005.

SECTION 1.64. Russell Lee Stetson of Dare County is appointed to the North Carolina Seafood Industrial Park Authority for a term expiring on June 30, 2005.

SECTION 1.65. Michael Robertson of Lee County is appointed to the North Carolina Sheriff's Education and Training Standards Commission for a term expiring on June 30, 2005.

SECTION 1.66.(a) Edward Hearn of Wake County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2005.

SECTION 1.66.(b) Charles Martin of Franklin County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2007.

SECTION 1.67. Dr. Delilah Blanks of Columbus County and J. C. Batchelor, Jr. of Cumberland County are appointed to the Southeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2007.

SECTION 1.68. Howard Nifong of Mecklenburg County and William Tesh of Cumberland County are appointed to the Structural Pest Control Committee for terms expiring on June 30, 2006.

SECTION 1.69. David Turpin of Wake County is appointed to the North Carolina Substance Abuse Professional Certification Board for a term expiring on June 30, 2005.

SECTION 1.70.(a) Dr. Joseph Jenkins of Cumberland County is appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring on June 30, 2005.

SECTION 1.70.(b) Glenn Marek of Orange County is appointed to the Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for a term expiring on June 30, 2006.

SECTION 1.71. John H. Cilley, IV of Catawba County is appointed to the Board of Trustees of the Teachers' and State Employees' Retirement System for a term expiring on June 30, 2005.

SECTION 1.72.(a) Colleen Lanier of Forsyth County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2007.

SECTION 1.72.(b) Franz Holscher of Gaston County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2008.

SECTION 1.73.(a) Wilson Martin of Iredell County is appointed to the Well Contractors Certification Commission for a term expiring on June 30, 2005.

SECTION 1.73.(b) Michael Floyd of Mecklenburg County is appointed to the Well Contractors Certification Commission for a term expiring on June 30, 2006.

SECTION 1.74. J.W. Davis of Henderson County, Jewell Wilson of Buncombe County, and Tommy Jenkins of Macon County are appointed to the Western North Carolina Regional Economic Development Commission for terms expiring on June 30, 2007.

SECTION 1.75. John Pechmann of Cumberland County, Bobby Purcell of Wake County, Russell Maughn Hull, Jr. of Pasquotank County, and Eugene Price of Wayne County are appointed to the Wildlife Resources Commission for terms expiring on April 24, 2005.

SECTION 1.76. Belinda Gurkins of Pitt County, Leigh Horner of Orange County, and James R. Montgomery of Catawba County are appointed to the Wireless 911 Board for terms expiring on June 30, 2006.

PART II. SPEAKER'S RECOMMENDATIONS.

SECTION 2.1. Kaye Myers of Buncombe is appointed to the Board of Directors of the North Carolina Arboretum for a term expiring on June 30, 2008.

SECTION 2.2. C. Buren Williford of Wilson County is appointed to the State Building Commission for a term expiring on June 30, 2006.

SECTION 2.3. David Fountain of Wake County is appointed to the Board of Directors of the North Carolina Capital Facilities Finance Agency for a term expiring on July 31, 2005.

SECTION 2.4.(a) Ray Rouse of Wayne County and O. Temple Sloan of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2005.

SECTION 2.4.(b) Don Beason of Wake County and Michael Weeks of Wake County are appointed to the Centennial Authority for terms expiring on June 30, 2007.

SECTION 2.4.(c) Bob Seligson of Wake County is appointed to the Centennial Authority for a term expiring on June 30, 2008.

SECTION 2.5. Lynn Agee of Moore County and Lynn Marshbanks of Wake County are appointed to the Child Care Commission for terms expiring on June 30, 2006.

SECTION 2.6. Kevin Markham of Wake County is appointed to the Clean Water Management Trust Fund Board of Trustees for a term expiring on June 30, 2008, to fill the unexpired term of John Mcguire.

SECTION 2.7.(a) Victor Nathan Shaw of Union County is appointed to the North Carolina Code Officials Qualification Board for a term expiring on June 30, 2005, to fill the unexpired term of Howard Danieley.

SECTION 2.7.(b) Malcolm "Butch" Heyworth of Mecklenburg County is appointed to the North Carolina Code Officials Qualification Board for a term expiring on June 30, 2008.

SECTION 2.8.(a) Jane Gray of Wake County and James E. Godfrey of Lenoir County are appointed to the Criminal Justice Information Network Governing Board for terms expiring on June 30, 2007.

SECTION 2.8.(b) Leslie Stanfield of New Hanover County is appointed to the Criminal Justice Information Network Governing Board for a term expiring on June 30, 2005, to fill the unexpired term of Roy Holler.

SECTION 2.9. Effective September 1, 2004, Representative Marian McLawhorn of Pitt County, Mary Jo Morris of Moore County, David Mark Hullender of Cleveland County, Sheriff Phil Redmond of Iredell County, Aaron Alton Cox of Bladen County, Michael Turner of Forsyth County, and Julia Freeman of Haywood County are appointed to the Domestic Violence Commission for terms expiring on August 31, 2006.

SECTION 2.10. Effective December 1, 2004, Gene Miller, Jr. of New Hanover County is appointed to the Economic Investment Committee for a term expiring on November 30, 2006.

SECTION 2.11. Effective September 1, 2004, Gertrude Brown of Guilford County is appointed to the North Carolina Board of Electrolysis Examiners for a term expiring on August 31, 2007.

SECTION 2.12. Tracy L. Lawry of Mecklenburg County is appointed to the North Carolina Emergency Medical Services Advisory Council for a term expiring on December 31, 2007.

SECTION 2.13. Herbert J. Crenshaw of Wake County is appointed to the e-NC Authority for a term expiring on December 31, 2005.

SECTION 2.14. Donnie Brewer of Pitt County is appointed to the Environmental Management Commission for a term expiring on June 30, 2006.

SECTION 2.15. Marvin O. Wilson, Jr. of Mecklenburg County is appointed to the State Fire and Rescue Commission for a term expiring on September 30, 2007.

SECTION 2.16. Carl Dobson of Buncombe County is appointed to the Governor's Advocacy Council for Persons with Disabilities for a term expiring on June 30, 2005, to fill the unexpired term of Janet Sellers.

SECTION 2.17. September 1, 2004, Adam Stein of Orange County is appointed to the Commission on Indigent Defense Services for a term expiring on August 31, 2008.

SECTION 2.18.(a) Jack Olsen of Moore County is appointed to the State Judicial Council for a term expiring on December 31, 2007.

SECTION 2.18.(b) Effective January 1, 2005, Dumont Clarke of Mecklenburg County is appointed to the State Judicial Council for a term expiring on December 31, 2009.

SECTION 2.19. If Senate Bill 852, 2003 Regular Session, becomes law, Jeanette K. Poole of Forsyth County, Judith Brunger of Wake County, Addison Neal Smith of Rowan County, and K. Dean Shatley of Buncombe County are appointed to License to Give Trust Fund Commission for terms expiring on December 31, 2006.

SECTION 2.20. Carolyn L. Smith of Wake County and Sabra Faires of Wake County are appointed to the Life Sciences Revenue Bond Authority for terms expiring on June 30, 2005.

SECTION 2.21.(a) Ralph Fuller of Pamlico County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2006.

SECTION 2.21.(b) Thomas F. Campion of Cumberland County is appointed to the North Carolina Locksmith Licensing Board for a term expiring on December 31, 2007.

SECTION 2.22. Daisy C. Millett of Yadkin County is appointed to the North Carolina Board of Massage and Bodywork Therapy for a term expiring on June 30, 2006.

SECTION 2.23. Thomas Reese of Catawba County is appointed to the Natural Heritage Trust Fund Board of Trustees for a term expiring on December 31, 2010.

SECTION 2.24. The Honorable Frederick Yates of Perquimans County, Gene Minton of Halifax County, and the Honorable Zeno L. Edwards, Jr. of Beaufort County are appointed to the Northeastern North Carolina Regional Economic Development Commission for terms expiring on June 30, 2006.

SECTION 2.25. Martha Ann Harrell of Cumberland County is appointed to the North Carolina Board of Nursing for a term expiring on December 31, 2007.

SECTION 2.26. Jane Miles of Lenoir County is appointed to the North Carolina Center for Nursing Board of Directors for a term expiring on June 30, 2006.

SECTION 2.27. Nancy Oakley of Moore County and Dr. Kenneth L. Sadler of Forsyth County are appointed to the North Carolina Parks and Recreation Authority for terms expiring on June 30, 2007.

SECTION 2.28. Jeff Etheridge of Columbus County is appointed to the North Carolina State Ports Authority for a term expiring on June 30, 2006.

SECTION 2.29. John D. Greco of Guildford County is appointed to the Private Protective Services Board for a term expiring on June 30, 2006.

SECTION 2.30. Saint Claire Basnight of Dare County, William P. Massey of Mecklenburg County, and Joseph M. Bryan, Jr. of Guilford County are appointed to the Roanoke Island Commission for terms expiring on June 30, 2006.

SECTION 2.31. Lee Settle of Moore County and Graham Bell of Gaston County are appointed to the Rules Review Commission for terms expiring on June 30, 2006.

SECTION 2.31A. Spencer Thompson of Mecklenburg County is appointed to the Board of Trustees of the North Carolina School of Science and Mathematics for a term expiring on June 30, 2007, to fill the unexpired term of Carol Hughes.

SECTION 2.32. John B. Allison of Haywood County is appointed to the North Carolina Board for Licensing of Soil Scientists for a term expiring on June 30, 2007.

SECTION 2.33. Jay Bryan of Orange County is appointed to the State Personnel Commission for a term expiring on June 30, 2010.

SECTION 2.34. Linda Rouse Sutton of Lenoir County and William W. Hill of Nash County are appointed to Board of Trustees of the Teachers' and State Employees' Comprehensive Major Medical Plan for terms expiring on June 30, 2006.

SECTION 2.35. Vernon Thompson of Davie County is appointed to the North Carolina Teaching Fellows Commission for a term expiring on June 30, 2008.

SECTION 2.36. Sheriff Earl "Moose" Butler of Cumberland County is appointed to the North Carolina State Board of Therapeutic Recreation Certification for a term expiring on June 30, 2007.

SECTION 2.37. Allen Dameron of Brunswick County is appointed to the North Carolina Turnpike Authority for a term expiring on January 14, 2009.

SECTION 2.38. Glen Endreson of Dare County and David Hutson of Durham County are appointed to the Well Contractors Certification Commission for terms expiring on June 30, 2007.

PART III. CENTENNIAL AUTHORITY.

SECTION 3.1. The prefatory language of G.S. 160A-480.3(b) reads as rewritten:

"(b) Membership. – An authority shall have ~~eight~~ 10 or ~~19~~ 21 members. Members shall be chosen for terms as follows:".

SECTION 3.2. G.S. 160A-480.3(b)(1) reads as rewritten:

"(1) ~~Four~~ Five shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121, at least one of whom shall be a resident

of the territorial jurisdiction of the authority, and at least one other of whom shall have been recommended by the board of trustees of the constituent institution of The University of North Carolina whose main campus is located within the county;".

SECTION 3.3. G.S. 160A-480.3(b)(2) reads as rewritten:

"(2) ~~Four~~ Five shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, at least one of whom shall be a resident of the territorial jurisdiction of the authority, and at least one other of whom shall have been recommended by the Board of Trustees of the constituent institution of The University of North Carolina whose main campus is located within the county; and".

PART IV. EFFECTIVE DATE.

SECTION 4.1. The headings to the parts and sections of this act are a convenience to the reader and are for reference only.

SECTION 4.2. Except as otherwise provided in this act, this act is effective when it becomes law.

2003 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

☒ Committee Substitute for
S.B. 64 A BILL TO BE ENTITLED AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND TO MAKE VARIOUS CHANGES TO BOARDS AND COMMISSIONS.

☐ 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 the committee substitute bill (#), ☐ which changes the title, unfavorable as to (the 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.

☐ 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)

03/19/03