

2005

**HOUSE
APPROPRIATIONS**

**COMMITTEE
MINUTES**

HOUSE APPROPRIATIONS COMMITTEE

2005 SESSION

CHAIRS

**Representative Debbie Clary
Representative Jim Crawford
Representative Beverly Earle
Representative Edd Nye
Representative Bill Owens
Representative Wilma Sherrill**

VICE CHAIRS

**Representative Alma Adams
Representative Lorene Coates
Representative Nelson Cole
Representative Phil Haire
Representative Howard Hunter
Representative Verla Insko
Representative Maggie Jeffus
Representative Mickey Michaux
Representative Joe Tolson
Representative Edith Warren
Representative Thomas Wright
Representative Doug Yongue**

STAFF

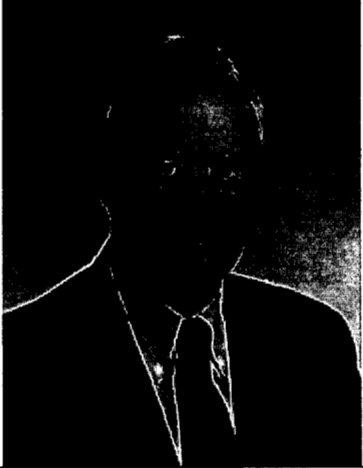
**Karen Hammonds-Blanks
Lynn Muchmore**

COMMITTEE ASSISTANTS

**Jo Bobbitt
Linda A. Johnson
Rosa Kelley
Ann Raeford
Linda Winstead
Shirley Winstead**

NORTH CAROLINA GENERAL ASSEMBLY HOUSE APPROPRIATIONS 2005-2006 SESSION

Committee Chairs

		
Rep. Debbie Clary	Rep. Jim Crawford	Rep. Beverly Earle
		
Rep. Edd Nye	Rep. Bill Owens	Rep. Wilma Sherrill

**NORTH CAROLINA GENERAL ASSEMBLY
APPROPRIATIONS
2005-2006 SESSION**

Committee Vice Chairs



Rep. Alma Adams



Rep. Lorene Coates



Rep. Nelson Cole



Rep. Phil Haire



Rep. Howard Hunter



Rep. Verla Insko



Rep. Maggie Jeffus



Rep. Mickey Michaux



Rep. Joe Tolson



Rep. Edith Warren



Rep. Thomas Wright



Rep. Doug Yongue

**NORTH CAROLINA GENERAL ASSEMBLY
HOUSE APPROPRIATIONS
COMMITTEE MEMBERS**



Rep. Bernard Allen



Rep. Lucy Allen



Rep. David Almond



Rep. Jeff Barnhart



Rep. Larry Bell



Rep. Larry Brown



Rep. Walter Church



Rep. George Cleveland



Rep. Linda Coleman



Rep. Arlie Culp



Rep. William Current



Rep. Leo Daughtry



Rep. Margaret Dickson



Rep. Bob England



Rep. Farmer-Butterfield



Rep. Susan Fisher



Rep. Phillip Frye



Rep. Bruce Goforth



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Rep. Robert Grady



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Rep. Carolyn Justus



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Rep. Grier Martin



Rep. Mary McAllister



Rep. Danny McComas



Rep. Marian McLawhorn



Rep. Ed McMahan



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Rep. Tim Moore



Rep. Earline Parmon



Rep. Louis Pate



Rep. Garland Pierce



Rep. Jean Preston



Rep. Ray Rapp



Rep. Karen Ray



Rep. John Sauls



Rep. Drew Saunders



Rep. Mitchell Setzer



Rep. Paul Stam



Rep. Edgar Starnes



Rep. Fred Steen



Rep. Bonner Stiller



Rep. Ronnie Sutton



Rep. Russell Tucker



Rep. Tracey Walker



Rep. Roger West



Rep. "Winkie" Wilkins



Rep. Arthur Williams



Rep. Gene Wilson



Rep. Michael Wray

HOUSE APPROPRIATIONS COMMITTEE
Member and Legislative Assistants

2005 - 2006

Member	Room	Phone	Legislative Assistant(s)
<u>Rep. Alma Adams</u>	417A LOB	919-733-5902	Jamilah Sabir-Calloway
<u>Rep. Martha B. Alexander</u>	2208 LB	919-733-5807	Ann Faust
<u>Rep. Bernard Allen</u>	1325 LB	919-733-5772	Latisha Dumas
<u>Rep. Lucy T. Allen</u>	1307 LB	919-733-5860	Melissa Riddle
<u>Rep. Cary D. Allred</u>	606 LOB	919-733-5905	Jean Allred
<u>Rep. David Almond</u>	1315 LB	919-733-5908	Alice Falcone
<u>Rep. Jeff Barnhart</u>	608 LOB	919-715-2009	Pamela Ahlin
<u>Rep. Larry M. Bell</u>	538 LOB	919-733-5863	Carolyn Edwards
<u>Rep. James B. Black</u>	2304 LB	919-733-3451	Meredith Swindell
<u>Rep. Curtis Blackwood</u>	1317 LB	919-733-2406	Mizie Finke
<u>Rep. John M. Blust</u>	1420 LB	919-733-5806	Betty Childress
<u>Rep. Alice L. Bordsen</u>	530 LOB	919-733-5820	Erin Wynia
<u>Rep. Larry R. Brown</u>	609 LOB	919-733-5607	Delores Ledford
<u>Rep. Harold J. Brubaker</u>	1229 LB	919-715-4946	Cindy Coley
<u>Rep. J. Russell Capps</u>	501 LOB	919-733-5903	Nancy Fox
<u>Rep. Becky Carney</u>	1221 LB	919-733-5827	Joyce Langdon
<u>Rep. Walter G. Church, Sr.</u>	1311 LB	919-733-5805	Joyce Fuller
<u>Rep. Debbie A. Clary</u>	303 LOB	919-715-2002	Shirley Winstead
<u>Rep. George G. Cleveland</u>	504 LOB	919-715-6707	Susan West
<u>Rep. Lorene Coates</u>	633 LOB	919-733-5784	Melissa Lennon
<u>Rep. Nelson Cole</u>	1218 LB	919-733-5779	Suzanne Smith
<u>Rep. Linda Coleman</u>	1013 LB	919-733-5934	Teresa Saunders
<u>Rep. James W. Crawford, Jr.</u>	2301 LB	919-733-5824	Linda Winstead
<u>Rep. Arlie F. Culp</u>	607 LOB	919-733-5865	Waneta Lord
<u>Rep. Bill Culpepper</u>	404 LOB	919-715-3028	Dot Crocker
<u>Rep. W. Pete Cunningham</u>	541 LOB	919-733-5778	Valerie Rustin
<u>Rep. William A. Current, Sr.</u>	418A LOB	919-733-5809	Wendy Miller
<u>Rep. Bill Daughtridge</u>	304B LOB	919-733-5802	Rachel Dupree

<u>Rep. N. Leo Daughtry</u>	1209 LB	919-733-5605	Bernice Bullard
<u>Rep. Margaret Highsmith Dickson</u>	1219 LB	919-733-5776	Sue Buehlmann
<u>Rep. Jerry C. Dockham</u>	1424 LB	919-715-2526	Regina Irwin
<u>Rep. Nelson Dollar</u>	1421 LB	919-715-0795	Candace Slate
<u>Rep. Beverly M. Earle</u>	634 LOB	919-715-2530	Ann Raeford
<u>Rep. Rick L. Eddins</u>	1002 LB	919-733-5828	Susan Phillips
<u>Rep. Bob England, M.D.</u>	2219 LB	919-733-5749	Lisa Brown
<u>Rep. Bill Faison</u>	537 LOB	919-715-3019	Kate Jackelen
<u>Rep. Jean Farmer-Butterfield</u>	611 LOB	919-733-5898	Barbara Hocutt
<u>Rep. Susan C. Fisher</u>	420 LOB	919-715-2013	Meredith Woodlief
<u>Rep. Dale R. Folwell</u>	508 LOB	919-733-5787	Mary Marchman
<u>Rep. Phillip Frye</u>	1019 LB	919-733-5661	Mary Hayes
<u>Rep. Pryor Gibson</u>	419A LOB	919-715-3007	Shirlyn MacPherson
<u>Rep. Mitch Gillespie</u>	1008 LB	919-733-5862	Cindy Hobbs
<u>Rep. Rick Glazier</u>	2215 LB	919-733-5601	Carin Savel
<u>Rep. Bruce Goforth</u>	1220 LB	919-733-5746	Ann Jordan
<u>Rep. Melanie Wade Goodwin</u>	1305 LB	919-733-5823	Jane McMillan
<u>Rep. W. Robert Grady</u>	302 LOB	919-715-9644	Neta Grady
<u>Rep. Jim Gulley</u>	1319 LB	919-733-5800	Suzanne Gulley
<u>Rep. Joe Hackney</u>	2207 LB	919-733-5752	Emily Reynolds
<u>Rep. R. Phillip Haire</u>	419B LOB	919-715-3005	Sara Jane Morris
<u>Rep. Jim Harrell, III</u>	403 LOB	919-715-1883	Beth LeGrand
<u>Rep. Mary Price Taylor Harrison</u>	2119 LB	919-733-5771	Anne Wilson
<u>Rep. Dewey L. Hill</u>	1309 LB	919-733-5830	Gennie Thurlow
<u>Rep. Mark K. Hilton</u>	1021 LB	919-733-5988	Carol Wilson
<u>Rep. Hugh Holliman</u>	1213 LB	919-715-0873	Carol Bowers
<u>Rep. Mark W. Hollo</u>	418B LOB	919-715-3009	Martha Hoover
<u>Rep. Bryan R. Holloway</u>	1409 LB	919-733-5609	Chad Hinton
<u>Rep. George M. Holmes</u>	1211 LB	919-733-5654	Glenda Jacobs
<u>Rep. Julia C. Howard</u>	1106 LB	919-733-5904	Anne Soles
<u>Rep. Howard J. Hunter, Jr.</u>	613 LOB	919-733-2962	Barbara Phillips
<u>Rep. Verla Insko</u>	2121 LB	919-733-7208	Pamela Evans
<u>Rep. Maggie Jeffus</u>	2204 LB	919-733-5191	Mary Lee Robinson
<u>Rep. Linda P. Johnson</u>	1006 LB	919-733-5861	Rachel Faison

<u>Rep. Earl Jones</u>	536 LOB	919-733-5825	Mia Bailey
<u>Rep. Edward Jones</u>	542 LOB	919-733-5878	Joan Peacock
<u>Rep. Carolyn H. Justice</u>	301C LOB	919-715-9664	Vivian Sherrell
<u>Rep. Carolyn K. Justus</u>	1023 LB	919-733-5956	Glenda Jones
<u>Rep. Joe L. Kiser</u>	1326 LB	919-733-5782	Marilyn Holder
<u>Rep. James H. Langdon, Jr.</u>	610 LOB	919-733-5849	Jackson Stancil
<u>Rep. Stephen A. LaRoque</u>	304A LOB	919-715-3017	Patricia Freije
<u>Rep. David R. Lewis</u>	509 LOB	919-715-3015	Marie Strickland
<u>Rep. Marvin W. Lucas</u>	1323 LB	919-733-5775	Thelma Utley
<u>Rep. Paul Luebke</u>	529 LOB	919-733-7663	Joyce Harris
<u>Rep. Grier Martin</u>	2123 LB	919-733-5758	Charlotte Graham
<u>Rep. Mary E. McAllister</u>	638 LOB	919-733-5959	Johnna Smith
<u>Rep. Daniel F. McComas</u>	506 LOB	919-733-5786	Judy Lowe
<u>Rep. Wm. C. "Bill" McGee</u>	531 LOB	919-733-5747	Jayne Nelson
<u>Rep. Marian N. McLawhorn</u>	1217 LB	919-733-5757	Susan Burleson
<u>Rep. W. Edwin McMahan</u>	1426 LB	919-733-5602	Jennnifer Loftis
<u>Rep. Henry M. Michaux, Jr.</u>	1227 LB	919-715-2528	Anita Wilder
<u>Rep. Paul Miller</u>	417B LOB	919-733-5872	Eryn Gee
<u>Rep. Tim Moore</u>	604 LOB	919-733-4838	Nancy Garriss
<u>Rep. Richard T. Morgan</u>	301 LOB	919-715-3010	Dixie Epps
<u>Rep. Edd Nye</u>	639 LOB	919-733-5477	Jo Bobbitt
<u>Rep. Bill Owens</u>	635 LOB	919-733-0010	Linda A. Johnson
<u>Rep. Earline W. Parmon</u>	632 LOB	919-733-5829	Pat Christmas
<u>Rep. Louis M. Pate, Jr.</u>	503 LOB	919-733-5755	Edna Pearce
<u>Rep. Garland E. Pierce</u>	1313 LB	919-733-5803	Mildred Alston
<u>Rep. Jean R. Preston</u>	603 LOB	919-733-5706	Suzanne Castleberry
<u>Rep. Ray Rapp</u>	2213 LB	919-733-5732	Dot Barber
<u>Rep. Karen B. Ray</u>	1025 LB	919-733-5741	Mary Ann Norwood
<u>Rep. John M. Rayfield</u>	510 LOB	919-733-5868	Brenda Olls
<u>Rep. John W. Rhodes</u>	1017 LB	919-733-5530	Lucille Carter
<u>Rep. Deborah K. Ross</u>	2223 LB	919-733-5773	Margie Penven
<u>Rep. John Sauls</u>	418C LOB	919-715-3012	Shara Graham
<u>Rep. Drew Saunders</u>	2217 LB	919-733-5606	Ruth Fish
<u>Rep. Mitchell S. Setzer</u>	1204 LB	919-733-4948	Joanna Mills

<u>Rep. Wilma M. Sherrill</u>	305 LOB	919-715-3026	Rosa Kelley
<u>Rep. Paul Stam</u>	502 LOB	919-733-5780	Jana Stam
<u>Rep. Edgar V. Starnes</u>	602 LOB	919-733-5931	Pattie Fleming
<u>Rep. Fred F. Steen, II</u>	514 LOB	919-733-5881	Chris Floyd
<u>Rep. Bonner L. Stiller</u>	301B LOB	919-733-5974	Carla Farmer
<u>Rep. Ronnie Sutton</u>	1321 LB	919-715-0875	Juanita Coley
<u>Rep. Joe P. Tolson</u>	402 LOB	919-715-3024	Gayle Christian
<u>Rep. Russell E. Tucker</u>	416B LOB	919-715-3021	Sally Gillis
<u>Rep. Alice Graham Underhill</u>	1206 LB	919-733-5853	Judy Veorse
<u>Rep. Doug Vinson</u>	1010 LB	919-733-5886	Darden Trotter
<u>Rep. William L. Wainwright</u>	532 LOB	919-733-5995	Blinda Edwards
<u>Rep. Trudi Walend</u>	1015 LB	919-715-4466	Ken Walend
<u>Rep. R. Tracy Walker</u>	1111 LB	919-733-5935	Barbara Powell
<u>Rep. Edith D. Warren</u>	416A LOB	919-715-3023	Nancy Willis
<u>Rep. Jennifer Weiss</u>	2221 LB	919-733-5781	Susan Doty
<u>Rep. Roger West</u>	1004 LB	919-733-5859	Linda C. Johnson
<u>Rep. Laura I. Wiley</u>	513 LOB	919-733-5877	Susan Brothers
<u>Rep. W. A. (Winkie) Wilkins</u>	1301 LB	919-715-0850	Nancy Brantley
<u>Rep. Arthur Williams</u>	637 LOB	919-733-5906	Linda Uzzle
<u>Rep. W. Eugene Wilson</u>	1109 LB	919-733-7727	Rebecca Jones-Cooper
<u>Rep. Larry Womble</u>	534 LOB	919-733-5777	Dorothy McLean
<u>Rep. Michael H. Wray</u>	533 LOB	919-733-5662	Mary Capps
<u>Rep. Thomas E. Wright</u>	528 LOB	919-733-5754	Clarestene Stewart
<u>Rep. Douglas Y. Yongue</u>	1303 LB	919-733-5821	Katie Stanley

RULES FOR HOUSE APPROPRIATIONS

June 15, 2005

When amendments are offered, the following rules must be met in order for the amendment to be eligible for consideration.

1. Money can only be transferred among items within the same subcommittee.
2. Amendments cannot increase total spending within a subcommittee report beyond what the subcommittee recommended.
3. Amendments cannot increase total spending beyond the total amount shown in the draft committee report.
4. Amendments cannot spend reversions.
5. Nonrecurring reductions cannot be used to fund recurring items.
6. Amendments that cause the budget to be unbalanced are not in order.
7. Amendments proposing to include material not directly related to the budget are not in order.
8. Amendments must be in writing, with 150 copies available for distribution. The Sergeant-at-Arms will distribute copies only at the direction of the chairs.
9. No documents may be distributed to members except by prior arrangement with the chairs.
10. To be considered a proposed amendment (a) must have been requested from drafting staff by 11:30 AM and (b) must have been logged in at the podium by committee staff by 1:00 PM. The Chairs will review amendments to make sure they are eligible for consideration. Eligible amendments will be heard after all of the subcommittee presentations have been made.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-276
SENATE BILL 622**

AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT
OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND
AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina enacts:

PART I. INTRODUCTION AND TITLE OF ACT

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 in accordance with the Executive Budget Act. Savings shall be effected where the total amounts appropriated are not required to perform these services and accomplish these purposes and the savings shall revert to the appropriate fund at the end of each fiscal year, except as otherwise provided by law.

TITLE OF ACT

SECTION 1.2. This act shall be known as the "Current Operations and Capital Improvements Appropriations Act of 2005."

PART II. CURRENT OPERATIONS AND EXPANSION/GENERAL FUND

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, 2007, according to the following schedule:

Current Operations – General Fund	2005-2006	2006-2007
EDUCATION		
Community Colleges System Office	\$ 787,685,943	\$ 767,295,886
Department of Public Instruction	6,607,998,945	6,579,807,097
University of North Carolina - Board of Governors		
Appalachian State University	97,708,514	98,114,232
East Carolina University		
Academic Affairs	165,132,181	168,098,010
Health Affairs	45,624,110	45,671,394
Elizabeth City State University	28,376,210	28,173,367
Fayetteville State University	42,540,261	42,778,425
North Carolina Agricultural and Technical State University	76,497,695	76,533,207

North Carolina General Assembly
Through House Committee on
Appropriations

Date: 09/13/2005
Time: 11:06
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Leg. Day: H-125/S-126

2005-2006 Biennium

Bill	Introducer	Short Title		Latest Action	In Date	Out Date
\$ H0008	Howard	COOLEEMEE HISTORIC SITE & INITIATIVE FUNDS.	H	Ref To Com On Appropriations	01-27-05	
\$ H0010	LaRoque	REGISTER OUT-OF-STATE SEX OFFENDERS.	H	Re-ref Com On Appropriations	06-22-05	
H0023	Howard	FIRE AND RESCUE PENSION ELECTION.	*H	Ref To Com On Pensions & Retirement and Aging	03-24-05	04-13-05
\$ H0025=	Ross	WAKE COUNTY FAMILY COURT FUNDS.	H	Ref To Com On Appropriations	02-01-05	
H0028	Glazier	STUDY OF SCHOOL TRANSPORTATION FUNDING.	*H	Re-ref Com On Appropriations	03-29-05	
\$ H0042=	Nye	TEACCH PROGRAM FUNDS.	H	Ref To Com On Appropriations	02-03-05	
\$ H0043=	Nye	HCCBG FUNDS.	H	Ref To Com On Appropriations	02-03-05	
\$ H0044	Nye	CAP/DA AUDIT FUNDS.	*H	Re-ref Com On Appropriations	04-05-05	
H0050=	Michaux	STREET GANG PREVENTION ACT.	*H	Ref To Com On Appropriations/ Base Budget	03-29-05	08-15-05
H0056	Womble	UPDATE LEGISLATIVE MILEAGE.	*H	Re-ref Com On Appropriations	03-22-05	
H0059	McLawhorn	RETIRED SCHOOL PROFESSIONALS RETURN TO WORK.	*H	Re-ref Com On Appropriations	06-01-05	
\$ H0063	Culpepper	FUNDS FOR HYDE COUNTY DEPUTY CLERK OF COURT.	H	Ref To Com On Appropriations	02-07-05	
H0083=	Nye	REINVESTMENT OF SAVINGS REALIZED/ COMM. CARE.	H	Re-ref Com On Appropriations	03-01-05	
H0087	Miller	STATE EMPLOYEES/PAY PERIODS.	*H	Re-ref Com On Appropriations	04-27-05	
H0106=	Nye	EXPAND MEDICAID ELIGIBILITY TO CHILDREN/200%.	H	Re-ref Com On Appropriations	03-01-05	
\$ H0107=	Nye	FUNDS TO EXPAND COMMUNITY CARE PROGRAM.	H	Ref To Com On Appropriations	02-08-05	
\$ H0108=	Haire	HURRICANE RECOVERY ACT OF 2005.	H	Ref To Com On Appropriations	02-08-05	
\$ H0117	Clary	SENIOR GAMES/FUNDS.	H	Ref To Com On Appropriations	02-09-05	
\$ H0119	Clary	WAGE ENHANCEMENT/ FUNDS.	H	Re-ref Com On Appropriations	04-05-05	
H0129	Wright	STATE AND LOCAL RETIREMENT COLAS.	H	Re-ref Com On Appropriations	03-23-05	
\$ H0130=	Glazier	CHILDREN'S ADVOCACY CTR. FUNDS.	H	Ref To Com On Appropriations	02-09-05	
\$ H0133=	Nye	AUTISM SOCIETY FUNDS.	H	Ref To Com On Appropriations	02-09-05	
\$ H0134=	Nye	AUTISM FOUNDATION CAPITAL FUNDS.	H	Ref To Com On Appropriations	02-09-05	
H0144=	Williams	INCREASE FIRE AND	H	Re-ref Com On	03-23-05	

'\$' indicates the bill is an appropriation bill.

A bold line indicates the bill is an appropriation bill.

'*' indicates that the text of the original bill was changed by some action.

'=' indicates that the original bill is identical to another bill.

North Carolina General Assembly
Through House Committee on
Appropriations

Date: 09/13/2005
Time: 11:06
Page: 002 of 019
Leg. Day: H-125/S-126

2005-2006 Biennium

Bill	Introducer	Short Title	Latest Action	In Date	Out Date
50	Gulley	RESCUE SQUAD PENSION. LMT GEN. FUND SPENDING/PRIOR YR'S SPENDING.	H Appropriations Ref To Com On Appropriations	02-09-05	
H0151	Gulley	ZERO-BASED BUDGETING.	H Ref To Com On Appropriations	02-09-05	
\$ H0175=	Clary	HOME CARE CHANGES.	*H Re-ref Com On Appropriations	03-16-05	
\$ H0181	Johnson	INCREASE SALARY FOR BEGINNING TEACHERS.	H Ref To Com On Appropriations	02-10-05	
\$ H0187	McLawhorn	PITT COUNTY SR. CENTER FUNDS.	H Ref To Com On Appropriations	02-10-05	
\$ H0221=	Yongue	EXPAND TEACHING FELLOWS PROGRAM.	H Ref To Com On Appropriations	02-15-05	
\$ H0224=	Yongue	LOW-WEALTH SCHOOL SUPPLEMENTAL FUNDING.	H Ref To Com On Appropriations	02-15-05	
\$ H0232=	Tolson	FUNDS FOR NC REAL.	H Ref To Com On Appropriations	02-15-05	
\$ H0235	Sherrill	ASHEVILLE ART MUSEUM FUNDS.	H Ref To Com On Appropriations	02-15-05	
\$ H0244	Sutton	INDIAN ECONOMIC DEVELOPMENT INITIATIVE FUNDS.	H Ref To Com On Appropriations	02-16-05	
\$ H0245	Sutton	COMMISSION OF INDIAN AFFAIRS FUNDS.	H Ref To Com On Appropriations	02-16-05	
\$ H0246	Preston	ADD'L FUNDS/DISABLED & GIFTED CHILDREN.	H Ref To Com On Appropriations	02-16-05	
\$ H0256	Tolson	AHEC CAPITAL FUNDS.	H Ref To Com On Appropriations	02-16-05	
\$ 57	Ross	HERTFORD/CHATHAM FUNDS.	*H Re-ref Com On Appropriations	07-28-05	
H0315	Clary	PHASE OUT COUNTY SHARE/SPECIAL ASSISTANCE.	H Ref To Com On Appropriations	02-21-05	
H0316	Clary	PHASE OUT COUNTY SHARE/MEDICAID.	H Ref To Com On Appropriations	02-21-05	
H0321=	Nye	STATE PUBLIC HEALTH LAB/CONSTRUCTION PROJECT.	H Ref To Com On Appropriations	02-21-05	
\$ H0334=	Hill	SE COMM. COLLEGE FACILITIES/FUNDS.	H Ref To Com On Appropriations	02-22-05	
\$ H0354=	Wiley	INTERNATIONAL HOME FURNISHINGS MARKET FUNDS.	H Ref To Com On Appropriations	02-23-05	
\$ H0364=	Weiss	HEALTHY CAROLINIANS FUNDS.	H Ref To Com On Appropriations	02-24-05	
\$ H0365=	Insko	JOBS FOR ALL ACT.	H Ref To Com On Appropriations	02-24-05	
\$ H0366=	Insko	FUNDS FOR MH/DD/SA CHILDRENS' SERVICES.	H Ref To Com On Appropriations	02-24-05	
\$ H0367=	Insko	FUNDS FOR MH TRUST FUND.	H Ref To Com On Appropriations	02-24-05	
\$ H0368=	Insko	FUNDS FOR MH RESIDENTIAL SERVICES.	H Ref To Com On Appropriations	02-24-05	
\$ H0369=	Insko	FUNDS FOR MH/DD/SA SPECIALTY SERVICES.	H Ref To Com On Appropriations	02-24-05	

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North Carolina General Assembly
Through House Committee on
Appropriations

Date: 09/13/2005
Time: 11:06
Page: 003 of 019
Leg. Day: H-125/S-126

2005-2006 Biennium

Bill	Introducer	Short Title	Latest Action	In Date	Out Date
\$ H0374	Faison	CASWELL DEPUTY AND ASSISTANT CLERK FUNDS.	H Ref To Com On Appropriations	02-24-05	
\$ H0386	Goodwin	DIVIDE DISTRICT 20.	*H Re-ref Com On Appropriations	05-31-05	
\$ H0390	Tucker	LONGEVITY PAY/CLERKS OF SUPERIOR COURT.	H Ref To Com On Appropriations	02-28-05	
\$ H0400	Moore	KINGS MT. HISTORICAL MUSEUM FUNDS.	H Ref To Com On Appropriations	03-01-05	
\$ H0401=	Howard	SINGLE SISTERS HOUSE FUNDS.	H Ref To Com On Appropriations	03-01-05	
H0402	Glazier	PURCHASE MILITARY SERVICE/RETIREMENT.	H Re-ref Com On Appropriations	04-20-05	
\$ H0405=	Wright	FUNDS TO ADDRESS AIDS PUBLIC HEALTH CRISIS.	H Ref To Com On Appropriations	03-01-05	
\$ H0406=	Wright	FUNDS FOR AMERICORPS.	H Ref To Com On Appropriations	03-01-05	
\$ H0407=	Wright	FUNDS FOR ASTHMA EDUCATION.	H Ref To Com On Appropriations	03-01-05	
\$ H0408=	Wright	FUNDS FOR HEALTH DISPARITIES INITIATIVE.	H Ref To Com On Appropriations	03-01-05	
\$ H0409	Wright	FUNDS FOR INTERPRETER SERVICES.	H Ref To Com On Appropriations	03-01-05	
\$ H0410=	Wright	FUNDS FOR DIABETES PREVENTION.	H Ref To Com On Appropriations	03-01-05	
\$ H0411	Wright	FUNDS FOR CLEAN SYRINGE PROGRAM.	H Ref To Com On Appropriations	03-01-05	
\$ H0412	Wright	FUNDS FOR ADAP.	H Ref To Com On Appropriations	03-01-05	
\$ H0414=	Tolson	STUDY OF PROPRIETARY SCHOOLS.	H Ref To Com On Appropriations	03-01-05	
\$ H0416=	Hill	ASST. CO. RANGER POSITION IN COLUMBUS/ FUNDS.	H Ref To Com On Appropriations	03-01-05	
H0423	Moore	HABITUAL MISDEMEANOR LARCENY/FELONY.	*H Re-ref Com On Appropriations	05-03-05	
\$ H0434=	McLawhorn	FUNDS FOR STATE AID FOR LIBRARIES.	H Ref To Com On Appropriations	03-02-05	
\$ H0435=	Ross	INCREASE NC HOUSING TRUST FUND.	H Ref To Com On Appropriations	03-02-05	
H0454=	Tolson	WATER/UTILITIES SAVINGS IN GOVT. FACILITIES.	H Re-ref Com On Appropriations	05-04-05	
\$ H0455=	Tolson	FUNDS FOR CENTER FOR INT'L UNDERSTANDING.	H Ref To Com On Appropriations	03-03-05	
\$ H0461=	Adams	CHARLOTTE HAWKINS BROWN MUSEUM/FUNDS.	H Ref To Com On Appropriations	03-03-05	
\$ H0463=	Church	ALLIED HEALTH & SCIENCE CTR. FUNDS.	H Ref To Com On Appropriations	03-03-05	
H0471	Walend	BUDGET DEADLINES ENHANCED.	H Ref To Com On Appropriations	03-07-05	
\$ H0486=	Weiss	CHILD WELFARE COLLABORATIVE FUNDS.	H Ref To Com On Appropriations	03-07-05	
\$ H0487=	Weiss	FUNDS FOR STRIKE OUT STROKE.	H Ref To Com On Appropriations	03-07-05	
\$ H0495	McLawhorn	PITT COUNTY FAMILY	H Ref To Com On	03-07-05	

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\$ 713=	Cleveland	COURT FUNDS.	Appropriations		
		VIETNAM VETERANS	H Ref To Com On	03-07-05	
		MEMORIAL FUNDS.	Appropriations		
H0529	Hackney	STUDY DEATH PENALTY (NEW).	*H Re-ref Com On Judiciary I	06-01-05	06-30-05
\$ H0530	Brown	HISTORIC OAK GROVE SCHOOL FUNDS.	H Re-ref Com On Finance	03-09-05	08-02-05
\$ H0531	Nye	FUNDS/RECRUIT MINORITY PHARMACY STUDENTS.	H Ref To Com On Appropriations	03-09-05	
\$ H0534=	Weiss	FUNDS FOR DEFIBRILLATORS/PUBLIC BUILDINGS.	H Ref To Com On Appropriations	03-09-05	
H0535=	Jeffus	TEACHERS CONVERT PERSONAL LEAVE TO SICK LEAVE.	*H Ref To Com On Education/Higher Education	04-06-05	08-22-05
\$ H0536	Wright	NURSING SCHOOL AT UNC-W.	H Ref To Com On Appropriations	03-09-05	
\$ H0547	Tolson	EDGEcombe SCHOOL SUSPENSION FUNDS.	H Ref To Com On Appropriations	03-10-05	
\$ H0549=	Tolson	SCIENCE MUSEUMS OF WILSON FUNDS.	H Ref To Com On Appropriations	03-10-05	
\$ H0551	Tolson	FUNDS FOR COMM. COLL. DISTANCE LEARNING.	H Ref To Com On Appropriations	03-10-05	
\$ H0552	Tolson	CUSTOMIZED INDUSTRY TRAINING PROGRAM.	*H Re-ref Com On Appropriations	03-28-05	
\$ H0553	Tolson	INCREASE FUNDING FOR SMALL BUSINESS CENTERS.	H Ref To Com On Appropriations	03-10-05	
\$ 54	Tolson	INCREASE COMMUNITY COLLEGE EQUIPMENT FUNDS.	H Ref To Com On Appropriations	03-10-05	
\$ H0562=	Walend	SOUTHERN APPALACHIAN SCIENCE & TECH. FUNDS.	H Ref To Com On Appropriations	03-10-05	
\$ H0564=	Tolson	COMM. COLL. ENROLLMENT RESERVE.	H Ref To Com On Appropriations	03-10-05	
\$ H0565	Tolson	FUNDS FOR STATE SCHOOL TECHNOLOGY FUND.	H Ref To Com On Appropriations	03-10-05	
\$ H0569	Sherrill	DV RECOMMENDATIONS.	*HR Ch. SL 2005-356	03-29-05	05-11-05
\$ H0573	Tolson	FUNDS FOR HIGH-COST COMM. COLL. PROGRAMS.	H Ref To Com On Appropriations	03-10-05	
\$ H0574=	Sherrill	COMM. COLL. ENROLLMENT RESERVE.	H Ref To Com On Appropriations	03-10-05	
\$ H0575	Tolson	LUMP-SUM BONUSES FOR CERTAIN STATE EMPLOYEES	*H Ref To Com On Appropriations/ Base Budget	03-10-05	08-29-05
H0579	McMahan	LIMIT TRANSFERS FROM HIGHWAY TRUST FUND.	H Ref To Com On Appropriations	03-10-05	
\$ H0588	Tolson	FUNDS FOR COMM. COLL. BIOTECHNOLOGY CENTERS.	H Ref To Com On Appropriations	03-10-05	
\$ H0589	Sherrill	EBLEN CHARITIES FUNDS.	H Ref To Com On Appropriations	03-10-05	
\$ H0591	Howard	PIEDMONT TRIAD HERITAGE OFFICER FUNDS.	H Ref To Com On Appropriations	03-10-05	

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\$ H0594=	Harrison	ACC HALL OF CHAMPIONS FUNDS.	H Ref To Com On Appropriations	03-14-05	
H0595=	Wainwright	DECREASE TEACHERS' COST FOR PERSONAL LEAVE.	H Re-ref Com On Appropriations	06-01-05	
\$ H0602	Yongue	CHILD NUTRITION PERSONNEL BONUS FUNDS.	H Ref To Com On Appropriations	03-14-05	
H0609=	England	EXTEND SUNSET ON WORKER TRAINING FUNDS.	H Ref To Com On Appropriations	03-14-05	
\$ H0610	Haire	FUNDS TO RELOCATE FORESTRY BUILDING.	H Ref To Com On Appropriations	03-14-05	
\$ H0645=	Holliman	AMEND WARRANTY/ SERVICE AGMT LAWS/ STUDY	*H Re-ref Com On Appropriations	05-12-05	
H0651	Wainwright	BEREAVEMENT LEAVE FOR SCHOOL EMPLOYEES.	*H Re-ref Com On Appropriations	04-20-05	
H0685=	Gibson	ANIMAL SHELTERS/ UNIFORM REGULATION.	*H Re-ref Com On Appropriations	04-05-05	
H0687	Gibson	PIRATING MOVIES.	*HR Ch. SL 2005-301	05-02-05	06-21-05
H0695=	Insko	REDUCED TUITION/UNC EMPLOYEES.-AB	*H Re-ref Com On Appropriations	04-04-05	
\$ H0697	Insko	FUNDS FOR MH CRISIS CENTERS.	H Ref To Com On Appropriations	03-17-05	
H0701	Faison	RETIRED SCHOOL PROFESSIONALS RETURN TO WORK.	*H Re-ref Com On Appropriations	06-23-05	
H0704=	Crawford	UNC PROFESSORS ENDOWMENT FUND.-AB	H Ref To Com On Appropriations	03-17-05	
\$ H0708=	Insko	FUNDS TO EXPAND MH COMMUNITY CAPACITY.	H Ref To Com On Appropriations	03-17-05	
H0711=	Bell	RETIREMENT SYSTEM COLAS.-AB	H Re-ref Com On Appropriations	03-23-05	
H0716	Coleman	MEDIATE STATE EMPLOYEE GRIEVANCE/ TIME FRAME.	*H Ref To Com On Judiciary II	06-07-05	08-23-05
\$ H0719=	Crawford	2005 GOVERNOR'S BUDGET.	H Ref To Com On Appropriations	03-17-05	
\$ H0720	Sutton	RIVERSIDE GOLF COURSE FUNDS.	H Ref To Com On Appropriations	03-17-05	
\$ H0721	Sutton	"STRIKE AT THE WIND" FUNDS.	H Ref To Com On Appropriations	03-17-05	
\$ H0722	Sutton	N.C. INDIAN CULTURAL CENTER FUNDS.	H Ref To Com On Appropriations	03-17-05	
\$ H0728	Holliman	ENSURE PEO LICENSING OVERSIGHT.-AB	H Ref To Com On Appropriations	03-17-05	
\$ H0732	L. Allen	WATER RESOURCES MANAGEMENT/FUNDS.	H Ref To Com On Appropriations	03-17-05	
H0741	Coates	DEPARTMENT OF VETERANS AFFAIRS.	*H Re-ref Com On Appropriations	04-19-05	
\$ H0742=	Coates	NORTH CAROLINA TRANSPORTATION MUSEUM FUNDS.	H Ref To Com On Appropriations	03-17-05	
H0763=	Culpepper	FIRE AND RESCUE WORKERS' RETIREMENT.	*H Re-ref Com On Appropriations	05-04-05	
H0769=	McLawnhorn	ENROLLMENT FUNDING IN CONT. BUDGET.-AB	H Ref To Com On Appropriations	03-17-05	

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H0784	Wright	CREDITABLE SERVICE/ WORKERS' COMPENSATION.	*H Re-ref Com On Appropriations	04-25-05	
\$ H0788	Eddins	CRIME VICTIMS RESTITUTION IMPROVEMENT ACT.	*H Re-ref Com On Appropriations	07-27-05	
\$ H0789=	Walend	DUPONT STATE FOREST CAPITAL FUNDS.	H Ref To Com On Appropriations	03-17-05	
\$ H0791	Nye	COUNTY VETERANS SERVICE OFFICES FUNDS.	H Re-ref Com On Appropriations	05-04-05	
\$ H0792=	Sherrill	UNC-ASHEVILLE/RETAIN SALE PROCEEDS.-AB	H Re-ref Com On Appropriations	03-29-05	
\$ H0796=	Grady	TANF BLOCK GRANT FUNDS/BOYS & GIRLS CLUB.	H Ref To Com On Appropriations	03-17-05	
H0799	Adams	LAPSED SALARIES/EEO.	*H Re-ref Com On Appropriations	05-18-05	
\$ H0809=	Crawford	CAROLINA BALLET FUNDS.	H Ref To Com On Appropriations	03-21-05	
\$ H0823	Jeffus	RESTORE JOHN H. RACE ADMIN. BLDG./FUNDS.	H Ref To Com On Appropriations	03-21-05	
H0824	Tucker	EMERGENCY MED. SERVICE AVAIL. FEE/ DUPLIN CO.	*H Re-ref Com On Finance	03-21-05	05-24-05
\$ H0830=	Tolson	E-NC VOTING MEMBERS/ JOB CREATION FUNDS.	*H Re-ref Com On Appropriations	04-27-05	
\$ H0831=	Adams	JOHN COLTRANE MUSIC HALL FUNDS.	H Ref To Com On Appropriations	03-22-05	
H0832	Dollar	COMMUTER THOROUGHFARE ACT OF 2005.	H Ref To Com On Appropriations	03-22-05	
\$ H0837	Harrison	FUNDS FOR "WE THE PEOPLE" SCHOOL COMPETITION.	H Ref To Com On Appropriations	03-22-05	
\$ H0842	Tucker	MUSCADINE FUNDS.	*H Re-ref Com On Appropriations	03-22-05	05-24-05
\$ H0842	Tucker	MUSCADINE FUNDS.	*H Re-ref Com On Appropriations	05-31-05	
\$ H0851=	Ross	SAME DAY REG. AT ONE- STOP SITES.	*H Re-ref Com On Appropriations	07-21-05	
\$ H0854	Insko	FUNDS FOR SPECIAL OLYMPICS.	H Ref To Com On Appropriations	03-22-05	
\$ H0858=	Hill	DAIRY STABILIZATION AND GROWTH ACT.	*H Re-ref Com On Appropriations	06-01-05	
\$ H0868=	Tolson	TANF BLOCK GRANT FUNDS/WORK CENTRAL, INC.	H Ref To Com On Appropriations	03-23-05	
\$ H0873=	Dickson	STATE CAPITOL FUNDS.	H Ref To Com On Appropriations	03-24-05	
H0879=	Justus	AMEND CLERKS' LONGEVITY.	H Ref To Com On Appropriations	03-24-05	
H0883=	Insko	RATE AND INFLATIONARY INCREASES/MH PROVIDERS.	H Ref To Com On Appropriations	03-24-05	
H0892=	Alexander	REGULATE SALE OF MALT BEVERAGE KEGS.	*H Re-ref Com On Rules, Calendar, and Operations of the House	06-08-05	06-08-05

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\$ H0895=	Jeffus	KIDS VOTING FUNDS.	H Ref To Com On Appropriations	03-24-05	
H0897=	Owens	NCNGUARD-TUITION ASSISTANCE PROGRAM CHANGES.	*H Re-ref Com On Rules, Calendar, and Operations of the House	04-06-05	08-15-05
H0898=	Owens	NCNG - DEPENDENTS PAY IN-STATE TUITION.	H Re-ref Com On Appropriations	04-06-05	
\$ H0899=	Owens	ONE NORTH CAROLINA SMALL BUSINESS FUND.	H Ref To Com On Appropriations	03-24-05	
\$ H0906=	Preston	CORE SOUND WATERFOWL MUSEUM FUNDS.	H Ref To Com On Appropriations	03-28-05	
\$ H0910=	Glazier	DEFENSE TECHNOLOGY INNOVATION CENTER.	H Ref To Com On Appropriations	03-28-05	
\$ H0912=	Warren	FARMVILLE/GREENE COUNTY WATER FUNDS.	H Ref To Com On Appropriations	03-28-05	
H0914	Crawford	STATE BUDGET ACT.	*H Ref To Com On Appropriations/ Base Budget	03-28-05	04-20-05
\$ H0924	Nye	BLADEN CC LAW ENFORCEMENT TRAINING CTR FUNDS.	H Ref To Com On Appropriations	03-28-05	
\$ H0925=	Preston	MARITIME MUSEUM FUNDS.	H Ref To Com On Appropriations	03-28-05	
\$ H0927=	Yongue	ADDITIONAL TEACHER SCHOLARSHIP LOANS.	H Ref To Com On Appropriations	03-28-05	
\$ H0928=	Ross	STATE GOV'T FAIR WAGE FUNDS/STUDY FAIR PAY.	*H Re-ref Com On Appropriations	05-18-05	
H0935	Goforth	EXPAND FELONY FOR CONSTRUCTION SITE THEFT	*H Re-ref Com On Appropriations	05-09-05	
\$ H0942=	Glazier	2005 MILITARY SUPPORT ACT.	*H Re-ref Com On Finance	03-28-05	06-14-05
\$ H0968=	Nye	FUNDS FOR CHILD-CARING INSTITUTIONS.	H Ref To Com On Appropriations	03-29-05	
\$ H0969	Nye	TEACCH AUTISM FUNDS.	H Ref To Com On Appropriations	03-29-05	
\$ H0970=	Nye	SPECIAL OLYMPICS FUNDS.	H Ref To Com On Appropriations	03-29-05	
\$ H0971	Nye	FUNDS FOR WOMEN'S CENTER.	H Ref To Com On Appropriations	03-29-05	
\$ H0974=	Weiss	PRAIRIE RIDGE ECOSTATION CAPITAL FUNDS.	H Ref To Com On Appropriations	03-29-05	
\$ H0983	Haire	JACKSON COUNTY SR. CENTER FUNDS.	H Ref To Com On Appropriations	03-30-05	
\$ H1001	LaRoque	NEUSE REGIONAL WATER & SEWER FUNDS.	H Ref To Com On Appropriations	03-31-05	
\$ H1002	LaRoque	CSS NEUSE FUNDS.	H Ref To Com On Appropriations	03-31-05	
\$ H1003	LaRoque	COMMUNITY ARTS COUNCIL FUNDS.	H Ref To Com On Appropriations	03-31-05	
\$ H1009	Dickson	FORT BRAGG/POPE AIR FORCE LAND COMN. FUNDS.	H Ref To Com On Appropriations	03-31-05	
H1011	Gillespie	INMATE BITING FELONY.	*H Re-ref Com On	04-13-05	

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22	Ross	FAIR PAY IN STATE GOV'T/MANAGERS ACCOUNTABLE.	*H Re-ref Com On Appropriations	05-02-05	
\$ H1027	Nye	UNC INSTITUTE OF MEDICINE FUNDS.	H Ref To Com On Appropriations	03-31-05	
\$ H1033	Wright	SMART START FUNDS.	H Ref To Com On Appropriations	03-31-05	
\$ H1035=	McComas	MARINE TECHNOLOGY RESEARCH VESSEL FUNDS.	H Ref To Com On Appropriations	03-31-05	
H1048	Hackney	GOVERNOR'S DWI TASK FORCE RECOMMENDATIONS.	*H Ref To Com On Judiciary I	06-08-05	07-19-05
H1057	Wright	REGIONAL EMS NETWORK PILOT PROGRAM.	H Ref To Com On Appropriations	03-31-05	
H1073	Rapp	EXTEND SUNSET/RETIRED TEACHERS RETURN TO WORK.	H Re-ref Com On Appropriations	04-27-05	
\$ H1081	Walend	BLUE RIDGE CC-TRANSYLVANIA CTR. FUNDS.	H Ref To Com On Appropriations	04-04-05	
\$ H1082=	Weiss	FUNDS FOR WAKE INPATIENT PSYCH. FACILITY.	H Ref To Com On Appropriations	04-04-05	
\$ H1088	Culp	ASHEBORO BOYS & GIRLS CLUB FUNDS.	H Ref To Com On Appropriations	04-04-05	
\$ H1091=	McLawhorn	FAMILY MED CENTER AT ECU/FUNDS.	H Ref To Com On Appropriations	04-04-05	
\$ H1098	Daughtridge	FINANCE NC MUSEUM OF ART EXPANSION.	*H Re-ref Com On Rules, Calendar, and Operations of the House	04-04-05	08-03-05
H1105=	West	IN-STATE TUITION/PARAMEDIC-TO-BSN PROGRAM.	H Re-ref Com On Appropriations	05-26-05	
H1107=	Warren	BRODY SCHOOL OF MED AT ECU/MEDICARE RECEIPTS.	H Ref To Com On Appropriations	04-05-05	
H1108=	Warren	BRODY SCHOOL OF MED AT ECU/MEDICARE RECEIPTS.	H Ref To Com On Appropriations	04-05-05	
\$ H1109	Langdon	JOHNSTON COMMUNITY COLLEGE ARBORETUM FUNDS.	H Ref To Com On Appropriations	04-05-05	
\$ H1110	Adams	NC A&T STATE UNIV. RESEARCH/EXTENSION FUNDS.	H Ref To Com On Appropriations	04-05-05	
\$ H1111	Adams	NC A&T LAND FUNDS.	H Ref To Com On Appropriations	04-05-05	
H1112=	Justus	CENTRAL LISTING/MH BEDS/INVOL.COMM	*HR Ch. SL 2005-371	08-09-05	08-10-05
\$ H1116	Tolson	STUDY TEACHER ASSISTANT SALARY SCHEDULE.	*H Re-ref Com On Appropriations	06-08-05	
\$ H1119=	Fisher	ASHEVILLE TUBERCULOSIS EXHIBIT FUNDS.	H Ref To Com On Appropriations	04-06-05	

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\$ H1126	Nye	OBESITY PREVENTION INITIATIVES.	H Ref To Com On Appropriations	04-06-05	
\$ H1127	Nye	MEDICAID PERSONAL NEEDS ALLOWANCE INCR.	H Ref To Com On Appropriations	04-06-05	
\$ H1132	Warren	EASTERN REGIONAL SCIENCE CTR.	H Ref To Com On Appropriations	04-06-05	
H1136	Culpepper	MERCURY SWITCH REMOVAL-2.	*H Pres. To Gov. 8/23/2005	05-18-05	05-18-05
\$ H1139	Crawford	VANCE VISITOR CENTER MUSEUM.	H Ref To Com On Appropriations	04-07-05	
\$ H1140	Tolson	TOBACCO FARM LIFE MUSEUM FUNDS.	H Ref To Com On Appropriations	04-07-05	
\$ H1141	Tolson	NC BASEBALL MUSEUM FUNDS.	H Ref To Com On Appropriations	04-07-05	
\$ H1143=	Michaux	MUSEUM OF LIFE AND SCIENCE FUNDS.	H Ref To Com On Appropriations	04-07-05	
\$ H1148=	Weiss	STATE EMPLOYEES/TEACHERS PAY INCREASES.	H Ref To Com On Appropriations	04-07-05	
\$ H1149=	Weiss	STATE EMPLOYEES/TEACHERS PAY INCREASES.	H Ref To Com On Appropriations	04-07-05	
\$ H1152	Yongue	ADD STEPS TO TEACHER SALARY SCHEDULE.	H Ref To Com On Appropriations	04-07-05	
\$ H1153	Crawford	DRAG RACING HALL OF FAME MUSEUM FUNDS.	H Ref To Com On Appropriations	04-07-05	
\$ H1154	Nye	FUNDS/STUDY DEAF/HARD OF HEARING PROGRAMS.	H Ref To Com On Appropriations	04-07-05	
\$ H1156=	Hackney	JUDICIAL COLLEGE FUNDS.	H Ref To Com On Appropriations	04-07-05	
\$ H1158	Hollo	CATAWBA VALLEY SALT BLOCK FUNDS.	H Ref To Com On Appropriations	04-07-05	
\$ H1164	Adams	CAROLINA THEATER FUNDS.	H Ref To Com On Appropriations	04-11-05	
\$ H1165	Adams	GREENSBORO UNITED ARTS COUNCIL FUNDS.	H Ref To Com On Appropriations	04-11-05	
\$ H1166	Wainwright	GREATER ENRICHMENT PROGRAM FUNDS.	H Ref To Com On Appropriations	04-11-05	
\$ H1167	Wainwright	CRAVEN COUNTY/YOUTH VISION FUNDS.	H Ref To Com On Appropriations	04-11-05	
\$ H1170=	Hunter	NC COMMUNITY DEVELOPMENT INITIATIVE FUNDS.	H Ref To Com On Appropriations	04-11-05	
\$ H1171	McComas	STATE PORTS AUTHORITY FUNDS.	H Ref To Com On Appropriations	04-11-05	
\$ H1173	Owens	PORT DISCOVER/HANDS-ON-SCIENCE CTR FUNDS.	H Ref To Com On Appropriations	04-11-05	
\$ H1177	Warren	MARTIN COMMUNITY COLLEGE FUNDS.	H Ref To Com On Appropriations	04-12-05	
\$ H1179	Glazier	FAYETTEVILLE WOMEN'S CTR. FUNDS.	H Ref To Com On Appropriations	04-12-05	
\$ H1192	Fisher	THE HEALTH ADVENTURE CAPITAL FUNDS.	H Ref To Com On Appropriations	04-12-05	
\$ H1193=	Weiss	REAL-TIME MONITORING/RESERVOIRS & BLUE CRABS.	H Ref To Com On Appropriations	04-12-05	

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\$ H1195	Goforth	WESTERN NORTH CAROLINA COMMUNITIES FUNDS.	H Ref To Com On Appropriations	04-13-05	
\$ H1204	Jones	INTERNATIONAL CIVIL RIGHTS MUSEUM FUNDS.	H Ref To Com On Appropriations	04-13-05	
\$ H1205	Jones	AFRICAN AMERICAN ATELIER FUNDS.	H Ref To Com On Appropriations	04-13-05	
\$ H1210=	Goodwin	DNA CRIME LAB INVESTIGATORS/FUNDS.	H Ref To Com On Appropriations	04-13-05	
\$ H1218=	Earle	FOOD BANK FUNDS.	H Ref To Com On Appropriations	04-13-05	
\$ H1219	Underhill	TRYON PALACE/HISTORY EDUCATION CTR. FUNDS.	H Ref To Com On Appropriations	04-14-05	
\$ H1220	Howard	FUNDS/TRUCKING PROG/ DAVIE CAMPUS/DAVIDSON CC.	H Ref To Com On Appropriations	04-14-05	
\$ H1222	Yongue	DISADVANTAGED STUDENT SUPPLEMENTAL FUNDS.	H Ref To Com On Appropriations	04-14-05	
\$ H1224	Harrell	ALLEGHANY ECONOMIC DEVELOPMENT FUNDS.	H Ref To Com On Appropriations	04-14-05	
\$ H1232	Jeffus	FUNDS FOR TEACHERS' INSTITUTE.	H Ref To Com On Appropriations	04-14-05	
\$ H1233	Warren	TIMBER SALES/ AGRICULTURAL RESEARCH STATIONS.	H Ref To Com On Appropriations	04-14-05	
\$ H1238	Nye	BLADEN AG. & EXPO. CENTER FUND.	H Ref To Com On Appropriations	04-18-05	
\$ H1239	Hunter	REGIONAL ECONOMIC DEVELOPMENT COMM/ FUNDS.	H Ref To Com On Appropriations	04-18-05	
\$ H1246	Tucker	NC MILITARY RESEARCH CENTER FUNDS.	H Ref To Com On Appropriations	04-18-05	
\$ H1247=	Luebke	NORTH CAROLINA MINORITY SUPPORT CENTER.	H Ref To Com On Appropriations	04-18-05	
\$ H1249	Insko	NORTHERN ORANGE COUNTY ARTS STUDIO FUNDS.	H Ref To Com On Appropriations	04-18-05	
\$ H1252	Wray	HALIWA-SAPONI/ COMMUNITY CTR. FUNDS.	H Ref To Com On Appropriations	04-18-05	
\$ H1253	Nye	ADULT CARE HOMES/COST REPORT/\$ TO IMPROVE.	H Ref To Com On Appropriations	04-18-05	
\$ H1254	Tucker	NATIONAL GUARD ARMORY FUNDS.	H Ref To Com On Appropriations	04-18-05	
\$ H1255	Pierce	REGIONAL MULTICULTURAL CENTER/ FUNDS.	H Ref To Com On Appropriations	04-18-05	
H1258	Moore	MEDICAID/EXCLUDE CERTAIN VA INCOME.	H Ref To Com On Appropriations	04-18-05	
H1272	Yongue	EDUCATION FACILITY FINANCING STUDY.	H Re-ref Com On Appropriations	06-08-05	
\$ H1282	Tolson	PILOT PROGRAM/FUNDS FOR MORTALITIES DISPOSAL.	H Ref To Com On Appropriations	04-19-05	
\$ H1300	Tucker	WALLACE REGIONAL WASTEWATER FUNDS.	H Ref To Com On Appropriations	04-20-05	

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H1323=	Glazier	ESTABLISH NC INNOCENCE INQUIRY COMMISSION.	*H Passed 3rd Reading	08-11-05	08-11-05
\$ H1326	Goforth	FRIENDS OF MOUNTAIN HISTORY FUNDS.	H Ref To Com On Appropriations	04-20-05	
\$ H1329	Bell	FUNDS FOR TESTING FACILITATORS.	H Ref To Com On Appropriations	04-20-05	
\$ H1337	Tolson	EDGEcombe VETERANS MUSEUM FUND.	H Ref To Com On Appropriations	04-21-05	
\$ H1338	Tolson	BLACK CREEK SR. CITIZENS CTR. FUNDS.	H Ref To Com On Appropriations	04-21-05	
H1340	Faison	REESTABLISH BOXING COMMISSION.	*H Re-ref Com On Appropriations	06-08-05	
\$ H1341	Lewis	JOHN A. MCKAY HOUSE FUNDS.	H Ref To Com On Appropriations	04-21-05	
\$ H1350	Lewis	CENTRAL CAROLINA COMM. COLLEGE LIBRARY FUNDS.	H Ref To Com On Appropriations	04-21-05	
H1364	Dollar	PEDIATRIC VACCINES/NO THIMEROSAL.	*H Re-ref Com On Appropriations	08-09-05	
\$ H1384	Gibson	EXPAND WADE PROGRAM FUNDS.	H Ref To Com On Appropriations	04-21-05	
\$ H1387=	Gibson	FUND STREAM MAPPING.	H Ref To Com On Appropriations	04-21-05	
\$ H1393	Goodwin	RICHMOND ARTS & AGRICULTURE ENTERPRISE FUNDS.	H Ref To Com On Appropriations	04-21-05	
\$ H1398	Sutton	PEMBROKE-PROSPECT DRAINAGE DISTRICT FUNDS.	H Ref To Com On Appropriations	04-21-05	
\$ H1399	L. Allen	HERITAGE TOURISM FUNDS.	H Ref To Com On Appropriations	04-21-05	
\$ H1403	Bordsen	GLENCOE MILL VILLAGE FUNDS.	H Ref To Com On Appropriations	04-21-05	
H1414	Pierce	HELP TEACHER ASSISTANTS BECOME TEACHERS.	*HR Ch. SL 2005-302	06-01-05	06-01-05
H1415	Sutton	REPORT DENIAL OF SOME PISTOL PERMITS.	*H Ref to Judiciary I. If fav, re-ref to Appropriations/ Base Budget	05-19-05	08-15-05
\$ H1418	Jones	LIFESKILLS CENTER FUNDS.	H Ref To Com On Appropriations	04-21-05	
\$ H1419	Jones	MEMORIAL BRANCH YMCA FUNDS.	H Ref To Com On Appropriations	04-21-05	
\$ H1420	Jones	BLACK CHILD DEVELOPMENT INSTITUTE FUNDS.	H Ref To Com On Appropriations	04-21-05	
\$ H1422	Adams	NCA&T ARTS CENTER PLANNING FUNDS.	H Ref To Com On Appropriations	04-21-05	
\$ H1423	Adams	GUILFORD NAA CULTURAL FUNDS.	H Ref To Com On Appropriations	04-21-05	
\$ H1424	Adams	FAITH MATTERS/SAFETY NET FUNDS.	H Ref To Com On Appropriations	04-21-05	
\$ H1431	Martin	MILITARY CONSUMER	H Re-ref Com On	04-21-05	08-10-05

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		PROTECTION SPECIALIST.	Rules, Calendar, and Operations of the House		
H1449	Blust	SALARY FUNDS/SPEND ONLY FOR SALARIES.	H Ref To Com On Appropriations	04-21-05	
H1452	Blust	GOLDEN L.E.A.F. FUNDS FOR HEALTH.	H Ref To Com On Appropriations	04-21-05	
H1457	Blust	ZERO-BASED BUDGETING.	H Ref To Com On Appropriations	04-21-05	
H1463	Sutton	ASSAULT/RAPE OF CHILD BY PARENT OR GUARDIAN.	H Re-ref Com On Appropriations	05-05-05	
H1486	Culpepper	FELONY DEATH BY VEHICLE.	*H Re-ref Com On Appropriations	05-26-05	
H1487	Dickson	LICENSE PLATE DESIGN CONTEST.	H Re-ref Com On Appropriations	06-01-05	
H1508	Blust	NORTH CAROLINA HIGHWAY TRUST FUND CHANGES.	H Ref To Com On Appropriations	04-21-05	
\$ H1513=	Weiss	CHILD PROTECTIVE SERVICES WORKER FUNDS.	H Ref To Com On Appropriations	04-21-05	
\$ H1530	Weiss	EST. CHILD MALTREATMENT PREVENTION COUNCIL.	H Ref To Com On Appropriations	04-21-05	
\$ H1550	Farmer-Butterfie	GUARDIANSHIP STUDY.	*H Re-ref Com On Appropriations	05-12-05	
\$ H1556	Tolson	GREENHOUSE GAS EMISSIONS FUNDS.	H Ref To Com On Appropriations	04-25-05	
\$ H1557	Williams	WASHINGTON COMMUNITY PARK FUNDS.	H Ref To Com On Appropriations	04-25-05	
\$ H1558	Williams	WILKINSON COMMUNITY CENTER FUNDS.	H Ref To Com On Appropriations	04-25-05	
\$ H1559	Coleman	DEREK'S RENAISSANCE HOUSE FUNDS.	H Ref To Com On Appropriations	04-26-05	
\$ H1560	Insko	FUNDS FOR TRANSITION SERVICES/MHDDSAS.	H Ref To Com On Appropriations	04-26-05	
\$ H1561	L. Allen	NE MUSIC/ ENTERTAINMENT DISTRICT FUNDS.	H Ref To Com On Appropriations	04-26-05	
\$ H1564	Nye	MEDICAID/WIRELESS MANAGEMENT PROGRAM.	H Ref To Com On Appropriations	04-27-05	
\$ H1565	Miller	FUNDS TO LOCATE SEX OFFENDERS.	H Ref To Com On Appropriations	04-28-05	
\$ H1566=	Womble	CENTER FOR DESIGN INNOVATION FUNDS.	H Ref To Com On Appropriations	04-28-05	
\$ H1567	Sutton	SE AGRICULTURAL CTR & FARMERS MARKET FUNDS.	H Ref To Com On Appropriations	04-28-05	
\$ H1568	Harrell	STUDY & EVALUATE GREEN INDUSTRY/FUNDS.	H Ref To Com On Appropriations	05-02-05	
\$ H1569	Culpepper	OYSTER RESTORATION & PROTECTION ACT.	H Ref To Com On Appropriations	05-02-05	
\$ H1570	Insko	FUNDS FOR CHILD HEALTH SURVEY (CHAMP).	H Ref To Com On Appropriations	05-02-05	
\$ H1571	Insko	AUDITORY LEARNING CENTER FUNDS.	H Ref To Com On Appropriations	05-02-05	
\$ H1572	Tucker	DUPLIN FOOD BANK WAREHOUSE FUNDS.	H Ref To Com On Appropriations	05-02-05	

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\$ H1573	Tucker	DUPLIN COMMUNITY LIBRARY FUNDS.	H Ref To Com On Appropriations	05-02-05	
\$ H1574	Goodwin	MONTGOMERY OLD COUNTY CEMETERY FUNDS.	H Ref To Com On Appropriations	05-02-05	
\$ H1576	Weiss	FUNDS FOR EARLY INTERVENTION SERVICES.	H Ref To Com On Appropriations	05-02-05	
\$ H1577	Goodwin	CENTRAL PARK OF NORTH CAROLINA FUNDS.	H Ref To Com On Appropriations	05-02-05	
\$ H1578	Harrell	NC VITICULTURE/ ENOLOGY CENTER FUNDS.	H Ref To Com On Appropriations	05-03-05	
\$ H1581	Justice	MURRAY FARM PRESERVATION FUNDS.	H Ref To Com On Appropriations	05-04-05	
\$ H1583	Bell	DILLARD ALUMNI COMMUNITY CENTER FUNDS.	H Ref To Com On Appropriations	05-04-05	
\$ H1584	Bell	SAMPSON COUNTY HISTORY MUSEUM FUNDS.	H Ref To Com On Appropriations	05-04-05	
\$ H1585	Bell	IVANHOE OUTREACH CENTER FUNDS.	H Ref To Com On Appropriations	05-04-05	
\$ H1587	Miller	DURHAM MEDIATION CENTER FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1588	Underhill	NEW BERN'S 300TH ANNIVERSARY FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1589	Lucas	SANDHILLS FAMILY HERITAGE ASSOC. FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1590	Rapp	YANCEY CONSTRUCTION JOB TRAINING FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1591	Rapp	YANCEY PUBLIC LIBRARY FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1592	Warren	CASH RENT SURVEYS/ FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1593=	McLawhorn	FFA CENTER FUNDS.	H Ref To Com On Appropriations	05-05-05	
H1594=	McLawhorn	AG. CURRICULUM DEVELOPMENT COORDINATOR FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1596	Williams	BATH COMMUNITY LIBRARY FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1597	Wright	HISTORIC BURGAW DEPOT FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1598	Faison	BARTLETT YANCEY HS BUS PARKING LOT FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1599	Faison	CASWELL INDUSTRIAL PARK/WATER & SEWER FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1600	Harrison	CLIMATE CHANGE/STATE AGENCY REPORTS/FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1601	Goforth	RURAL LIFE MUSEUM FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1602	Bell	REBUILDING BROKEN PLACES/FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1603	Farmer-Butterfie	EDGEcombe BUSINESS INCUBATOR FUNDS.	H Ref To Com On Appropriations	05-05-05	
\$ H1606	LaRoque	LENOIR CO. COUNCIL ON AGING FUNDS.	H Ref To Com On Appropriations	05-09-05	
\$ H1607	Womble	STERILIZATION	H Ref To Com On	05-09-05	

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		COMPENSATION.		Appropriations		
\$ 008	Weiss	PROJECT ENLIGHTENMENT FUNDS.	H	Ref To Com On Appropriations	05-09-05	
\$ H1610	Wilkins	ROXBORO UPTOWN DEV. CORP. FUNDS.	*H	Passed 3rd Reading	05-09-05	07-14-05
\$ H1611	Wilkins	PERSON MUSEUM OF HISTORY FUNDS.	H	Ref To Com On Appropriations	05-09-05	
\$ H1612	Wilkins	LITTLE RIVER COMM. COMPLEX FUNDS.	H	Ref To Com On Appropriations	05-09-05	
\$ H1617	Glazier	NORTH CAROLINA SCIENCE OLYMPIAD FUNDS.	H	Ref To Com On Appropriations	05-10-05	
\$ H1624	Sutton	SADDLETREE DRAINAGE DISTRICT FUNDS.	H	Ref To Com On Appropriations	05-11-05	
\$ H1625	Williams	TURNAGE THEATERS FUNDS.	H	Ref To Com On Appropriations	05-11-05	
\$ H1626	Rapp	CANTON SENIOR CENTER FUNDS.	H	Ref To Com On Appropriations	05-11-05	
\$ H1627	Rapp	FOLKMOOT USA FUNDS.	H	Ref To Com On Appropriations	05-11-05	
\$ H1628	Rapp	DOMESTIC VIOLENCE/SEXUAL ASSAULT ALLIANCE FUNDS.	H	Ref To Com On Appropriations	05-11-05	
\$ H1629	Hill	AGRICULTURE SURVEY FUNDS.	H	Ref To Com On Appropriations	05-11-05	
\$ H1636=	Warren	FIRST FLIGHT VENTURE CENTER RENOVATION FUNDS.	H	Ref To Com On Appropriations	05-11-05	
\$ H1637=	Warren	FIRST FLIGHT VENTURE OPERATING FUNDS.	H	Ref To Com On Appropriations	05-11-05	
\$ H1639	Crawford	HENDERSON-VANCE CLEANUP FUNDS.	H	Ref To Com On Appropriations	05-11-05	
\$ H1640	Crawford	VANCE-GRANVILLE CC PUBLIC SAFETY FUNDS.	H	Ref To Com On Appropriations	05-11-05	
\$ H1641	Underhill	NC FARMLAND PRESERVATION COMMITTEE FUNDS.	H	Ref To Com On Appropriations	05-11-05	
\$ H1645	Crawford	MODEL TEACHER CONSORTIUM EXPANSION FUNDS.	H	Ref To Com On Appropriations	05-11-05	
\$ H1647	Hill	BOLTON TOWN HALL FUNDS.	H	Ref To Com On Appropriations	05-12-05	
\$ H1648	Jeffus	GREENSBORO SYMPHONY SOCIETY FUNDS.	H	Ref To Com On Appropriations	05-12-05	
\$ H1651	Jeffus	NATURAL SCIENCE CENTER FUNDS.	H	Ref To Com On Appropriations	05-12-05	
\$ H1652	B. Allen	FUNDS/WAKE SMILES/INDIGENT DENTAL PROGRAM.	H	Ref To Com On Appropriations	05-12-05	
\$ H1654	McLawhorn	CHAMBERS OF COMMERCE PILOT FUNDS.	H	Ref To Com On Appropriations	05-12-05	
\$ H1655	Faison	ORANGE FIRE TRAINING FACILITY FUNDS.	H	Ref To Com On Appropriations	05-12-05	
\$ H1656	Faison	HISTORIC BURWELL SCHOOL REPAIR FUNDS.	H	Ref To Com On Appropriations	05-12-05	
\$ H1657	Faison	DEEDS FUNDS.	H	Ref To Com On	05-12-05	

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\$ 58	Faison	HILLSBOROUGH HISTORIC DIST. COMM. FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1659	Faison	OCIM FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1660	Faison	HILLSBOROUGH EXCHANGE CLUB CTR FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1661	Faison	YANCEYVILLE/MAUD GATEWOOD PARK FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1662	Faison	CASWELL COUNTY BROADBAND FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1663	Faison	CASWELL 21ST CENTURY DEVELOPMENT FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1665	Insko	FUNDS FOR ORANGE/PERSON/CHATHAM MH.	H Ref To Com On Appropriations	05-12-05	
\$ H1666	Jeffus	TRIAD STAGE FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1667	Gibson	DEPT. OF REV. POSITIONS/ENHANCE COLLECTIONS.	H Ref To Com On Appropriations	05-12-05	
\$ H1669	Gibson	BADIN HISTORIC MUSEUM FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1670	Gibson	WINGATE VOLUNTEER FIRE DEPARTMENT FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1671	Gibson	TURNING POINT FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1672	Gibson	MONROE/UNION CIVIC CTR. FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1673	Gibson	SANDHILLS PLANETARIUM FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1674	Gibson	ANSONVILLE HISTORICAL SOCIETY FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1675	Gibson	ANSON/UNION/HISTORICAL/ARTS/VFD FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1676	Faison	CASWELL SOCCER COMPLEX FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1677	Lucas	MANCHESTER CDC FUNDS.	*H Re-ref Com On Appropriations	05-12-05	05-24-05
\$ H1677	Lucas	MANCHESTER CDC FUNDS.	*H Re-ref Com On Appropriations	05-31-05	
\$ H1679	Culpepper	ROANOKE RIVER LIGHTHOUSE RESTORATION FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1680	Culpepper	EDENTON SIGNERS MEMORIAL FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1681	Hackney	CHATHAM INDUSTRIAL PARK FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1684	L. Allen	HALL OF FAME STUDY FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1686	Wainwright	NORTH CAROLINA D.A.R.E. FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1688	McLawhorn	STATE ENERGY OFFICE FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1689	McLawhorn	EAST CAROLINA U./AUDITORY LEARNING CTR	H Ref To Com On Appropriations	05-12-05	

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		FUNDS.				
\$ 90	Cole	ROCKINGHAM EQUESTRIAN	H	Ref To Com On	05-12-05	
		CENTER FUNDS.		Appropriations		
\$ H1691	Wray	HENDERSON-VANCE DDC/	H	Ref To Com On	05-12-05	
		FUNDS.		Appropriations		
\$ H1692	Wray	WARRENTON RURAL FIRE	H	Ref To Com On	05-12-05	
		FUNDS.		Appropriations		
\$ H1693	Wray	WARREN COUNTY RESCUE	H	Ref To Com On	05-12-05	
		SQUAD FUNDS.		Appropriations		
\$ H1694	Wray	VANCE COUNTY PUBLIC	H	Ref To Com On	05-12-05	
		SCHOOL FOUNDATION.		Appropriations		
\$ H1695	Wray	NORTHAMPTON	H	Ref To Com On	05-12-05	
		RECREATION/ARTS FUNDS.		Appropriations		
\$ H1696	Wray	NORTHAMPTON EDUCATION	H	Ref To Com On	05-12-05	
		FOUNDATION FUNDS.		Appropriations		
\$ H1697	Wray	MUD CASTLE CDC FUNDS.	H	Ref To Com On	05-12-05	
				Appropriations		
\$ H1698	Tolson	WILSON COUNTY	H	Ref To Com On	05-12-05	
		FEASIBILITY STUDY		Appropriations		
		FUNDS.				
\$ H1700	Wainwright	AREA DAY REPORTING	H	Ref To Com On	05-12-05	
		YOUTH PROGRAM FUNDS.		Appropriations		
\$ H1702	Preston	OYSTER RESEARCH	H	Ref To Com On	05-12-05	
		INITIATIVE.		Appropriations		
\$ H1703	Preston	MARITIME AREA	H	Ref To Com On	05-12-05	
		HERITAGE TOURISM		Appropriations		
		OFFICER FUNDS.				
\$ H1705	Hollo	ALEXANDER COUNTY	H	Ref To Com On	05-12-05	
		BRANCH LIBRARY FUNDS.		Appropriations		
\$ 07	Yongue	FUTURES FOR KIDS	H	Ref To Com On	05-12-05	
		FUNDS.		Appropriations		
\$ H1710	Miller	FUNDS/BRITE/DNA	H	Ref To Com On	05-12-05	
		DATABASE/NCCU.		Appropriations		
\$ H1712	Hackney	CHATHAM COUNTY ARTS	H	Ref To Com On	05-12-05	
		COUNCIL FUNDS.		Appropriations		
\$ H1713	Weiss	CAPITAL AREA VISITORS	H	Ref To Com On	05-12-05	
		CENTER FUNDS.		Appropriations		
\$ H1714	Weiss	NC COUNCIL ON THE	H	Ref To Com On	05-12-05	
		HOLOCAUST FUNDS.		Appropriations		
\$ H1717	Carney	NORTH CAROLINA ARTS	H	Ref To Com On	05-12-05	
		COUNCIL FUNDS.		Appropriations		
\$ H1719	Alexander	OPERA COMPANY OF NC	H	Ref To Com On	05-12-05	
		FUNDS.		Appropriations		
\$ H1720	Daughtridge	ECONOMIC DEVELOPMENT	H	Ref To Com On	05-12-05	
		BOARD FUNDS.		Appropriations		
H1721	Daughtridge	FUNDS TO AID COUNTIES	H	Ref To Com On	05-12-05	
		WITH MEDICAID		Appropriations		
		PAYMENTS.				
\$ H1723	Crawford	THE STUDIES ACT OF	*H	Re-ref Com On	05-12-05	06-22-05
		2005		Rules and		
				Operations of the		
				Senate		
\$ H1724	Earle	FUNDS FOR NASCAR HALL	H	Ref To Com On	05-12-05	
		OF FAME.		Appropriations		
H1725	Earle	RATE & INFLATIONARY	H	Ref To Com On	05-12-05	
		INCR./KIDNEY DIALYSIS.		Appropriations		

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2005-2006 Biennium

Bill	Introducer	Short Title	Latest Action	In Date	Out Date
\$ H1726	Earle	NC RADIO READING SERVICES FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1727	Earle	NORTH CAROLINA EDUCATIONAL DEVELOPMENT FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1728	Earle	AFRICAN-AMERICAN SPORTS MUSEUM FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1732	Stiller	BRUNSWICK AQUATIC & YOUTH CENTERS/FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1733	Pierce	RAEFORD-HOKE MUSEUM FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1734	Pierce	SOUTHSIDE SCHOOL ALUMNI FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1735	Pierce	MAXTON SOUTHEASTERN VFD FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1736	Pierce	MAXTON YOUTH PROGRAMS FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1737	Pierce	FAIRMONT FARMERS FESTIVAL FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1738	Pierce	AFRICAN AMERICAN CULTURAL CENTER FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1739	Pierce	AFRICAN AMERICAN HERITAGE COMMITTEE FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1740	Pierce	ROWLAND RESCUE SQUAD FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1741	Pierce	LUMBEE RIVER YOUTH PROJECT FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1742	Pierce	ROWLAND AREA COMMUNITY DEV. CORP. FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1743	Pierce	SCOTLAND COUNTY/WAGRAM VFD FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1744	Pierce	HORIZON POINT CHILD ADVOCACY CTR. FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1745	Glazier	SOUND BASIC EDUCATION ACT OF 2005.	H Ref To Com On Appropriations	05-12-05	
\$ H1748	Pierce	HOKE COUNTY YOUTH & FAMILY SERVICES FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1749	Faison	CEDAR GROVE ASSOCIATION FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1750	Faison	CASWELL WATER EXTENSION FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1751	Faison	CASWELL AGRICULTURAL PROCESS CENTER FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1753	Harrell	SALARY INCREASE FOR SCHOOL EMPLOYEES.	H Ref To Com On Appropriations	05-12-05	
\$ H1754=	Harrell	COLLEGE OF EDUCATION AT ASU/FUNDS.	H Ref To Com On Appropriations	05-12-05	
\$ H1755=	Harrell	EQUITY FUNDING FOR ASU.	H Ref To Com On Appropriations	05-12-05	
\$ H1756	Harrell	SALARY INCREASE FOR STATE EMPLOYEES.	H Ref To Com On Appropriations	05-12-05	
\$ H1757	McComas	FUND SHELLFISH LABORATORY.	H Ref To Com On Appropriations	05-12-05	
\$ H1760	Cunningham	ANITA STROUD	H Ref To Com On	05-12-05	

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North Carolina General Assembly
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2005-2006 Biennium

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		FOUNDATION FUNDS.	Appropriations		
\$ H1762	Justice	RESOURCE CONSERVATION	H Ref To Com On	05-12-05	
		& DEV. COUNCILS FUNDS.	Appropriations		
\$ H1763	Jeffus	SALARY INCREASE FOR	H Ref To Com On	05-12-05	
		SCHOOL EMPLOYEES.	Appropriations		
\$ H1770	Luebke	RETAIN EXCELLENT	H Ref To Com On	05-12-05	
		TEACHERS IN LEANDRO	Appropriations		
		COUNTIES.			
\$ H1771	Culpepper	MACHAPUNGO PARK FUNDS.	H Ref To Com On	05-12-05	
			Appropriations		
\$ H1772	Culpepper	ESTABLISH SANDHILLS	H Ref To Com On	05-12-05	
		AG. CTR/FUNDS.	Appropriations		
\$ H1773	Culpepper	OCRACOCKE ISLAND EMS	H Ref To Com On	05-12-05	
		FUNDS.	Appropriations		
\$ H1774	Culpepper	HISTORIC BANDON BLDG.	H Ref To Com On	05-12-05	
		RESTORATION FUNDS.	Appropriations		
H1775	McComas	UNC NONAPPROPRIATED	*HR Ch. SL 2005-324	07-07-05	07-19-05
		CAPITAL PROJECTS.			
\$ H1780	Wilkins	INSTRUCTIONAL TECH.	H Ref To Com On	05-12-05	
		INTEGRATION PILOT	Appropriations		
		FUNDS.			
\$ S0007	Martin L. Nesbit	HURRICANE RECOVERY	*HR Ch. SL 2005-1	02-16-05	02-21-05
		ACT OF 2005.			
\$ S0130=	Daniel G. Clodfe	CURRITUCK PROPERTY	*H Ref To Com On	02-15-05	03-10-05
		CONVEYANCE.	Judiciary I		
\$ S0148	Doug Berger	DEATH BENEFIT FOR	*HR Ch. SL 2005-376	07-13-05	08-22-05
		PART-TIME LAW			
		ENFORCEMENT.			
S0223=	Eleanor Kinnaird	PUBLIC CONFIDENCE IN	*HR Ch. SL 2005-323	08-10-05	08-11-05
		ELECTIONS.			
S0320	Daniel G. Clodfe	JURY FEE WAIVER	*H Ref To Com On	05-27-05	
		PROGRAM.	Appropriations		
S0486=	Austin M. Allran	RACHEL'S LAW.	*H Pres. To Gov. 8/ 24/2005	07-20-05	08-10-05
\$ S0612=	Tony Rand	AMEND LOBBYING LAWS.	*H Pres. To Gov. 8/ 24/2005	07-27-05	08-10-05
\$ S0622=	Linda Garrou	2005 APPROPRIATIONS	*HR Ch. SL 2005-276	05-10-05	06-13-05
		ACT.			
\$ S0622=	Linda Garrou	2005 APPROPRIATIONS	*HR Ch. SL 2005-276	06-14-05	06-15-05
		ACT.			
S0671=	Fletcher L. Hart	REAL PROPERTY	*H Pres. To Gov. 8/ 24/2005	08-23-05	08-24-05
		ELECTRONIC RECORDING.			
S0685	Stan Bingham	REVISE PROFESSIONAL	*HR Ch. SL 2005-124	03-30-05	05-16-05
		EMPLOYER ORGANIZATION			
		ACT.			
S0724=	Scott Thomas	NCNG-DEPENDENTS PAY	H Ref To Com On	05-31-05	
		IN-STATE TUITION.	Appropriations		
S0725=	Scott Thomas	NCNGUARD-TUITION	*H Pres. To Gov. 8/ 24/2005	08-16-05	08-23-05
		ASSISTANCE PROGRAM			
		CHANGES.			
\$ S0804	Fletcher L. Hart	PUBLIC HEALTH TASK	*HR Ch. SL 2005-369	08-23-05	08-23-05
		FORCE/ACCRED.			
		RECOMMEND.			
S0868	Doug Berger	BILL LEE /EXCISE TAX	*H Pres. To Gov. 8/ 24/2005	08-16-05	08-22-05
		REFUND.			
S0967=	Walter H. Dalton	ONE NORTH CAROLINA	*H Ref To Com On	05-26-05	

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		SMALL BUSINESS FUND/ JDIG.			
\$ 67=	Tony Rand	DEFENSE TECHNOLOGY INNOVATION CENTER.	*H Ref To Com On Appropriations	05-31-05	
\$ S1117=	Tony Rand	2005 MILITARY SUPPORT ACT.	*H Pres. To Gov. 8/ 30/2005	08-02-05	08-24-05
\$ S1117=	Tony Rand	2005 MILITARY SUPPORT ACT.	*H Pres. To Gov. 8/ 30/2005	08-25-05	08-29-05

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North Carolina General Assembly
House of Representatives

REPRESENTATIVE DREW P. SAUNDERS
99TH DISTRICT

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COMMITTEES:

PUBLIC UTILITIES, CHAIR
NEW LICENSING BOARDS, CHAIR
MECKLENBURG DELEGATION, CHAIR
TRANSPORTATION, VICE CHAIR
APPROPRIATIONS
TRANSPORTATION
BUSINESS CAUCUS
FINANCIAL INSTITUTIONS
HOUSE SELECT COMMITTEE ON NC STATE
EMPLOYEES' DISABILITY PLANS
INSURANCE
NASCAR CAUCUS
RULES, CALENDAR AND OPERATIONS OF THE
HOUSE
WAYS AND MEANS

MEMORANDUM

TO: Representatives Clary, Crawford, Earle, Nye, Owens, & Sherrill, Chairs
House Appropriations Committee

FROM: Representative Drew Saunders, Chair
Subcommittee for HB 716 Mediate State Employee Grievance/Time Frame

DATE: August 9, 2005

The Subcommittee for HB 716 Mediate State Employee Grievance/Time Frame met on July 27, 2005. The Subcommittee recommended that HB 716 be included in the study bill.

rf



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

2

HOUSE BILL 716
Committee Substitute Favorable 6/1/05

Short Title: Mediate State Employee Grievance/Time Frame.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR THE MEDIATION OF STATE EMPLOYEE
GRIEVANCES UNDER THE STATE PERSONNEL ACT AND RELATING TO
THE TIME FRAME FOR CONTESTED CASES UNDER G.S. 126-34.1.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-34 reads as rewritten:

"§ 126-34. Grievance appeal for career State employees.

Unless otherwise provided in this Chapter, any career State employee having a grievance arising out of or due to the employee's employment and who does not allege unlawful harassment or discrimination because of the employee's age, sex, race, color, national origin, religion, creed, handicapping condition as defined by G.S. 168A-3, or political affiliation shall ~~first discuss the problem or grievance with the employee's supervisor and follow the grievance procedure established by the employee's department or agency.~~ The internal grievance procedure of each State agency, department, institution, and The University of North Carolina shall include mediation as the first step of the procedure. An independent third party who is not employed by the same agency as the employee having the grievance shall conduct the mediation. Any State employee having a grievance arising out of or due to the employee's employment who alleges unlawful harassment because of the employee's age, sex, race, color, national origin, religion, creed, or handicapping condition as defined by G.S. 168A-3 shall submit a written complaint to the employee's department or agency. The department or agency shall have 60 days within which to take appropriate remedial action. If the employee is not satisfied with the department or agency's response to the complaint, the employee shall have the right to appeal directly to the State Personnel Commission."

SECTION 2. G.S. 126-34.1 is amended by adding a new subsection to read:

"(f) The Office of Administrative Hearings must conduct a contested case hearing and render a decision on cases filed under this section no later than 210 days from the date the case was filed with the Office of Administrative Hearings. If the Office of Administrative Hearings fails to complete the contested case hearing process in 210

1 days of the date filed, then a party may petition the State Personnel Commission Chair
2 to appoint an experienced personnel law attorney to complete the administrative hearing
3 decision-making process and certify an official record within 60 days at the expense of
4 the Office of Administrative Hearings."

5 **SECTION 3.** This act is effective when it becomes law and applies to State
6 employee grievances that arise on or after that date.



Bill Faison

North Carolina House of Representatives
Representative District 50 – Caswell & Orange Counties
300 N. Salisbury Street – Room 537
Legislative Office Building
Raleigh, NC 27603-5925
Office: (919) 715-3019 Fax: (919) 754-3201
Direct: (919) 606-6700 or (336) 694-1616

BillF@ncleg.net

June 7, 2005



The Honorable James W. Crawford, Jr.
Rm. 2301
16 West Jones Street
Raleigh, NC 27601-1096

Re: Rule 36.1 (e) Objection to the Fiscal Note to Reestablish the Boxing Commission, House Bill 1340.

The Fiscal Note on the Boxing Commission is incorrect to the extent that it suggests the Fiscal Impact of the Boxing Commission exceeds \$2,600 in new money each year.

The current Fiscal Note says that the costs of the Fiscal Impact of the Boxing Commission is \$83,954 comprised of the salary of the executive director in the amount of \$81,354 and the "travel and per diem costs for seven Commission members to attend four meetings annually" of \$2,600.

Currently the Boxing Authority has an executive director whose salary is \$81,354 annually. The Boxing Authority is under the Department of Crime Control. The Boxing Commission will be under the Department of Crime Control. The executive director of the Boxing Commission will have the same salary as the executive director of the Boxing Authority (and initially would probably be the same person). Thus, the salary of the executive director is not new money and currently is in the 2004-05 budget for the Department of Crime control as is the costs of the ancillary support personal. Just as the ancillary support personal are not new costs for the State, neither is the costs of the executive director. The only new costs to the State to have a Boxing Commission to provide public oversight of boxing is the travel and per diem costs of the commissioners in the amount of \$2,600.

Best regards,

Bill Faison
Representative
N.C. House District 50

Received
6-9-05
Denise Weeks

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Fiscal Note

BILL NUMBER: House Bill 1340 (2nd Edition)

SHORT TITLE: Reestablish Boxing Commission.

SPONSOR(S): Representative Faison

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
REVENUES:	See technical section				
EXPENDITURES:	\$83,954	\$83,954	\$83,954	\$83,954	\$83,954
POSITIONS (cumulative):	1.0	1.0	1.0	1.0	1.0
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Crime Control and Public Safety					
EFFECTIVE DATE: This act is effective when it becomes law.					

BILL SUMMARY:

As title indicates, reenacts provisions of repealed Article 68 of GS Chapter 143 as a new Article 68A, except reestablishes Commission within the Department of Commerce, Division of Tourism, Film, and Sports Development, and provides that seven-member Commission will include two members appointed by the Speaker, two by the President Pro Tem., two by the Governor, and one by the Lt. Governor (was, six voting members, two members appointed by the Secretary of Crime Control and Public Safety, one by the Tribal Council of the Eastern Band of the Cherokee, and one each by the Governor, Speaker, and President Pro Tem.); and deletes prohibition against ultimate warrior matches. Amends GS 90-18.3(b) (physician physical examination may be conducted by nurse practitioners and physician assistants) to exempt rules adopted by the NC Boxing Commission requiring physical examinations. Makes conforming change to GS 18B-502(a).

House committee substitute makes the following changes to 1st edition. Reestablishes Boxing Commission within the Department of Crime Control and Public Safety (was, Department of Commerce, Division of Tourism, Film, and Sports Development). Makes conforming changes. Provides that Commission consists of five voting and two nonvoting advisory members (was, seven members, without nonvoting members). Directs nonvoting advisory members to advise

Commission on matters concerning health and physical condition of boxers and health issues related to conduct of exhibitions and boxing matches and authorizes nonvoting members to propose rules, for approval by Commission, to safeguard physical welfare of participants engaged in boxing. Provides that President Pro Tem. and Speaker will each appoint one nonvoting member, each appointment to be from nominations by the North Carolina Medical Society of two licensed physicians. Provides that voting members will include three appointed by Governor, one appointed by General Assembly as recommended by President Pro Tem., and one appointed by General Assembly as recommended by Speaker. Amends proposed terms of voting members and establishes terms for nonvoting members. Restores prohibition against ultimate warrior matches deleted by 1st edition.

Source: Bill Digest H.B. 13402 (04/21/0200).

ASSUMPTIONS AND METHODOLOGY: HB 1340 proposes to reestablish the Boxing Commission with the same the number of commissioners, types of events allowed, and types/amounts of fees that were established under the former Boxing Commission. The bill directs the Secretary to hire an Executive Director and to provide staff assistance to the Director. The costs to re-establish the Boxing Commission as directed in the bill would be those associated with the seven new commission members and the compensation for the Executive Director. Because HB 1340 makes no other changes, it is assumed that the annual number of events and the fees generated would remain unchanged from the current levels. According to data provided by the NC Boxing Authority staff, the travel and per diem costs for seven Commission members to attend four meetings annually was \$2,600 in FY 2003-04. The salary and compensation cost for the current Executive Director of the NC Boxing Authority is \$81,354 annually. Thus the total costs to re-establish the seven-member commission and to compensate an Executive Director are estimated at \$83,954 in the first year.

The 2004 Budget Bill, S.L. 2004-124, included a provision that eliminated the Boxing Commission, including its general fund appropriation, and transferred the regulation of boxing to the Division of Alcohol Law Enforcement (ALE). The bill directed the Department of Crime Control and Public Safety (CCPS) to use available salary reserve funds to reclassify the two Boxing Commission staff positions and transfer them to ALE. The former two-member Boxing Commission staff was transferred to the NC Boxing Authority established within ALE in FY 2004-05. In FY 2003-04, the annual operating budget for the NC Boxing Commission was approximately \$174,449 in expenditures offset by \$40,000 in budgeted receipts. As a result of S.L. 2004-124, the CCPS general fund appropriation was reduced by \$134,449, requiring the Department to re-allocate existing funds and salary reserve within its budget to support the cost of regulating boxing. HB 1340, however, does not specify if funds are to be provided to support the full administrative costs of boxing regulation. Because there are no references to other administrative costs, it is assumed for the purpose of this fiscal note, that the only cost associated with this bill is the amount needed to compensate the Executive Director and support the Commissioners' actual expenses to attend four annual meetings.

SOURCES OF DATA: NC Boxing Authority staff at the Department of Crime Control and Public Safety, Division of Alcohol Law Enforcement.

TECHNICAL CONSIDERATIONS: As currently drafted, HB 1340 is not clear in its intent regarding funds to fully support all costs associated with boxing regulation. If no additional funds are to be provided other than the \$83,954 estimated above, should it be assumed that the Department must transfer funds from ALE or other divisions to the Commission for the full cost of boxing regulation?

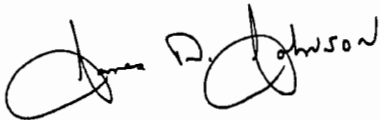
S.L. 2004-124 eliminated all general fund appropriation for the Boxing Commission and directed the Department to use available funds to reclassify and transfer two positions to ALE to regulate boxing. Currently, there are two positions in the NC Boxing Authority with total budgeted personal services cost of \$131,454 and another \$43,000 budgeted for contracts, supplies, equipment, and other operating costs. In FY 2003-04, \$29,216 in boxing receipts was realized. Outside of the one position established, should the remaining position, the funds, and other ALE resources provided to the existing NC Boxing Authority be transferred to the Commission or are there to be new recurring funds appropriated to fully support all staff and operating costs associated with the regulation of boxing in the state? Neither the former NC Boxing Commission nor the current NC Boxing Authority ever realized more than \$50,000 in receipts. So anticipated receipts would not be adequate to make up the remainder of the cost of boxing regulation.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Denise Thomas



APPROVED BY: James D. Johnson Director, Fiscal Research Division



DATE: June 13, 2005

ATTENDANCE

HOUSE APPROPRIATIONS COMMITTEE

(Name of Committee)

DATES	2/17/05	2/23/05 AM	2/23/05 PM	2/24/05	3/1/05	4/20/05	5/11/05	6/15/05	7/19/05	8/10/05	8/11/05 4PM	8/11/05 6:30	8/22/05	8/23/05	8/24/05	8/29/05 6:30	8/29/05 8:30
2005 SESSION																	
Clary, Debbie, Chair					✓	✓	✓	✓		✓	✓	✓	✓			✓	✓
Crawford, Jim, Chair				✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Earle, Beverly, Chair					✓	✓		✓	✓	✓		✓	✓	✓			✓
Nye, Edd, Chair				✓	✓	✓		✓	✓	✓	✓	✓	✓		✓	✓	✓
Owens, Bill, Chair				✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Sherrill, Wilma, Chair							✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
Adams, Alma					✓			✓	✓			✓	✓				✓
Allen, Bernard				✓	✓	✓		✓	✓	✓	✓	✓	✓			✓	
Allen, Lucy				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Almond, David					✓	✓		✓			✓	✓	✓		✓	✓	✓
Barnhart, Jeff				✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Bell, Larry					✓	✓		✓	✓		✓	✓			✓	✓	✓
Brown, Larry				✓	✓	✓		✓	✓	✓		✓	✓			✓	✓
Church, Walter						✓	✓	✓		✓			✓		✓	✓	✓
Cleveland, George				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Coates, Lorene				✓	✓	✓		✓	✓		✓		✓			✓	✓
Cole, Nelson					✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓
Coleman, Linda					✓	✓	✓	✓	✓		✓	✓	✓	✓			✓
Culp, Arlie						✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓
Current, William				✓	✓	✓	✓	✓		✓	✓	✓	✓		✓	✓	✓
Daughtry, Leo								✓				✓		✓			✓
Dickson, Margaret				✓	✓	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓
England, Bob				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓
Farmer-Butterfield, J.					✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Fisher, Susan				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓
Frye, Phillip						✓	✓	✓	✓	✓	✓	✓	✓			✓	✓
Goforth, Bruce							✓	✓	✓	✓	✓		✓	✓			
Goodwin, Melanie					✓	✓	✓	✓	✓				✓	✓		✓	✓
Grady, Robert																	
Gulley, Jim				✓	✓	✓	✓	✓	✓	✓	✓		✓			✓	✓

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[illegible]

House Appropriations Committee Attendance

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2005 SESSION	2/17/05	2/23/05 AM	2/23/05 PM	2/24/05	3/1/05	4/20/05	5/11/05	6/15/05	7/19/05	8/10/05	8/11/05 4PM	8/11/05 6:30	8/22/05	8/23/05	8/24/05	8/29/05 6:30	8/29/05 8:30
Saunders, Drew						✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Setzer, Mitchell						✓				✓	✓	✓		✓			✓
Stam, Paul				✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓	✓
Starnes, Edgar						✓		✓			✓	✓					
Steen, Fred						✓	✓	✓								✓	✓
Stiller, Bonner					✓			✓	✓	✓						✓	
Sutton, Ronnie					✓	✓	✓	✓	✓	✓	✓	✓	✓		✓		✓
Tolson, Joe				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Tucker, Russell						✓	✓	✓	✓	✓			✓	✓		✓	✓
Walker, Tracy					✓	✓	✓	✓	✓	✓			✓	✓	✓	✓	
Warren, Edith					✓	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓
West, Roger					✓	✓			✓						✓		
Wilkins, Winkie				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓
Williams, Arthur				✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Wilson, Gene						✓	✓	✓	✓	✓							
Wray, Michael				✓	✓	✓		✓		✓	✓	✓	✓	✓	✓	✓	✓
Wright, Thomas					✓	✓		✓			✓	✓	✓	✓			
Yongue, Doug					✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	✓	✓
Ex-Officio																	
Culpepper, Bill								✓				✓					
Cunningham, Pete								✓				✓					✓
Eddins, Rick											✓	✓					✓

SCHEDULE OF MEETINGS

HOUSE APPROPRIATIONS COMMITTEE

2005 SESSION

February 17, 2005	SB 7 Hurricane Recovery Act of 2005
February 23, 2005 (Joint)	Governor's Budget – Justice and Public Safety
February 24, 2005 (Joint)	Governor's Budget – Health and Human Services/Medicaid
March 1, 2005 (Joint)	Governor's Budget – Education
April 20, 2005	HB 914 State Budget Act SB 685 Revise Professional Employer Organizational Act
May 11, 2005	HB 569 Domestic Violence Recommendations SB 685 Revise Professional Employer Organizational Act
June 15, 2005	SB 622 2005 Appropriations Act
July 19, 2005	HB 1775 UNC Nonappropriated Capital Projects HB 1048 Governor's DWI Task Force Recommendations
August 10, 2005	SB 486 Rachel's Law SB 612 Amend Lobbying Laws HB 1431 Military Consumer Protection Specialist HB 1112 Central Listing/MH Beds/Invol. Comm.
August 11, 2005 4:00 p.m.	HB 50 Street Gang Prevention Act HB 1415 Report Denial of Some Pistol Permits
August 11, 2005 6:30 p.m.	HB 897 NCNGuard-Tuition Assistance Program Changes HB 50 Street Gang Prevention Act SB 223 Public Confidence in Elections SB 1323 Establish NC Innocence Inquiry Commission
August 22, 2005	HB 535 Teachers Convert Personal Leave to Sick Leave SB 148 Death Benefit for Part-Time Law Enforcement SB 868 Bill Lee Multi-Jurisdiction Industrial Park
August 23, 2005 6:50 p.m.	SB 725 NCNGuard-Tuition Assistance Program Changes SB 804 Public Health Task Force/Accred. Recommend.
August 23, 2005 11:50 p.m.	SB 671 Real Prop. Electronic Recording/Notary Act HB 575 Increase Comm. Coll. Faculty Salaries

August 24, 2005

SB 1117 Military Support Act

August 29, 2005 6:30 p.m.

SB 1117 Military Support Act

August 29, 2005 8:55 p.m.

HB 575 Increase Comm. Coll. Faculty Salaries

● The following meetings were joint House and Senate Appropriations budget briefings. Senate Appropriations chairs presided, and minutes were prepared by the Senate committee clerk. For more detail, see the Senate Appropriations Committee notebooks for 2005 Session.

●

MINUTES

JOINT SENATE AND HOUSE APPROPRIATIONS BRIEFING

February 15, 2005

A Joint Senate and House Appropriations Briefing was held on Tuesday, February 15, 2005, at 8:30 a.m. in room 643 of the Legislative Office Building. Senator Kay Hagan, Co-Chair of Senate Appropriations called the meeting to order. She welcomed the Senate and House members and visitors to the second in a series of budget briefings. There were 37 Senate members present. Senator Hagan introduced the Pages. They were: Katheryn Charlton and Ashley Fox sponsored by Senator Presnell.

Next, Senator Hagan recognized Ms. Mona Moon, Fiscal Research Analyst and Budget Team Leader to present a Budget Overview and Outlook to the Committee. Ms. Moon presented the following:

*Budget Overview, Historical Trends and Outlook for FY 2005-06
(Please see Attachment 1).*

Following Ms. Moon's presentation and a discussion by the members, Senator Hagan adjourned the Appropriations Briefing at 10:00 a.m.

Senator Kay Hagan, Co-Chair

Senator Linda Garrou, Co-Chair

Senator Walter Dalton, Co-Chair

Christina K. Minard, Senate
Appropriations Committee Assistant

JOINT SENATE AND HOUSE APPROPRIATIONS BRIEFING
February 16, 2005

A Joint Senate and House Appropriations briefing was held on Wednesday, February 16, 2005, at 8:30 a.m. in Room 643 of the Legislative Office Building. Senator Walter Dalton, Co-Chair, welcomed the members and visitors. The Pages serving were: Natalie Sprague, sponsored by Senator Cowell and Marty Current, sponsored by Senator Hoyle. There were 23 Senate members present.

Senator Dalton explained that the Education Budget Overview would encompass the Public Schools, Community College System and the University System. The following reports were presented:

Mr. Adam Levinson, Fiscal Research Analyst – North Carolina Public Schools
Funding Overview.
Education Budget Overview (Please see Attachment 1, Pp's 1-24).

Ms. Kristine Leggett, Fiscal Research Analyst – Community College System
Funding Overview.
Education Budget Overview (Please see Attachment 1, Pp's 26-44).

Mr. Richard Bostic, Fiscal Research Analyst – University System Funding
Overview.
Education Budget Overview (Please see Attachment 1, Pp's 46-72).

Following the presentations, Senator Dalton moderated a discussion period. He thanked the presenters and adjourned the meeting at 10:00 a.m.

Senator Walter Dalton, Co-Chair

Senator Linda Garrou, Co-Chair

Senator Kay Hagan, Co-Chair

Christina K. Minard, Senate
Appropriations Committee Assistant

JOINT SENATE AND HOUSE APPROPRIATIONS BRIEFING

February 17, 2005

A Joint Senate and House Appropriations Briefing was held on Thursday, February 17, 2005, at 8:30 a.m. in Room 643 of the Legislative Office Building. There were 37 Senate members present. Senator Kay Hagan, Co-Chair, presided. Senator Hagan thanked the Pages and welcomed the members and visitors.

Senator Hagan introduced Ms. Carole Shaw, Fiscal Research Analyst and Team Leader for Health and Human Services, to brief the Committee on the state's Medicaid budget. Ms. Shaw presented the following report:

Medicaid Program Overview – 2005
(Please see Attachment 1)

Senator Hagan moderated a lengthy question and answer period following Ms. Shaw's presentation. Senator Hagan adjourned the meeting at 10:00 a.m.

Senator Kay Hagan, Co-Chair

Senator Linda Garrou, Co-Chair

Senator Linda Garrou, Co-Chair

Christina K. Minard, Senate
Appropriations Committee Assistant

JOINT SENATE AND HOUSE APPROPRIATIONS BRIEFING

February 23, 2005

A Joint Senate and House Appropriations Briefing was held on Wednesday, February 23, 2005, at 8:30 a.m. in Room 643 of the Legislative Office Building. Senator Walter Dalton, Co-Chair presided. There were 31 Senate members present. Senator Dalton welcomed the members and visitors and thanked the Pages for serving.

Senator Dalton recognized Mr. Jim Mills, Fiscal Research Analyst and Team Leader for the Division of Justice and Public Safety. Mr. Mills presented the following report:

*Justice and Public Safety—Budget Trends in JPS and the Department of
Correction
(Please see Attachment 1).*

Following a discussion, Senator Dalton adjourned the meeting.

Senator Walter Dalton, Co-Chair

Senator Linda Garrou, Co-Chair

Senator Kay Hagan, Co-Chair

Christina K. Minard, Senate
Appropriations Committee Assistant

MINUTES

JOINT SENATE AND HOUSE APPROPRIATIONS COMMITTEE

February 23, 2005

The Senate Committee on Appropriations met on Wednesday, February 23, 2005, at 1:00 in 643 of the Legislative Office Building. There were 39 Senate members present. The meeting was Co-Chaired by Senator Walter Dalton and Representative Bill Owens. Senator Dalton introduced the Pages. They were: Wayne Sheppard and Christina King, sponsored by Senator Rand; Matthew Guin, sponsored by Representative Sauls and Brooks Parham, sponsored by Representative Crawford. Representative Owens thanked the Sergeant-at-Arms who were serving: Mr. Paul Curry, Jim Womack, James Worth, Martha Gaclison, Leslie Oakley and Charles Williams.

Senator Dalton recognized Mr. David McCoy, State Budget Officer. Mr. McCoy thanked the State Budget Office staff for their work on researching and preparing the Governor's Budget. He stated the guiding principles in developing the Governor's Budget were: (1) to strengthen the overall economic health of North Carolina; (2) to encourage fiscal discipline; (3) to increase the commitment to education in the North Carolina Budget and (4) to increase jobs in North Carolina.

Senator Dalton recognized the following members of the Governor's Budget Staff to present the following reports of the proposed Governor's budget:

- Mr. Charles Perusse, Deputy State Budget Officer – *Reserves, Debt Service and Other Adjustments*
(Please see Attachment 1, Pp's 178-192).
- Ms. Anne Bander, Assistant State Budget Officer – *Public Education, the University System and the Community College System*
(Please see Attachment 1, Pp's 27-46).
- Mr. David Brown, Assistant State Budget Officer – *Department of General Government and Department of Natural and Economic Resources*
(Please see Attachment 1, Pp's 47-86 and Pp's 133-148).
- Ms. Daphne Lyon, Assistant State Budget Officer – *Department of Health and Human Services*
(Please see Attachment 1, Pp's 87-116).

- Mr. Byron Harris – *Department of Correction, Department of Crime Control and Public Safety, Department of Justice, Department of Juvenile Justice and Delinquency Prevention, Judicial Branch*
(Please see Attachment 1, Pp's 118-132).
- Mr. Bill Cox – *Highway Fund and Highway Trust Fund*
(Please see Attachment 1, Pp's 149-172).

Senator Dalton introduced Mr. Dan Gerlach, Senior Policy Adviser for Fiscal Affairs, Governor's Office. Mr. Gerlach thanked the Committee and stated the Governor's staff is looking forward to working with the North Carolina Legislators to develop a budget that will be the best for the citizens of North Carolina. Mr. Gerlach summarized the proposed Governor's budget for the Committee.

Senator Dalton moderated a Committee discussion and adjourned the meeting at 3:30 p.m.

Senator Walter Dalton, Co-Chair

Senator Linda Garrou, Co-Chair

Senator Kay Hagan, Co-Chair

Christina K. Minard, Senate
Appropriations Committee Assistant

JOINT SENATE AND HOUSE APPROPRIATIONS BRIEFING

February 24, 2005

A Joint Senate and House Appropriations Briefing was held on Thursday, February 24, 2005, at 8:30 a.m. in Room 643 of the Legislative Office Building. Senator Linda Garrou, Co-Chair presided. She welcomed the members and visitors. There were 39 members present. Senator Garrou thanked the Pages and the Sergeant-at-Arms for serving the Appropriations Committee.

Senator Garrou introduced Secretary Carmen Hooker-Odom. Secretary Hooker-Odom briefed the Committee on the Governor's proposed budget. She referenced pages 87-116, of the Governor's proposed budget. The Secretary prioritized the Department of Health and Human Services budget items for the Committee.

Following Secretary Hooker-Odom's briefing, Senator Garrou moderated a discussion. Senator Garrou adjourned the meeting at 10:00 a.m.

Senator Linda Garrou, Co-Chair

Senator Walter Dalton, Co-Chair

Senator Kay Hagan, Co-Chair

Christina K. Minard, Senate
Appropriations Committee Assistant

JOINT SENATE AND HOUSE APPROPRIATIONS BRIEFING

March 1, 2005

A Joint Senate and House Appropriations Briefing was held on Tuesday, March 1, 2005, at 8:00 a.m. in Room 643 of the Legislative Office Building. Representative Ed Nye, Co-Chair presided. Representative Nye announced the following Agenda:

- President Broad – University System
- President Lancaster – Community College System
- Ms. Patricia Willoughby – Department of Public Instruction

Representative Nye introduced President Broad. President Broad outlined the proposed Governor's budget pertinent to the University System. President Broad thanked the Committee and members of the General Assembly for their previous financial support for the University System. She outlined the key University System items in the Governor's proposed budget for the Committee. She expressed gratitude for the support for increased enrollment in the proposed Governor's budget.

Representative Nye thanked President Broad for her service.

Next, Representative Nye recognized President Lancaster. President Lancaster noted the Governor's proposed budget supported the projected enrollment growth for the Community College System. The President highlighted the items in the Governor's proposed budget that were of special importance to the Community College System. He mentioned the fact that funds for the Customized Industrial Training Program was not included in the proposed Governor's Budget. The sum for that program would be approximately \$4.2 million. President Lancaster thanked the Committee and stated he appreciated their support for the Community College System. Several members of the Committee spoke in support of the Community College System.

Representative Nye thanked President Lancaster for his presentation and service to North Carolina.

Representative Nye introduced Ms. Patricia Willoughby, Acting Superintendent of Schools. Ms. Willoughby briefed the Committee on the proposed Governor's Budget for Public Schools. Ms. Willoughby thanked the members of the Committee for their support. She stated the two main goals of the Public School System are: (1) to improve teacher retention and (2) to increase the teacher-mentoring program. Ms. Willoughby summarized the proposed budgetary issues pertinent to the Public Schools for the Committee.

She responded to several comments by the Committee members. Representative Nye and Senator Dalton, Co-Chair of the Senate Appropriations Committee, thanked Ms. Willoughby for her service. Several members of the Committee spoke on her behalf and thanked her for serving as Acting Superintendent of Schools during the period of time until the 2004 election results are certified for the Superintendent of Schools position.

Representative Nye thanked President Broad, President Lancaster, Acting Superintendent Willoughby and the members of the Committee. He adjourned the meeting at 9:30 a.m.

Representative Ed Nye, Co-Chair

Senator Walter Dalton, Co-Chair

Senator Linda Garrou, Co-Chair

Senator Kay Hagan, Co-Chair

Christina K. Minard, Senate
Appropriations Committee Assistant

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **APPROPRIATIONS** will meet as follows:

DAY & DATE: THURSDAY, FEBRUARY 17

TIME: IMMEDIATELY AFTER SESSION

LOCATION: 643

The following bills will be considered (Bill # & Short Title & Bill Sponsor):
SB 7 HURRICANE RECOVERY ACT OF 2005

Respectfully,

Representatives Clary, Crawford, Earle, Nye,
Owens, Sherrill
Chairs

I hereby certify this notice was filed by the committee clerk at the following offices at
4:45 pm on February 16, 2005.

___ Principal Clerk
___ Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
MINUTES OF JOINT HOUSE AND SENATE MEETING**

February 17, 2005 – 1:00 p.m.

Room 643 Legislative Office Building

The North Carolina House of Representatives and the Senate met in a joint session on February 17, 2005 at 1:00 p.m. in Room 643 of the Legislative Office Building. There were 67 members present. Representative Wilma Sherrill presided over the meeting.

Representative Sherrill called the meeting to order and thanked the Sergeant at Arms' staff for their services and help with the meeting. She thanked also the staff present: Lynn Muchmore, Karen Hammonds Blank; Phyllis Pickett, and Sean Dail. She also welcomed the members and visitors.

Senator Martin Nesbitt was introduced to explain Senate Bill 7 which was entitled "AN ACT TO ENACT THE HURRICANE RECOVERY ACT OF 2005, MAKING FINDINGS AS TO DAMAGE CAUSED BY THE HURRICANES THAT STRUCK NORTH CAROLINA IN 2004, CONCERNING ESTABLISHMENT OF THE DISASTER RELIEF RESERVE FUND, MAKING APPROPRIATIONS TO THE DISASTER RELIEF RESERVE FUND, DIRECTING THE REESTABLISHMENT AND MODIFICATION OF HURRICANE FLOYD RECOVERY PROGRAMS, AUTHORIZING ESTABLISHMENT OF NEW PROGRAMS, EXPANSION OF EXISTING PROGRAMS, AND MODIFICATION OF EXISTING PROGRAMS TO IMPLEMENT THIS ACT, AUTHORIZING TRANSFER OF FUNDS TO FEDERAL AGENCIES AND LOCAL GOVERNMENTS, AUTHORIZING TIME-LIMITED POSITIONS TO IMPLEMENT THIS ACT, PROVIDING FOR SUBROGATION BY THE STATE OF CERTAIN INSURANCE CLAIMS, AUTHORIZING ADVISORY COUNCILS TO ADVISE STATE AGENCIES ON RECOVERY EFFORTS, PROVIDING FOR TAX EXEMPTION OF BENEFITS, DIRECTING THE MAPPING OF FLOOD PLAINS AND THE IDENTIFICATION OF POTENTIAL LANDSLIDE AREAS AND STREAM BANK EROSION, DIRECTING THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE CAUSES OF FLOODING IN CERTAIN AREAS AND DETERMINE MEASURES TO PREVENT OR MITIGATE FUTURE FLOODING, DIRECTING THE GOVERNOR TO MAINTAIN THE REDEVELOPMENT OFFICE IN WESTERN NORTH CAROLINA, APPROPRIATING FUNDS TO RESTORE AND REPAIR CERTAIN PUBLIC BUILDINGS IN HYDE COUNTY DAMAGED BY HURRICANE ISABEL AND ESTABLISHING REPORTING REQUIREMENTS. (Attachment No. 1)

Representative Haire moved to adopt the Proposed House Committee Substitute for Senate Bill 7. The motion was adopted by the committee unanimously.

Senator Nesbitt then explained the REPORT OF THE HOUSE APPROPRIATIONS COMMITTEE ON THE HURRICANE RECOVERY ACT OF 2005, which included legislative changes, FEMA Matching Funds; Housing Programs and Assistance; State Acquisition and Relocation Fund (SARF); Crisis Housing Assistance Fund (CHAP); Business Disaster Assistance; Agriculture and Fishing Disaster Assistance; Public Health and Environmental Assistance; Local Government Assistance; Mapping and Studies and Other Disaster Relief Funds for a total in the Revised Budget of \$247,541,447, (Attachment No. 2)

A summary of the HURRICANE RECOVERY ACT OF 2005 was then passed out to the members which explained exactly what Senate Bill 7 was asking for. (Attachment No. 3)

Senator Nesbitt went into further detail presenting the problems and the need in Western North Carolina in a most direct and informative manner. He indicated that the need in Western North Carolina was greater than most people could believe unless they have seen it. Several others also spoke on behalf of the need in that part of our State.

Representative Fisher wanted to know the difference between the House version and the Senate version. Staff member Lynn Muchmore explained the difference.

Representative Haire presented Amendment No. 1 which was: "moves to amend the bill on page 14, line 2 by deleting the date January 1, 2005" and substituting the date "January 1, 2004". (Attachment No. 4) The amendment was adopted.

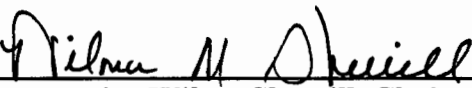
Representative Earle said she understood there was a difference between the amount of money asked for by the Senate and the amount recommended by the Governor. Mr. Bryan Beatty, Secretary of Crime Control and Public Safety, was introduced to explain the amount of money recommended by the Governor for the recovery of flood relief in Western North Carolina. The Governor has recommended the amount of \$7.1 million dollars. Other questions were asked by the members and answered by staff member, Lynn Muchmore. Senator Nesbitt also participated in the answers and explanations. Those asking questions were: Representatives Earle, Clary, Starnes, Pate, Rapp, Wright, LaRoque, Hackney and Goforth. Representative Goforth said there were people who still did not have homes to live in and that he thought they had waited long enough for help.

Representative Sherrill thanked Abdul Rasheed for coming today and also for helping with this bill.

Representative West moved to give an unfavorable report for the third edition and adopt the House Substitute. The motion mad by Representative West was passed unanimously.

There being no further business, the meeting adjourned at 3:15 p.m.

Respectfully submitted,



Representative Wilma Sherrill, Chair



Rosa S. Kelley, Committee Assistant

NOTE: A copy of the 2005 Committee Report of this bill as filed in the Office of the Principal Clerk is attached to these minutes as Attachment No. 5.

A copy of the Visitors Sheet is attached to these minutes as Attachment No. 6.

2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES

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

By Representatives **Clary, Crawford, Earle, Nye, Owens, Sherrill** (Chairs) for the
Committee on **APPROPRIATIONS**.

☒ Committee Substitute for

S.B. 7 A BILL TO BE ENTITLED AN ACT TO ENACT THE HURRICANE RECOVERY ACT OF 2005, MAKING FINDINGS AS TO DAMAGE CAUSED BY THE HURRICANES THAT STRUCK NORTH CAROLINA IN 2004, CONCERNING ESTABLISHMENT OF THE DISASTER RELIEF RESERVE FUND, MAKING APPROPRIATIONS TO THE DISASTER RELIEF RESERVE FUND, DIRECTING THE REESTABLISHMENT AND MODIFICATION OF HURRICANE FLOYD RECOVERY PROGRAMS, AUTHORIZING ESTABLISHMENT OF NEW PROGRAMS, EXPANSION OF EXISTING PROGRAMS, AND MODIFICATION OF EXISTING PROGRAMS TO IMPLEMENT THIS ACT, AUTHORIZING TRANSFER OF FUNDS TO FEDERAL AGENCIES AND LOCAL GOVERNMENTS, AUTHORIZING TIME-LIMITED POSITIONS TO IMPLEMENT THIS ACT, PROVIDING FOR SUBROGATION BY THE STATE OF CERTAIN INSURANCE CLAIMS, AUTHORIZING ADVISORY COUNCILS TO ADVISE STATE AGENCIES ON RECOVERY EFFORTS, PROVIDING FOR TAX EXEMPTION OF BENEFITS, DIRECTING THE MAPPING OF FLOOD PLAINS AND THE IDENTIFICATION OF POTENTIAL LANDSLIDE AREAS AND STREAM BANK EROSION, DIRECTING THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE CAUSES OF FLOODING IN CERTAIN AREAS AND DETERMINE MEASURES TO PREVENT OR MITIGATE FUTURE FLOODING, DIRECTING THE GOVERNOR TO MAINTAIN THE REDEVELOPMENT OFFICE IN WESTERN NORTH CAROLINA, APPROPRIATING FUNDS TO RESTORE AND REPAIR CERTAIN PUBLIC BUILDINGS IN HYDE COUNTY DAMAGED BY HURRICANE ISABEL AND ESTABLISHING REPORTING REQUIREMENTS.

☐ 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, 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.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

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SENATE BILL 7

Appropriations/Base Budget Committee Substitute Adopted 2/16/05

Third Edition Engrossed 2/16/05

PROPOSED HOUSE COMMITTEE SUBSTITUTE S7-CSRF-1 [v.1]

2/16/2005 8:25:19 PM

Short Title: Hurricane Recovery Act of 2005.

(Public)

Sponsors:

Referred to:

January 31, 2005

A BILL TO BE ENTITLED

AN ACT TO ENACT THE HURRICANE RECOVERY ACT OF 2005, MAKING FINDINGS AS TO DAMAGE CAUSED BY THE HURRICANES THAT STRUCK NORTH CAROLINA IN 2004, CONCERNING ESTABLISHMENT OF THE DISASTER RELIEF RESERVE FUND, MAKING APPROPRIATIONS TO THE DISASTER RELIEF RESERVE FUND, DIRECTING THE REESTABLISHMENT AND MODIFICATION OF HURRICANE FLOYD RECOVERY PROGRAMS, AUTHORIZING ESTABLISHMENT OF NEW PROGRAMS, EXPANSION OF EXISTING PROGRAMS, AND MODIFICATION OF EXISTING PROGRAMS TO IMPLEMENT THIS ACT, AUTHORIZING TRANSFER OF FUNDS TO FEDERAL AGENCIES AND LOCAL GOVERNMENTS, AUTHORIZING TIME-LIMITED POSITIONS TO IMPLEMENT THIS ACT, PROVIDING FOR SUBROGATION BY THE STATE OF CERTAIN INSURANCE CLAIMS, AUTHORIZING ADVISORY COUNCILS TO ADVISE STATE AGENCIES ON RECOVERY EFFORTS, PROVIDING FOR TAX EXEMPTION OF BENEFITS, DIRECTING THE MAPPING OF FLOOD PLAINS AND THE IDENTIFICATION OF POTENTIAL LANDSLIDE AREAS AND STREAM BANK EROSION, DIRECTING THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY THE CAUSES OF FLOODING IN CERTAIN AREAS AND DETERMINE MEASURES TO PREVENT OR MITIGATE FUTURE FLOODING, DIRECTING THE GOVERNOR TO MAINTAIN THE REDEVELOPMENT OFFICE IN WESTERN NORTH CAROLINA, APPROPRIATING FUNDS TO RESTORE AND REPAIR CERTAIN PUBLIC BUILDINGS IN HYDE COUNTY DAMAGED BY HURRICANE ISABEL AND ESTABLISHING REPORTING REQUIREMENTS.

The General Assembly of North Carolina enacts:

1
2 PART I. TITLE OF ACT

3 SECTION 1. This act shall be known as "The Hurricane Recovery Act of
4 2005."
5

6 PART II. LEGISLATIVE FINDINGS

7 DAMAGE CAUSED BY 2004 HURRICANES AND TROPICAL STORMS

8 SECTION 2.(a) The General Assembly finds that the State of North
9 Carolina endured six hurricanes during the late summer and fall of 2004. In the
10 Western region of the State, Hurricanes Frances and Ivan dumped heavy rains that led
11 to flooding and landslides throughout the region. Eastern North Carolina, including
12 areas along the coast and the Sandhills, were struck by Hurricanes Alex, Bonnie,
13 Charlie, and Jeanne. Wind damage and flooding were the primary source of damage in
14 the east.

15 SECTION 2.(b) The General Assembly finds that Hurricanes Frances and
16 Ivan wrought havoc upon Western North Carolina impacting the region on a scale not
17 experienced before in that area of the State. Flooding and landslides destroyed
18 infrastructure, roads, bridges, homes, businesses, farmland, and crops, damaging the
19 civil, social, economic, and environmental well-being of Western North Carolina. The
20 economic base of the region has been undermined as the result of business closures,
21 crop and aquaculture losses, and revenue losses to the extent that many individuals'
22 ability to support themselves and their families is threatened and may be lost completely
23 without assistance from the State. A disaster of this magnitude affects the entire State.
24 Extraordinary assistance to the region is necessary if Western North Carolina, and with
25 it the economic well-being of the State, is to recover from the effects of the damage
26 inflicted by Hurricanes Frances and Ivan.

27 SECTION 2.(c) The General Assembly finds that as a result of the
28 hurricanes in Western North Carolina:

- 29 (1) The President of the United States issued two federal disaster
30 declarations for the Western region of the State.
31 (2) Eleven people lost their lives.
32 (3) People lost their loved ones, their homes, sources of livelihood, and, in
33 some instances, their communities. During Hurricane Ivan, the
34 community of Peaks Creek was devastated by a debris flow triggered
35 by the heavy rains. The debris flow traveled speeds as great as 33
36 miles per hour for two and a quarter miles from the top of Fishhawk
37 Mountain. Five persons were killed, and 15 homes destroyed by the
38 flow that was estimated to be several hundred feet wide and up to 40
39 feet high. Other communities that were particularly hard hit by
40 landslides include the Starnes Creek area in Buncombe County, the
41 Little Pine area in Madison County, the White Laurel community in
42 Watauga County, and Bear Rock Estates in Henderson County.
43 (4) Sixty-two homes were destroyed, and 11,107 homes suffered damage
44 in Hurricane Frances. Another 78 homes were destroyed, and 5,127

homes damaged in Hurricane Ivan. Eighty-five landslides were reported as a result of the 27+ inches of rain that fell on the region. Many persons did not have flood insurance, as they did not know that there was a danger of flooding where they lived. Further, people could not know the landslide risks associated with their housing location because such maps are not readily available. The State needs to update current flood mapping for and prepare landslide zone mapping for the region so that homes may be rebuilt in safe areas. Homes lying within flood and landslide zones need to be relocated to mitigate the possibility of further damage to life and property should subsequent events occur. Additional State assistance to homeowners is necessary to accomplish these goals and to assure that there is safe and adequate housing for the citizens of the affected area.

(5) The region also lost rental properties that provided needed housing for those who cannot afford to purchase their own homes. The impact of the hurricanes on the regional economy is such that sufficient rental housing at affordable prices may not be built to replace the property damaged or destroyed, leaving persons who were forced from their homes unable to obtain adequate housing.

(6) Landslides and flooding damaged or destroyed at least 272 private roads, culverts and bridges, cutting off numerous families from access to emergency services and access to State roads.

(7) The Small Business Administration reported receiving 10,113 referrals for business loan applications from the Federal Emergency Management Agency to cover physical damage to businesses. Of these requests for applications, however, only 2,080 (around twenty percent (20%)) were returned to the SBA for processing. The numbers suggest both the numbers of businesses that suffered physical damage as a result of the hurricane and the inability of many businesses in the region to take on additional debt. Without additional assistance, many businesses may not be able to reopen, and jobs will be lost.

(8) Reports from the region indicated that the town of Canton lost forty percent (40%) of its business district in the floods attending Ivan. Blue Ridge Paper, the largest manufacturing employer in Western North Carolina, reportedly suffered several million dollars in flood damages from Hurricane Frances alone. The flooding a week later from Hurricane Ivan was two to three feet above the level experienced by the plant during Frances. Biltmore Village, a community near the Biltmore Estate, was almost completely inundated by floodwaters of the Swannanoa.

(9) According to North Carolina Department of Commerce reports, the region lost an estimated eighty-seven million dollars (\$87,000,000) in tourism revenue during the three-week period after the hurricanes struck.

(10) The agricultural economy of the region was seriously affected. Early estimates of crops and acreage affected included thousands of acres of fruits and vegetables, hay, corn, soybeans, and tobacco. In Henderson County alone, approximately 90,000 of the county's 1,000,000 apple trees were downed. Greenhouse and nursery crops were also seriously affected. At least five trout farms reported extensive physical damage and losses of over 160,000 pounds of fish. In addition to crop and fish losses, there was extensive damage to farmland through erosion and flooding, and many farms suffered damage to farm structures. Most farmers cannot afford to take on additional debt to rehabilitate damaged fields, rebuild and repair farm structures, purchase new equipment, replant trees, or replace inventory. Many farmers may be unable to continue farming without assistance from the State. It is therefore necessary to provide State assistance to farmers to preserve the agricultural sector of the economy in Western North Carolina and the economic stability of the region.

(11) Impacts on the environment have yet to be calculated. In addition to the stream damage from flooding, there was also contamination from sewage overflows and chemical spills. It was reported that over 100,000 gallons of petroleum products were spilled into the French Broad River system.

(12) Local governments have suffered loss of infrastructure, damage to public buildings, roads, wastewater treatment plants, and other facilities. One thousand four hundred and forty specific public assistance projects have been authorized to repair facilities and roads, remove debris, and otherwise effect cleanup and repair of local government facilities. In addition, the damage from the storms to property and businesses has eroded the tax base of the counties affected. These counties must bear a loss of revenue at the same time they are shouldering the costs of replacing and repairing the infrastructure and meeting the additional needs of the population struggling to recover from the effects of the hurricanes.

SECTION 2.(d) The General Assembly finds that as a result of the storms that hit Eastern North Carolina:

(1) A State Type I Disaster Declaration was issued for Dare and Hyde Counties after Hurricane Alex which provided individual assistance to 22 applicants who failed to qualify for SBA loans and substantial public assistance to the two counties for debris removal.

(2) Hurricanes Bonnie and Charlie impacted Beaufort, Bladen, Brunswick, Craven, Columbus, Dare, Duplin, Harnett, Hyde, Jones, Lenoir, New Hanover, Pamlico, Pasquotank, Pender, Pitt, Onslow, Tyrrell, and Washington Counties. A federal disaster declaration has been requested but denied. According to the Division of Emergency Management, 2,860 homes and 65 businesses were affected by the two

hurricanes. Three hundred six of the affected homes were destroyed or suffered major damage.

(3) Hurricane Jeanne impacted Cabarrus, Moore, Rowan, and Stokes Counties. Reports from Moore County indicated that over 100 homes and businesses were damaged, primarily in Southern Pines. Public Assistance needs were limited to Stokes and Moore Counties.

(4) In addition to the damage reports for individuals and local governments, the North Carolina Department of Agriculture and Consumer Services reported early estimates of over 900,000 acres of corn, soybeans, tobacco, cotton, peanuts, and fruits and vegetables were lost as a result of Hurricane Charlie and Hurricane Bonnie.

SECTION 2.(e) The General Assembly further finds that the devastation caused by the 2004 hurricanes in North Carolina continues to affect all aspects of the economy, the environment, public health and safety, infrastructure, public and private institutions, and the general welfare of the counties affected and, indirectly, of the entire State. Immediate short-term responses and long-term responses are necessary to preserve a way of life in those North Carolina counties, to preserve the economic condition of the entire State, and to preserve the reputation North Carolina has, nationally and internationally, as a great place to live and a great place to do business.

CRITICAL NEEDS NOT MET BY EXISTING STATE AND FEDERAL PROGRAMS AND FUNDS

SECTION 2.1.(a) The General Assembly finds that State and federal disaster relief initiatives are not intended to make individuals whole after a loss; they are intended to assist the affected areas in recovering from the damage caused by the six hurricanes that struck North Carolina.

Without significant additional State assistance to the area damaged by Hurricanes Alex, Bonnie, Charlie, Frances, Ivan, and Jeanne, further deterioration of the economy, the environment, public health and safety, and quality of life in the State is likely to occur. Without additional State assistance:

- (1) Many people in uninsured, damaged homes will either not qualify for federal housing assistance or not have the resources to take advantage of federal housing assistance.
- (2) Local governments already overwhelmed with storm-related expenses may not have the resources to repair damaged infrastructure and provide the new infrastructure necessary for families relocating out of the flood and landslide zones and for businesses that are in the process of rebuilding.
- (3) Jobs may be permanently lost because many cannot qualify for Small Business Administration loans.
- (4) Many farmers who suffered significant losses may find it difficult to continue farming.

(5) Resources for drinking water protection, solid waste cleanup, hazardous waste cleanup, and remediation of high-risk storage tanks will be inadequate.

(6) The tourism industry will continue to suffer due to negative publicity about the storm.

SECTION 2.1.(b) It is the intent of the General Assembly that the benefits of the projects and programs authorized by this act are for the common good and collective recovery of the people of this State following a devastating natural disaster directly affecting a large portion of the State and indirectly affecting the entire State. The entire State faces a major loss if the counties that bore the major impact of the hurricanes and tropical storms of 2004 are not offered the assistance provided by this act. The purpose of this act is to provide an ultimate net public benefit to the State through a successful hurricane recovery initiative in Western North Carolina and other affected counties.

PART III. SCOPE OF ACT

COUNTIES COVERED BY THIS ACT

SECTION 3. Sections 2 through 5.2 of this act apply as follows:

(1) This act applies to the 19 counties designated by the Federal Emergency Management Agency (FEMA) as eligible for Individual Assistance and Public Assistance as a result of damages sustained from Hurricane Frances or Ivan. Those counties are eligible for all programs and assistance provided under this act. Those counties are: Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Watauga, and Yancey.

(2) This act applies to the additional 26 counties that were designated by FEMA as eligible only for individual assistance as a result of damages sustained from Hurricane Frances or Ivan. Those counties are eligible for all programs and assistance provided under this act for individual assistance. Those counties are: Alamance, Alexander, Bladen, Cabarrus, Caswell, Catawba, Cleveland, Columbus, Cumberland, Davidson, Forsyth, Gaston, Graham, Guilford, Hoke, Iredell, Lincoln, Mecklenburg, Randolph, Robeson, Rockingham, Rutherford, Scotland, Stokes, Union, and Wilkes.

(3) In addition, a number of counties were not included in a federal disaster declaration but were included in a State disaster declaration issued under Article 1 of Chapter 166A of the General Statutes as a result of the damages sustained by one of the hurricanes that occurred in 2004. The Governor shall also extend the coverage of the programs and assistance provided under this act to those counties.

PART IV. THE DISASTER RELIEF RESERVE FUND

ESTABLISHMENT OF THE DISASTER RELIEF RESERVE FUND

SECTION 4. The Governor has established the Disaster Relief Reserve Fund in the Office of State Budget and Management. The purpose of this fund is to provide necessary and appropriate relief and assistance from the effects of natural disasters. Consistent with the provisions of this act, the Governor shall spend monies appropriated to or otherwise transferred to the Disaster Relief Fund by this act to assist the counties referenced in Section 3 of this act. The monies shall be used to implement programs as provided by this act.

APPROPRIATION TO THE DISASTER RELIEF RESERVE FUND AND COMMITTEE REPORT

SECTION 4.1.(a) The appropriation made in this section is for the maximum amount necessary to implement this act. Savings shall be effected where the total amount appropriated is not required to implement the act.

SECTION 4.1.(b) The fund availability upon which appropriations in this act are based is as follows:

Estimated unappropriated General Fund over collections, fiscal year 2004-2005	\$0.0
Estimated General Fund reversions, fiscal year 2004-2005	\$91.0 million
North Carolina Community Development Initiative, Inc. – Reversion of unused Hurricane Floyd Recovery funds to the General Fund	\$3.0 million
Savings Reserve Account balance, February 15, 2005	\$267.0 million

SECTION 4.1.(c) Of the funds allocated to the North Carolina Community Development Initiative, Inc., for Hurricane Floyd Recovery programs pursuant to S.L. 1999-463 Extra Session, the sum of three million dollars (\$3,000,000) in unused grant and loan funds for home relocation and repairs shall revert to the General Fund.

SECTION 4.1.(d) The Governor shall transfer from unexpended General Fund appropriations for fiscal year 2004-2005 to the Office of State Budget and Management, Disaster Relief Reserve Fund, the sum of ninety-one million dollars (\$91,000,000) which shall be used to aid the counties referenced in Section 3 of this act in their efforts to recover from the effects of the 2004 hurricanes. The funds shall be used for the purposes set out in Part V, Part VI, and Part VII of this act. These funds shall remain available to implement the provisions of this act until the General Assembly directs the reversion of the unexpended funds.

SECTION 4.1.(e) There is appropriated from the General Fund to the Office of State Budget and Management, Disaster Relief Reserve Fund, the sum of three million dollars (\$3,000,000) for the 2004-2005 fiscal year to aid the counties referenced in Section 3 of this act in their efforts to recover from the effects of the 2004 hurricanes. The funds shall be used for the purposes set out in Part V, Part VI, and Part VII of this act. These funds shall remain available to implement the provisions of this act until the General Assembly directs the reversion of the unexpended funds.

SECTION 4.1.(f) There is appropriated from the Savings Reserve Account to the Office of State Budget and Management, Disaster Relief Reserve Fund, the sum of one hundred twenty three million five hundred forty-one thousand four hundred forty-seven dollars (\$123,541,447) for the 2004-2005 fiscal year to aid the counties referenced in Section 3 of this act in their efforts to recover from the effects of the

hurricanes of 2004. The funds shall be used for the purposes set forth in Part V, Part VI, and Part VII of this act. The funds appropriated by this section shall be transferred to the Disaster Relief Reserve Fund and shall remain available to implement the provisions of this act until the General Assembly directs the reversion of the unexpended funds.

SECTION 4.1.(g) The allocation of funds in the Report of the House Appropriations Committee on The Hurricane Recovery Act of 2005, dated February 17, 2005, are intended as guidance for the Governor. Notwithstanding the provisions of Section 5.1 of this act, if the Governor determines in accordance with Chapter 166A of the General Statutes that allocations should be made to programs other than those set forth in the Committee Report or that reallocations should be made among programs set forth in the Committee Report, the Governor may make the changes except as funds are otherwise specifically allocated by this act. The Governor shall report to the Joint Legislative Commission on Governmental Operations before implementing any changes in the allocations.

SECTION 4.1.(h) The Governor shall, to the extent practicable, ensure that assistance to victims provided from the Disaster Relief Reserve Fund is prioritized towards those areas and individuals least able to afford the losses as a result of the hurricanes of 2004.

PART V. IMPLEMENTATION OF ACT

DIRECTIVE TO REESTABLISH AND MODIFY, AS NECESSARY, RELIEF PROGRAMS DEVELOPED AFTER HURRICANE FLOYD, ESTABLISH NEW PROGRAMS, AND EXPAND OR MODIFY EXISTING PROGRAMS TO IMPLEMENT THIS ACT

SECTION 5. The General Assembly finds that the relief efforts and programs implemented after Hurricane Floyd hit Eastern North Carolina were critical in assisting Eastern North Carolina's recovery. The General Assembly further finds that the recovery of Eastern North Carolina has provided statewide benefits. It is the intent of the General Assembly to provide the same type of support and assistance to the counties affected by the 2004 hurricanes and tropical storms.

SECTION 5.1.(a) The Governor shall reestablish and may modify, as necessary, all of the programs implemented as part of the Hurricane Floyd Recovery Act of 1999 under S.L. 1999-463 Extra Session and the Report of the House Appropriations Committee on Hurricane Floyd Recovery dated December 15, 1999, as amended by S.L. 1999-463 Extra Session. The Governor shall also establish new programs and expand or modify, as necessary, existing programs to provide necessary and appropriate relief and assistance from the effects of the hurricanes that hit the State in 2004.

SECTION 5.1.(b) The Governor shall modify the State Hazard Mitigation Grant Program to provide housing buyout and relocation assistance for those persons whose homes were destroyed or severely damaged by debris flows or whose homes are located in a landslide zone.

1 **SECTION 5.1.(c)** The Department of Crime Control and Public Safety shall
2 modify the Crisis Housing Assistance Fund (CHAF) to provide money to persons who
3 do not qualify for CHAF assistance solely because they failed to apply for federal
4 assistance through the Small Business Administration's (SBA) Real Property Disaster
5 loan program. The Department shall review these persons' applications for CHAF
6 assistance using the same criteria employed by the SBA to determine eligibility for an
7 SBA Real Property Disaster loan. The applicants shall be eligible for CHAF assistance
8 if it is determined that they would have failed to qualify for assistance under the SBA
9 Real Property disaster loan criteria and that they otherwise meet the criteria for CHAF.

10 **SECTION 5.1.(d)** The Governor shall expend funds appropriated to or
11 otherwise transferred to the Disaster Relief Reserve Fund by this act to provide for the
12 following programs and activities:

- 13 (1) Required matching funds for federal funds for disaster relief.
- 14 (2) Crisis housing assistance, which may include, but shall not be limited
15 to, direct housing assistance to homeowners and renters, grants to local
16 governments for water, sewer, and other infrastructure needs for
17 housing in new areas, predevelopment activities, housing counselors,
18 and housing recovery efforts. It is the intent of the General Assembly
19 that housing assistance includes providing renters with assistance to
20 purchase affordable housing. The General Assembly therefore
21 encourages the Governor to use funds appropriated in this act to
22 implement a program that provides assistance to renters in affected
23 areas to purchase affordable housing (preferably permanent homes and
24 not manufactured housing) by providing State resources, including
25 grants and low-interest loans, for that purpose.
- 26 (3) Economic recovery assistance, including, but not limited to, assistance
27 to the agriculture, aquaculture, forestry, commercial, and industrial
28 sectors of the economy which may include, but shall not be limited to,
29 grants and loans to businesses, grants and loans to farmers, and grants
30 and loans for aquaculture.
- 31 (4) Public health, public safety, social services, and environmental
32 restoration measures that may include, but shall not be limited to,
33 drinking water protection, water quality monitoring, solid waste and
34 hazardous waste cleanup, assessment and remediation of high-risk
35 storage tank sites, and emergency and maintenance dredging.
- 36 (5) Support to local governments, by grants for public infrastructure, for
37 the repair, renovation, and relocation of facilities, and to offset revenue
38 losses resulting from storm damage from natural disasters covered by
39 federal disaster declarations as to any storm between August 1, 2004,
40 and the date this act becomes law. The amount of the grants shall be
41 based on loss of taxable property in the jurisdiction.
- 42 (6) Mapping and studies authorized by this act.

43 **SECTION 5.1.(e)** Of the funds appropriated by this act to the Disaster Relief
44 Reserve Fund for the 2004-2005 fiscal year, the sum of four million five hundred

1 thousand dollars (\$4,500,000) shall be allocated to the Town of Canton as a grant to
2 repair and upgrade the flood levees, flood gates and pumps, for levee penetration
3 mitigation, erosion control, elevating electrical controls, and repairing sewer lines for
4 the purpose of protecting the wastewater treatment plant owned by Blue Ridge Paper
5 Products and used by the Town of Canton.

6 **SECTION 5.1.(f)** Notwithstanding Part III and Part IV of this act, of the
7 funds allocated by this act to local governments for repairs and renovations to public
8 facilities damaged by the storms, the sum of eight million dollars (\$8,000,000) shall be
9 allocated to Hyde County for the 2004-2005 fiscal year to be used for the reconstruction
10 of the Hyde County Courthouse and repair of other county buildings in the Courthouse
11 Annex that were damaged as a result of Hurricane Isabel in 2003.

12 **SECTION 5.1.(g)** Of the funds appropriated by this act to the Disaster
13 Relief Reserve Fund for the 2004-2005 fiscal year, the sum of five million dollars
14 (\$5,000,000) shall be allocated to the Rural Economic Development Center to be used
15 for economic infrastructure through the Small Town Building Reuse and Restoration
16 Program established in S.L. 2004-88. The funds allocated by this subsection shall be
17 used to provide grants to local governments in counties covered under this act for
18 economic recovery and redevelopment activities in business areas that sustained storm
19 damage. These activities may include all of the following:

- 20 (1) Grants to repair public and private buildings damaged by flooding and
21 deemed necessary to retain existing businesses or provide for new
22 businesses.
- 23 (2) Repairs and improvements to public infrastructure.
- 24 (3) Other technical and design assistance to redevelop business properties
25 and business areas.

26 Recipients shall certify that assistance received under this subsection does not
27 duplicate other State or federal assistance or replace insurance proceeds.

28 **SECTION 5.1.(h)** Of the funds appropriated by this act to the Disaster
29 Relief Reserve Fund for the 2004-2005 fiscal year, the sum of three million dollars
30 (\$3,000,000) shall be allocated to the North Carolina Community Development
31 Initiative, Inc., to be used for housing programs and assistance.

32 **SECTION 5.1.(i)** Of the funds appropriated in this act to the Disaster Relief
33 Reserve Fund for the 2004-2005 fiscal year, the sum of five hundred thousand dollars
34 (\$500,000) may be allocated to the Department of Environment and Natural Resources,
35 Division of Forest Resources, for the purposes of forestland restoration and fire
36 prevention activities needed due to hurricane damage.

37 38 AUTHORIZATION TO TRANSFER FUNDS TO FEDERAL AGENCIES AND TO 39 LOCAL GOVERNMENTS

40 **SECTION 5.2.** The Governor may:

- 41 (1) Use funds from the Disaster Relief Reserve Fund to match federal
42 funds in accordance with this act.
- 43 (2) Provide grants to local governments in accordance with this act.

(3) Transfer funds to local governments pursuant to cooperative agreements under which they administer programs or provide services on behalf of the State.

(4) Transfer funds to federal agencies pursuant to cooperative agreements under which they administer agriculture programs or provide services on behalf of the State.

AUTHORIZATION TO ESTABLISH TIME-LIMITED POSITIONS TO IMPLEMENT THIS ACT

SECTION 5.3. The Governor may establish part-time and full-time personnel positions to implement this act. All such positions shall be time-limited and shall be exempt from the State Personnel Act.

SUBROGATION BY STATE OF RIGHT TO INSURANCE COVERAGE FOR DAMAGED HOMES PURCHASED OR RELOCATED UNDER THE HAZARD MITIGATION GRANT PROGRAM

SECTION 5.4. If a person's home is relocated or purchased under the Hazard Mitigation Grant Program, or through the State Acquisition and Relocation Fund, the Disaster Relief Reserve Fund is subrogated to the person's rights under any insurance coverage for the damage to the home, and any monies received from the insurance coverage shall be paid to the Disaster Relief Reserve Fund.

AUTHORIZATION TO ESTABLISH ADVISORY COUNCILS TO ADVISE STATE AGENCIES ON RECOVERY EFFORTS

SECTION 5.5. The Governor shall establish advisory councils to advise relevant State agencies on hurricane relief and recovery efforts and to ensure input from representatives of affected communities and groups.

TAX EXEMPTION

SECTION 5.6. Each agency disbursing funds or property under this act from the Disaster Relief Reserve Fund for hurricane relief or assistance, other than payments for goods or services provided by the recipient, shall include with the disbursement a written statement of the State and federal income tax treatment of the funds or property disbursed.

SECTION 5.7.(a) G.S. 105-134.6(b) is amended by adding the following new subdivision to read:

"(18) The amount paid to the taxpayer during the taxable year from the Disaster Relief Reserve Fund in the Office of State Budget and Management for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer."

SECTION 5.7.(b) G.S. 105-130.5(b) is amended by adding the following new subdivision to read:

"(22) To the extent included in federal taxable income, the amount paid to the taxpayer during the taxable year from the Disaster Relief Reserve

Fund in the Office of State Budget and Management for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer."

SECTION 5.7.(c) This section is effective for taxable years beginning on or after January 1, 2004.

INVOLVEMENT OF HISTORICALLY UNDERUTILIZED BUSINESSES

SECTION 5.8. It is the intent of the General Assembly that, during this time of rebuilding and hurricane relief efforts, each State agency should strive to increase the total amount of goods and services acquired by it from historically underutilized business vendors, whether directly as principal contractors or indirectly as subcontractors or otherwise.

LEGISLATIVE REVIEW OF FEDERAL FUNDING AND REMAINING UNMET NEEDS

SECTION 5.9. It is the intent of the General Assembly to review in 2005 and 2006 the funds appropriated by Congress and to consider actions needed to address any remaining unmet needs, especially in the area of economic recovery.

LIMITATION ON USE OF STATE FUNDS

SECTION 5.10.(a) No State funds used to implement this act, including any funds in the Disaster Relief Reserve Fund, may be expended for the construction of any new residence within the 100-year floodplain unless the construction is in an area regulated by a unit of local government pursuant to a floodplain management ordinance, and the construction complies with the ordinance. As used in this section, "100-year floodplain" means any area subject to inundation by a 100-year flood, as indicated on the most recent Flood Insurance Rate Map prepared by the Federal Emergency Management Agency under the National Flood Insurance Program.

SECTION 5.10.(b) Homeowners in the 100-year floodplain who receive homeowner's housing assistance pursuant to this act shall have in effect federal flood insurance, if available, as a precondition to receipt of State homeowner's housing assistance for losses resulting from future flooding.

SECTION 5.10.(c) Funds loaned to small and mid-sized businesses shall be used only for eligible purposes under the Small Business Administration disaster loan assistance program. Payments for economic losses shall be limited to documented business expenses necessary for the continued operation of the business.

PART VI. MAPPING OF FLOOD PLAINS AND LANDSLIDE ZONES

SECTION 6. The Department of Crime Control and Public Safety shall proceed immediately to update Flood Insurance Rate Maps for all of the counties included in federal disaster declarations for Hurricanes Frances and Ivan. The Department of Environment and Natural Resources, in cooperation with the Department of Crime Control and Public Safety, shall act to ensure that (i) streambed maps and (ii) maps indicating areas vulnerable to landslides are made available for the same

1 multicounty area. Streambed maps shall be annotated to show areas of significant
2 actual or potential stream bank erosion.

3
4 **PART VII. STUDY PREVENTIVE AND PROTECTIVE MEASURES THAT MAY**
5 **PREVENT OR MITIGATE POTENTIAL FLOODING IN CERTAIN AREAS AND**
6 **FUNDING TO IMPLEMENT THE STUDY AND ITS FINDINGS**

7 **SECTION 7.(a)** The Department of Environment and Natural Resources
8 shall study the causes of the flooding in Canton, Biltmore Village, the City of Newland,
9 Clyde, and other affected areas as deemed necessary to determine what measures can be
10 taken to prevent or mitigate the flooding potential in those areas. The Department may
11 request the assistance of the Army Corps of Engineers in this study. The Department of
12 Environment and Natural Resources shall report its findings to the 2005 General
13 Assembly, 2006 Regular Session.

14 **SECTION 7.(b)** Of the funds appropriated by this act to the Disaster Relief
15 Reserve Fund an amount of up to three million dollars (\$3,000,000) shall be transferred
16 by the Office of State Budget and Management to the Department of Environment and
17 Natural Resources to conduct the study. The funds shall be transferred upon the request
18 of the Secretary of Environment and Natural Resources.

19 **SECTION 7.(c)** In accordance with G.S. 143-15.3, the General Assembly
20 authorizes the Director of the Budget to transfer up to thirty million dollars
21 (\$30,000,000) from the Savings Reserve Account to the Office of State Budget and
22 Management, Disaster Relief Reserve Fund, to implement the recommendations of the
23 studies authorized in this section. Prior to the transfer of funds under this subsection, the
24 Governor shall consult with the Joint Legislative Commission on Governmental
25 Operations on his plans to implement any recommendations for flood remediation and
26 mitigation including anticipated expenditures. Funds to be transferred pursuant to this
27 subsection are appropriated from the Savings Reserve Account for the fiscal year in
28 which the consultation is made to implement this subsection.

29
30 **PART VIII. MAINTAIN REDEVELOPMENT CENTER**

31 **SECTION 8.** The Governor has established a redevelopment center in
32 Western North Carolina. The Governor shall maintain that redevelopment center for the
33 entire period required to implement the provisions of this act.

34
35 **PART IX. REPORTING REQUIREMENTS**

36 **SECTION 9.** The Governor shall report to the Appropriations Committees
37 of the Senate and the House of Representatives regarding the implementation of this act
38 no later than 30 days after the date this act becomes law and shall report monthly
39 thereafter until the adjournment of the 2005 Regular Session. The Governor shall report
40 on the implementation of this act to the Joint Legislative Commission on Governmental
41 Operations by October 15, 2005, and quarterly thereafter.

42
43 **PART X. EFFECTIVE DATE**

- 1 **SECTION 10.** This act is effective when it becomes law, except that Section
2 5.7 of this act is effective for taxable years beginning on or after January 1, 2005.

Report of the
House Appropriations Committee
on
The Hurricane Recovery Act
of 2005

February 17, 2005

2004 Disaster Relief Reserve

GENERAL FUND

FY 05-06

FY 06-07

Recommended Budget

\$0

\$0

Legislative Changes

A. FEMA Matching Funds

1 FEMA Match - Hazard Mitigation Grant Program (HMGP)

Provides the state match for the federal Hazard Mitigation Grant Program. The program will relocate homeowners whose houses have been destroyed or rendered uninhabitable and are located in the 100-year flood plain. Funds will also match FEMA elevation grants and disaster repair grants. Matches \$25 million in federal funds.

\$16,900,000 NR

2 FEMA Match - Individual Assistance

Federal Declared Storms:

FEMA Grants for Household Assistance provide funds for home repair for persons who do not qualify for SBA Disaster Loans. Household Assistance Grants are capped at \$5,100. FEMA Grants for Other Needs Assistance provide funds for the replacement or repair of personal property. While FEMA covers 100% of the cost of Household Assistance, the State is expected to cover 25% of the costs for Other Needs Assistance. Matches \$28.9 million in federal funds.

\$6,509,955 NR

State Declared Storms:

Provides the same response for affected households. The State covers 75% of the eligible costs, while local governments are expected to cover 25% of eligible damages.

3 FEMA Match - Public Assistance

Federal Declared Storms:

Grant assistance to the State and local governments for disaster response and uninsured public losses. State is expected to cover 25% of eligible damages. Matches \$41.5 million in federal funds.

\$20,854,355 NR

State Declared Storms:

State covers 75% of disaster response costs for local governments and eligible uninsured losses to local governments. Local governments are expected to cover 25% of eligible damages.

B. Housing Programs and Assistance**4 Grants to SBA Loan Applicants**

For persons successful in receiving an SBA Home Loan, the State will provide a grant to payback or reduce the principal of the SBA Loan. The amount of the grant is determined by age of the applicant, household income, and the extent of damage to the home. Grant amounts are for \$2,500, \$5,000, and \$10,000.

\$2,400,000 NR

Homeowners Aged 60+:

Damage less than \$25,000 \$5,000

Damage over \$25,000 \$10,000

Homeowners Under Aged 60 and

Adjusted Gross Family Income under \$35,000:

Damage less than \$25,000 \$5,000

Damage over \$25,000 \$10,000

Homeowners Under Aged 60 and

Adjusted Gross Family Income between \$35,000-\$99,999:

Damage less than \$25,000 \$2,500

Damage between \$25,000-\$50,000 \$10,000

Adjusted Family Income over \$100,000:

Not Eligible

5 State Acquisition and Relocation Fund (SARF)

For persons who qualify for the Hazard Mitigation Grant Program (HMGP). Covers the difference between the pre-flood fair market value of the home and the cost to purchase a comparable home.

\$15,500,000 NR

The Hurricane Recovery Act of 2005 expands the SARF program to include the relocation or elevation of homes that are not in the 100-year flood plain, but are destroyed or severely damaged by debris flows.

Also provides \$3,000 in relocation assistance to renters whose rental units are purchased through HMGP buy-out.

Includes funds for administration at the State and local level. When combined with the appropriation for the Crisis Housing Assistance Fund (CHAF), \$5 million is included for the Statewide Recovery Office and for housing counselors, inspectors, and rehab specialists at the local level.

6 Crisis Housing Assistance Fund (CHAF)

The Renovation and Repair for Low Income Families Program within CHAF provides grants for home repair, rehabilitation, and replacement to low-income homeowners not eligible for federal buy-out, not covered by insurance, or eligible for SBA Home loans. Eligible persons seeking replacement homes have access to no interest loans with deferred payments. If the homeowner lives in the replacement home for 10 years, the loan is forgiven and the lien cancelled.

\$17,628,450 NR

The Hurricane Recovery Act of 2005 directs the Department of Crime Control and Public Safety to design a process for testing eligibility for SBA Home Loans for persons who did not apply with SBA. Persons found not eligible for SBA loans, according to SBA loan criteria, will be made eligible for CHAF. \$2.5 million has been budgeted for this expansion of the program.

Includes funds for administration at the State and local level. When combined with the appropriation for SARF, \$5 million is included for the Statewide Recovery Office and for housing counselors, inspectors, and rehab specialists at the local level.

7 North Carolina Community Development Initiative, Inc.

Provides \$3,000,000 to the North Carolina Community Development Initiative, Inc. for housing programs and assistance. The effect of this action is to redirect funds allocated to Hurricane Floyd but unspent.

\$3,000,000 NR

C. Business Disaster Assistance**8 Emergency Bridge Loans for Businesses**

Provides short-term bridge loans for affected businesses. The purpose of the program is to provide relief for businesses as they progress through the SBA loan process. The Governor proposes maximum loans of \$10,000. The loans would be rolled into a long-term SBA loan or state Business Disaster Recovery Loan.

\$1,000,000 NR

9 Business Disaster Recovery Loans

Provides loans to eligible businesses that do not qualify for SBA Business Loans. Loans have 8-year terms, with no interest and deferred payments for the first 3 years. For the final five years of the loan, interest payments will be at 3%.

\$7,000,000 NR

10 Interest Buy-Down for SBA Loans

Provides grants to businesses receiving federal Small Business Administration Business Disaster Loans to cover interests costs for three years.

\$2,000,000 NR

11 Rural Economic Development Center

Provides funds to the Rural Center to expand the Small Town Building Reuse and Restoration Program. The Program will provide grants to storm-affected communities for the purpose of business disaster recovery and economic revitalization.

\$5,000,000 NR

12 Western Travel and Tourism

Allocates funds to the Department of Commerce to promote travel and tourism activities in Western counties.

\$500,000 NR

D. Agriculture and Fishing Disaster Assistance**13 Farm Structure and Equipment Loss**

Provides grants to compensate farmers for losses of farm equipment and structures. Grants would compensate farmers for 40% of losses.

\$1,282,000 NR

14 Crop Loss Assistance

Provides a state supplement to farmers eligible for federal crop loss disaster payments. Assistance payments would cover 17% of estimated crop loss. \$16.1 million in federal funds are anticipated.

\$6,374,138 NR

15 Grants and Loans to Commercial Fishermen

Provides grants and loans to commercial fishermen, including trout farms, for equipment losses and reductions in harvests. State grants and loans would compensate fishermen up to 60% of combined losses.

\$723,000 NR

E. Public Health and Environmental Assistance**16 Drinking Water Protection**

Provides funds for testing and analyzing private wells and community water systems.

\$868,213 NR

17 Water Quality Monitoring

Provides funds for enhanced water quality monitoring, including rivers and groundwater. During Floyd, funds were provided for the study of short-term and long-term impacts of flooding.

\$232,750 NR

18 Solid and Hazardous Waste Cleanup

Provides funds for the management of solid waste generated from the cleanup of disaster areas. Also provides funds for the assessment, remediation, and relocation of high-risk hazardous waste sites, solid waste sites and landfills, including private businesses.

\$10,786,368 NR

19 Underground Storage Tank Assessments

Provides funds for the assessment of damage to and risks posed by underground storage tanks.

\$20,000 NR

20 NRCS Stream Clearance

Provides funds for debris removal from rivers and streams. A state match is provided for USDA federal funds. \$72 million in federal funds are anticipated.

\$24,000,000 NR

21 Forestland Restoration

Provides funds to the Department of Natural and Economic Resources, Division of Forest Resources, for forest restoration and fire prevention activities made necessary by hurricane damage.

\$500,000 NR

F. Local Government Assistance**22 Infrastructure Grants to Local Governments**

Provides grants to local governments for new infrastructure to support the relocation of residents to areas outside of the 100-year flood plain. Eligible infrastructure includes water, sewer, sidewalks, and storm drainage. In Floyd, the estimated grant was \$10,000 per new home.

\$6,583,928 NR

23 Other Grants to Local Governments

Provides funds to Local Governments for repairs and renovations to storm-damaged facilities. Supplements Public Assistance funds provided by FEMA.

\$34,100,000 NR

G. Mapping and Studies**24 Hazard Remediation and Mitigation Studies**

Provides funds for mitigation and remediation studies for the communities of Canton, Clyde, Newland, Biltmore Village, and other storm-damaged communities.

\$3,000,000 NR

25 Flood and Stream Mapping

Provides funds for updating and maintaining flood plain mapping by improving the accuracy of flood hazard data and minimizing long-term flood losses through better flood plain management. Includes \$2,685,000 for stream mapping.

\$11,985,000 NR

The Governor's Office is pursuing additional federal funds to perform the necessary mapping activities.

26 Landslide Mapping

Provides funds for geological studies on priority landslide areas. The purpose is to better inform homeowners of potential risks stemming from potential landslides.

\$1,600,000 NR

27 Funds to Implement Studies

Makes funds available to implement the recommendations of studies included in this section.

\$30,000,000 NR

H. Other Disaster Relief Funds**28 Private Bridge Repair**

Provides funds for the repair and reconstruction of bridges on private property. The program pays \$25,000 per project in addition to the \$5,100 available from FEMA under the Individual Assistance Program.

\$6,750,000 NR

29 Disaster Recovery Contingency

15% contingency for general disaster recovery. The Governor's Office developed the contingency as 15% of "other" unmet needs self-reported by the storm-affected counties.

\$10,443,290 NR

Total Legislative Changes

\$247,541,447 NR

Total Position Changes**Revised Budget**

\$247,541,447

\$0



Attach. No. 3

HURRICANE RECOVERY ACT OF 2005: Senate Bill 7

BILL ANALYSIS

Committee: Senate Appropriations
Date: February 15, 2005
Version: House Committee Sub for SB7

Introduced by: Senator Nesbitt
Summary by: Barbara Riley
Committee Counsel

SUMMARY:

The Hurricane Relief Act of 2005 will provide disaster assistance to individuals, businesses and public agencies that sustained damage during the 6 hurricanes that struck the State of North Carolina during the late summer and fall of 2004. Assistance is to be provided to those counties for which there was either a Presidential Disaster Declaration or a State Disaster Declaration. The Governor is directed to reestablish the disaster assistance programs created after Hurricane Floyd. He may modify these programs and create new programs to meet the needs of the areas affected as necessary. A total of \$247,541,447 million dollars is appropriated to implement the programs; \$91 million in General Fund reversions, \$153,541,447 million from the Savings Reserve Account and \$3 million in reversions from the NC Community Development Initiative for Hurricane Floyd recovery programs.

In the House Committee Substitute, the total amount appropriated from the Savings Reserve Account reflects the \$30 million dollars appropriated in the Senate Bill for implementing the recommendation of the hazard mitigation study authorized in Section 7 and the \$3 million dollars appropriated in the Senate Bill to the NC Community Development Initiative, Inc. for housing programs and assistance. The substitute bill also rewrites the appropriations for the Division of Forest Resources (now Section 5.1(i) reducing the amount allocated to \$500,000 to be used for forestland restoration and fire prevention activities needed due to hurricane damage. The substitute bill also changes the reference to the Senate Appropriations/Base Budget Committee Report on the bill to the House Appropriations Committee Report.

BACKGROUND:

North Carolina was struck by 6 hurricanes during the 2004 season. Hurricanes Alex, Bonnie, Charlie and Jeanne brought flooding and wind damage to the Eastern Region of the State. Hurricanes Frances and Ivan dumped heavy rains on Western North Carolina resulting in landslides, flooding, and at least 11 dead. 45 counties in Western North Carolina were included in federal disaster declarations in Western North Carolina as a result of Hurricanes Frances and Ivan. 19 of those counties were designated by FEMA as eligible for Individual Assistance and Public Assistance. Another 26 counties were designated as eligible for Individual assistance. The damage in the Eastern Region resulted in State Disaster Declarations.

BILL ANALYSIS:

PART I

Part I of the bill sets forth the title of the act as "The Hurricane Recovery Act of 2005."

PART II

Part II of the bill sets forth detailed findings regarding the impacts of the many hurricanes on individuals, businesses and local government in the affected areas. The findings include that without significant additional State assistance to the areas damaged further deterioration of the economy, environment, public health and safety, and quality of life in the State is likely to occur.

HURRICANE RECOVERY ACT OF 2005

Page 2

PART III

Part III establishes the counties that would be eligible to receive assistance under the act. These counties include the 19 counties that were designated as eligible for federal individual assistance and public assistance: Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Watauga, and Yancey; the 26 counties that were eligible for federal public assistance: Alamance, Alexander, Bladen, Cabarrus, Caswell, Catawba, Cleveland, Columbus, Cumberland, Davidson, Forsyth, Gaston, Graham, Guilford, Hoke, Iredell, Lincoln, Mecklenburg, Randolph, Robeson, Rockingham, Rutherford, Scotland, Stokes, Union and Wilkes; and those counties that were not included in a federal disaster declaration but were included in a State disaster declaration as a result of the damages sustained by one of the hurricanes that occurred in 2004.

PART IV

Part IV notes that the Governor has established the Disaster Relief Reserve Fund for the purpose of providing necessary and appropriate assistance and relief needed as a result of natural disasters. \$217,541,447 million dollars is appropriated in Part IV to implement the programs; approximately \$91 million in General Fund reversions, \$123,541,447 million from the Savings Reserve Account, and \$3 million in reversions from the NC Community Development Initiative for Hurricane Floyd recovery programs.

PART V

Part V deals with the implementation of the bill.

- The Governor is directed to reauthorize the programs established for the Hurricane Floyd relief effort. He may modify and expand these programs and create new programs as he deems appropriate.
- The Governor is directed to modify the State Hazard Mitigation Grant Program to provide housing buyout and relocation assistance to those persons whose homes were damaged or destroyed by debris slides.
- The Department of Crime Control and Public Safety is directed to modify the Crisis Housing Assistance Fund to provide assistance to persons who otherwise would be eligible but did not file an application for an SBA Real Property disaster loan.
- The sum of \$4.5 million dollars is allocated to the Town of Canton for repairs and upgrades to flood levees, flood gates and pumps, levee penetration mitigation, erosion control, elevation of electrical controls and sewer line repair for the purpose of protecting the wastewater treatment plant owned by Blue Ridge Paper Products and used by the Town of Canton.
- Allocates, from the funds allocated by this act to local governments for repairs and renovations to public facilities, the sum of \$8 million dollars to Hyde County for the 2004-2005 fiscal year for the reconstruction of the Hyde County Courthouse and repair of other county buildings in the Courthouse annex that were damaged as a result of Hurricane Isabel in 2003.
- The sum of \$5 million dollars is allocated to the Rural Economic Development Center to be used through the Small Town Building Reuse and Restoration Program for grants to local governments for economic recovery and redevelopment activities in business areas that sustained storm damage.
- Allocates \$3 million dollars to the NC Community Development Initiatives, Inc. to be used for housing programs and assistance.
- Allocates to DENR, Division of Forest Resources the sum of \$500,000 for forestland restoration and fire prevention activities needed as a result of hurricane damage.

HURRICANE RECOVERY ACT OF 2005

Page 3

- The Governor is authorized to use funds in the Disaster Relief Reserve Fund to match federal funds, provide grants to local governments, and transfer funds federal agencies and local governments under cooperative agreements whereby they administer programs on behalf of the State.
- The Governor may establish time-limited positions to implement the act and set up Advisory Councils to advise State agencies on the recovery effort.
- The Disaster Relief Reserve Fund is subrogated to a person's insurance rights for damage to their home if the home has been purchased or relocated under the Hazard Mitigation Grant Program or through the State Acquisition and Relocation Fund.
- State income tax deductions are provided for individuals and businesses for amounts paid to the taxpayer during the taxable year from the Disaster Relief Reserve Fund. The deduction does not apply to amounts received as payments for goods and services provided by the taxpayer.
- The General Assembly sets forth its express intent that in the relief efforts each State agency should try to increase the amount of goods and services obtained from historically underutilized businesses.
- The amounts appropriated by Congress for assistance are to be reviewed by the General Assembly in 2005 and 2006 and they shall consider any additional action necessary to address unmet needs.
- No State funds may be used for the construction of any new residence within the 100-year flood plain unless the construction is in an area regulated by a local floodplain management ordinance. Homeowners in the 100-year floodplain who receive help under this act must have federal flood insurance in place to receive future assistance for flooding losses.
- Loans to small and mid-sized businesses may be used only for eligible purposes under the Small Business Administration disaster assistance loan program. Economic loss payments shall be limited to documented business expenses needed for continued operations.

PART VI

Directs the Department of Crime Control and Public Safety to immediately proceed to update the flood insurance rate maps for all of the counties included in federal disaster declarations for Hurricanes Frances and Ivan. DENR, in cooperation with the Department of Crime Control and Public Safety shall insure that streambed maps and maps showing areas vulnerable to landslides are available for the same multicounty area. Streambed maps should be annotated to show areas of actual and potential stream bank erosion.

PART VII

Directs DENR to study the causes of flooding in Canton, Biltmore Village, Newland, Clyde and other affected areas as deemed necessary to determine what can be done to prevent or mitigate future floods. DENR may request assistance from the US Army Corps of Engineers in conducting the study. Up to \$3 million dollars may be transferred by the Office of State Budget and Management to the DENR for the study. The Governor shall consult with the Joint Legislative Commission on Governmental Operations on any plans to implement the recommendations of the study prior to any transfer of funds for such implementation. \$30 million dollars is appropriated from the Savings Reserve Account for the fiscal year in which the consultation is made to implement the recommendations of the study.

PART VIII

Directs the Governor to maintain the redevelopment center in Western North Carolina for the entire period needed to implement the act.

HURRICANE RECOVERY ACT OF 2005

Page 4

PART IX

Requires the Governor to report monthly to the Appropriations Committees of the Senate and House on the implementation of the act no later than 30 days after the enactment of this act and then monthly until the adjournment of the 2005 Regular Session. The governor shall report to the Joint Legislative Commission on Governmental Operations by October 15, 2005 and quarterly thereafter.

PART X

The bill is effective when it becomes law, except that Section 5.7 of this act is effective for taxable years beginning on or after January 1, 2004.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 7

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S7-ARF-1 [v.1]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S7-CSRF-1(v.1)

Representative Haire

- 1 moves to amend the bill on page 14, line 2 by deleting the date "January 1, 2005" and
2 substituting the date "January 1, 2004".
3

SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED  FAILED TABLED

Attach. No. 6

VISITOR REGISTRATION SHEET

APPROPRIATIONS

February 17, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

JR 4:11	
Jonathan Rhyme	
Jacob Mason	AMERICAN RED CROSS
Leigh Harlan	Rowan Co.
Natalie Gray	" " 1930 Jake Alexander Blvd. W Salisbury, NC 28147
Evelyn McMahon	American Red Cross 1930 Jake Alexander Blvd W Salisbury, NC 28147
Bill McAnulty	PSNC
John Jacob	Anheuser-Busch Companies, Inc
Lewis McKinney	" " " "
Tim McAnulty	McLU
Robert Wilson	S.O.S.

VISITOR REGISTRATION SHEET

APPROPRIATIONS

February 17, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Sherry McDowell	NCGA Intern
Don Kurbane	NCDOL
Lori Ann Harris	LITTA
Eliza Lutz Ouzts	NCPIRG
Lynette Zor	ATA
Ken Melton	D.O.R.
Ms. E. Dalton	Citizens 4 Industry
Greg McLeod	NC AGO
Jan Mottley	Gov office
Kevin Howell	Gov office
ZEBFLY	Alley Assoc

VISITOR REGISTRATION SHEET

APPROPRIATIONS

February 17, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Robin Smith	DENR
CASANDRA Stidner	CCPS
DOUG HALL	CCPS
BIM MORGAN	NE Rural Center
~~Abdul Hakeem~~	~~UCCDI~~
Lynne Bunch	COA
Johanna Reese	DENR
Paula A. Wolf	El Pueblo
Michael/Houser	NCAE
Carlene Ryan	Edmister & Webb
R. E. Beatty	CCPS

VISITOR REGISTRATION SHEET

APPROPRIATIONS

February 17, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Robert S. Lee	Robert S. Lee & Assoc.
Byron Harris	OSBM
Charlie Percusse	OSBM
Chip Kilbuck	Nelson Mullins
Bob Wood	Haywood C. Health Dept.
Mike	New Hanover Co. Health Dept.
Becki Gray	Mutual Distributing Co.
Kevin Leonard	WCSR
Ernest Dalton	NCCBI
Henry Jones	Attorney, Raleigh
Patrick T. Buffkin	NCGA Research

VISITOR REGISTRATION SHEET

Name of Committee

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME

FIRM OR AGENCY

Vanessa Capobianco

Gov's Press Office

STEVE WEGNER

NL PEN SOCIETY

Steve Shore

NC Pediatric Society

GREG GODARD

NC ~~Region~~ Counties

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **APPROPRIATIONS** will meet as follows:

DAY & DATE: Wednesday, April 20, 2005

TIME: 9:00 a.m.

LOCATION: 643

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 914 State Budget Act - Rep. Crawford

SB 685 Revise Professional Employer Organizational Act - Senator Bingham

Respectfully,

Representatives Clary, Crawford, Earle, Nye,
Owens, Sherrill
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at
3:30 p.m. on April 14, 2005.

____Principal Clerk
____Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

House Appropriations Committee

April 20, 2005

Room 643

9:00 a.m.

Representative Beverly Earle, Co-Chair, called the meeting to order at 9:10 a.m. Pages were introduced to the committee. She also announced that there will be two bill to be heard, SB685 and HB914.

HB914

A BILL TO BE ENTITLED

AN ACT TO RECODIFY MANY OF THE PROVISIONS OF THE EXECUTIVE BUDGET ACT AND THE CAPITAL IMPROVEMENT PLANNING ACT INTO A STATE BUDGET ACT THAT REVISES AND CLARIFIES THE PROCEDURES FOR PREPARING, ENACTING, AND ADMINISTERING THE STATE BUDGET AND TO MAKE CONFIRMING CHANGES.

HB914 was presented to the committee by Representative Crawford. Lynn Muchmore, Fiscal Research, staff, explained the bill in more details. (See Attachment II). The purpose of this bill is to reorganize, simplify and update the current budget statutes, and establish procedures for preparing the recommended State budget, enacting the budget, and administering the budget. See Attachment III for the State Budget Act Summary.

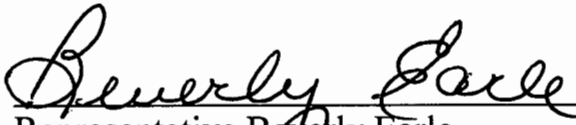
At this time, there was a question and answer session. Questions were raised from the committee members and all questions were answered by staff.

An amendment was offered by Representative Mickey Michaux and presented to the committee. (See Attachment IV for the amendment). The amendment passed.

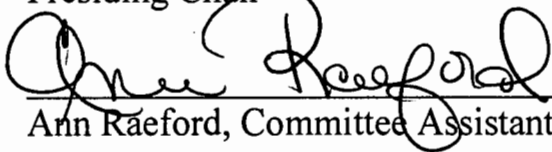
Representative Jim Crawford offered a second amendment. Representative Crawford explained the amendment with no opposition. The amendment passed. (See Attachment V).

Time ran out and SB685 was not heard, but was announced by Representative Earle that it would be discussed in the next meeting.

The meeting adjourned at 10:00 a.m.



Representative Beverly Earle
Presiding Chair



Ann Raeford, Committee Assistant

Representative Jim Crawford, Representative Edd Nye, Representative Bill Owens, Representative Debbie Clary, Representative Wilma Sherrill

Attachments

Attachment I
Attachment II

Attachment III
Attachment IV
Attachment V
Attachment VI
Attachment VII

Agenda

HB914
State Budget Act
Summary
Amendment #1
Amendment # 2
Attendance Sheet
Visitors Sheet

STATE OF NORTH CAROLINA
NORTH CAROLINA GENERAL ASSEMBLY
RALEIGH, NORTH CAROLINA 27601



AGENDA
HOUSE APPROPRIATIONS COMMITTEE
April 20, 2005
9:00 A.M.
643 LOB

Representative Beverly Earle, Presiding

Chair's Comments

Bills

HB 914	State Budget Act – Rep. Crawford
SB 685	Revise Professional Employer Organizational Act – Senator Bingham

Adjourn

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2006-203
HOUSE BILL 914**

AN ACT TO RECODIFY MANY OF THE PROVISIONS OF THE EXECUTIVE BUDGET ACT AND THE CAPITAL IMPROVEMENT PLANNING ACT INTO A STATE BUDGET ACT THAT REVISES AND CLARIFIES THE PROCEDURES FOR PREPARING, ENACTING, AND ADMINISTERING THE STATE BUDGET, TO MAKE CONFORMING CHANGES, AND TO REPEAL VARIOUS STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. Except for sections recodified by this act, Article 1 of Chapter 143 of the General Statutes is repealed.

SECTION 2. Article 1B of Chapter 143 of the General Statutes and Section 23.11 of S.L. 2006-66 are repealed.

SECTION 3. The General Statutes are amended by adding a new Chapter to read:

**"Chapter 143C.
"State Budget Act.
"Article I.
"General Provisions.**

"§ 143C-1-1. Purpose and definitions.

(a) Title of Chapter. – This Chapter is the 'State Budget Act' and may be cited by that name.

(b) The provisions of this Chapter shall apply to every State agency and to every non-State entity that receives or expends any State funds. No State agency or non-State entity shall expend any State funds except in accordance with an act of appropriation and the requirements of this Chapter.

(c) Purpose. – This Chapter establishes procedures for the following:

- (1) Preparing the recommended State budget.
- (2) Enacting the State budget.
- (3) Administering the State budget.

(d) Definitions. – The following definitions apply in this Chapter:

- (1) Appropriation. – An enactment by the General Assembly authorizing the withdrawal of money from the State treasury. An enactment by the General Assembly that authorizes, specifies, or otherwise provides that funds may be used for a particular purpose is not an appropriation.
- (2) Biennium. – The two fiscal years beginning on July 1 of each odd-numbered year and ending on June 30 of the next odd-numbered year.
- (3) Budget. – A plan to provide and spend money for specified programs, functions, activities, or objects during a fiscal year.
- (4) Budget year. – The fiscal year for which a budget is proposed and enacted.
- (5) Capital improvement. – A term that includes real property acquisition, new construction or rehabilitation of existing facilities, and repairs and renovations.



HOUSE BILL 914: State Budget Act

BILL ANALYSIS

Date: March 28, 2005

Version: First Edition

Introduced by: Rep. Crawford

Summary by: Legislative Staff

SUMMARY: The bill repeals Articles 1 (Executive Budget Act) and 1B (Capital Improvement Planning Act) of Chapter 143 of the General Statutes and enacts a new Chapter 143C (State Budget Act), to simplify, reorganize, and update the current budget statutes, conform the statutes to constitutional provisions governing appropriations, and make other changes. The stated purpose of the new Chapter 143C is to establish procedures for preparing the recommended State budget, enacting the budget, and administering the budget. The act defines three types of funds: governmental; proprietary; and agency and trust, along with other definitions, in Article 1. The act's remaining nine Articles deal with the following subjects: the role of the director of the budget; development of the governor's recommended budget; budget requirements; enactment of the budget; administration of the budget; federal and other receipts; budgeting capital improvements; special funds and fee reports; and penalties for violations of the act. The bill also makes numerous technical and conforming amendments. The bill is effective July 1, 2007. (Copied from the Daily Bulletin, published by the Institute of Government.)

BILL ANALYSIS: A section by section analysis of House Bill 914 follows:

SECTION 1. Repeals the Executive Budget Act.

SECTION 2. Repeals the Capital Improvements Planning Act.

SECTION 3. Adds a new Chapter 143C to the General Statutes that is the State Budget Act. The State Budget Act encompasses requirements for budget preparation, adoption, administration and capital planning. A section-by-section analysis of the proposed State Budget Act is below. Also, following each section is a parenthetical that notes what provisions of current law, if any, in the Executive Budget Act or Capital Improvement Planning Act address the same or similar issues.

ARTICLE 1.

General Provisions.

§ 143C-1-1. Purpose and definitions.

This section titles Chapter 143C as the State Budget Act, applies its provisions to every State agency or non-State entity that receives or spends State funds, and prohibits the expenditure of State funds except in accordance with an act of appropriation. The section cites the purposes of the State Budget Act as establishing procedures for:

- (1) Preparing the recommended State budget;
- (2) Enacting the State budget; and
- (3) Administering the State budget.

This section also sets out definitions of the important terms used in the Chapter including in particular the definitions of: "appropriation", "State funds", "statutory appropriation", and

HOUSE BILL 914

Page 2

"non-State entities". For purposes of this act the term "State funds" includes only Governmental and Proprietary funds

(See G.S. 143-1; 143-28; 143-33)

§ 143C-1-2. Appropriations: constitutional requirement; reversions.

This section recites the constitutional requirement that money can only be withdrawn from the State treasury through an act of appropriation. It also specifies that at year-end unexpended appropriations revert to the fund from which the appropriation was made, except for capital appropriations and appropriations to the General Assembly.

(See G.S. 143-18)

§ 143C-1-3. Fund types.

This section requires the Controller to structure the State's accounting system using fund types promulgated by the Governmental Accounting Standards Board. Fund types fall into three categories. They are:

- (1) Governmental funds, which includes the General Fund, Special Revenue funds, Debt Service funds, and Capital Projects funds
- (2) Proprietary funds, which includes Enterprise funds and Internal Service funds
- (3) Agency and Trust funds, which include Agency funds, Investment Trust funds, Pension and Other Employee Benefit Trust funds, Permanent funds, and Private-purpose Trust funds.

Subsection (c) of this section exempts institutional trust funds established by The University of North Carolina under authority of Chapter 116 from the State Budget Act, except for the provisions on capital planning and budgeting in Article 8 in the new Chapter 143C.

(No provision)

§ 143C-1-4. Interest earnings credited to the General Fund; interest earnings on Highway Fund and Highway Trust Fund credited to those funds.

This section requires that all interest earnings be credited to the General Fund unless State law directs otherwise. It also requires that interest earnings on the Highway Fund and Highway Trust Fund balances be credited to those two funds respectively.

(No provision)

"ARTICLE 2.

"Director of the Budget.

§ 143C-2-1. Governor is Director of the Budget.

This section deems the Governor ex officio Director of the Budget, and cites the Governor's constitutional responsibility to recommend a State budget to the General Assembly and to administer the State budget adopted by the General Assembly.

This section also obligates all State agencies and non-State entities to furnish any budget-related information requested by the Governor.

(See G.S. 143-2, 143-3, 143-9, 143-21, 143-22)

§ 143C-2-2. Collection of State Budget Statistics.

This section requires the Budget Director to coordinate the collection and analysis of statistical data related to the State's fiscal affairs, and to disseminate estimates, projections, and studies used in Statewide budgeting.

(See G.S. 143-3.5)

HOUSE BILL 914

Page 3

§ 143C-2-3. Fiscal analysis required for any State agency bill that affects the budget.

This section requires State agencies proposing legislation to estimate the fiscal impacts for the first five years the legislation would be in effect.

(See G.S. 143-3.5)

143C-2-4. Director of the Budget may direct State Treasurer to borrow money for certain payments.

This section authorizes the Director, when necessary and with consent of the Council of State, to direct the Treasurer to borrow money, in anticipation of tax collections, to provide for the even payment of appropriations.

(See G.S. 143-24)

"ARTICLE 3.

"Development of the Governor's Recommended Budget.

§ 143C-3-1. Budget estimate for the General Assembly.

This section requires the Governor to include the financial needs of the General Assembly as presented by the Legislative Services Officer with his recommended State budget.

(See G.S. 143-8)

§ 143C-3-2. Budget estimate for the judicial branch.

This section requires the Governor to include the financial needs of the judicial branch as presented by the Administrative Officer of the Courts with his recommended State budget.

(See G.S. 143-8)

§ 143C-3-3. Budget requests from State agencies in the executive branch.

This section requires State agencies to submit their budget requests to the Budget Director pursuant to instructions issued by the Director and according to accounting classifications promulgated by the State Controller.

The section maintains the current law that requires the Board of Governors to prepare a single unified budget request for the university system. The current law is set out in G.S. 116-11.

This section further provides that three categories of budget requests require special information. These are as follows:

- A request for repairs and renovations funding. The request must be evaluated by the Department of Administration.
- A request for capital funds. The request must include cash flow requirements and life cycle costing, financing methods, and an estimate of space needs and physical requirements evaluated by the Department of Administration.
- A request for information technology funding. The request must be reviewed and evaluated by the State Chief Information Officer.

(See G.S. 143-6, 143-7, 143-30)

§ 143C-3-4. Budget requests from non-State entities.

This section requires that budget requests from non-State entities be channeled through a designated State agency.

(See G.S. 143-31.3)

§ 143C-3-5. Budget recommendations and budget message.

HOUSE BILL 914

Page 4

This section specifies the format and timetable for the budget recommendations prepared by the Governor and submitted to the General Assembly. The budget recommendation includes five components:

- A Comprehensive Financial Plan spanning all State government programs and capital improvement proposals;
- A Budget Support Document that provides line-item detail underlying the Financial Plan;
- A draft Current Operations Appropriations Act that appropriates funds for the ongoing activities of government
- A draft Capital Improvements Appropriations Act that funds capital improvements projects
- A budget message.

The section requires that the Governor's budget recommendation include expenditures from all Governmental and Proprietary funds. These include the General Fund, special funds, capital improvements funds, enterprise funds, and internal service funds. The Governor must also include in his recommended Current Operations Appropriations Act a statement of the Highway Fund, Highway Trust Fund, and General Fund availability upon which the Financial Plan is based.

(See G.S. 143-11, 143-12)

"ARTICLE 4.

"Budget Requirements.

§ 143C-4-1. Annual balanced budget.

This section requires that the budget recommended by the Governor and the budget enacted by the General Assembly be balanced on an annual basis.

(No provision)

§ 143C-4-2. Savings Reserve Account and appropriation of General Fund unreserved fund balance

This section requires that twenty-five percent (25%) of each year's ending General Fund balance be reserved to the Savings Reserve Account, and provides that the balance can only be expended through an act of appropriation.

(See G.S. 143-15.2, 143-15.3)

§ 143C-4-3. Repairs and Renovations Reserve Account.

This section requires that twenty-five percent (25%) of each year's ending General Fund balance be reserved to the Repairs and Renovations Reserve Account. The reserved funds can only be spent on State facilities and infrastructure that are supported by the General Fund. Further, expenditures can be made only for specific types of projects, generally excluding any project that expands the footprint of a building. The section further provides that expenditures from the Repairs and Renovations Reserve require an act of appropriation by the General Assembly.

(See G.S. 143-15.3A)

§ 143C-4-4. Capital Improvements Reserve Account.

This section requires that fifty percent (50%) of each year's ending General Fund balance be reserved to the Capital Improvements Reserve Account. This reserve can only be expended by act of appropriation, and only for capital improvements.

HOUSE BILL 914

Page 5

(No provision)

§ 143C-4-5. Contingency and Emergency Fund.

This section establishes a Contingency and Emergency Fund from which the Governor, with approval of the Council of State, may make expenditures after consultation with the Joint Legislative Commission on Governmental Operations. Funds may be used to meet emergencies recognized under the Emergency Management Act; to satisfy orders by a court or the Industrial Commission; or for other contingencies and emergencies, including purposes authorized in statute.

(See G.S. 143-12(b))

§ 143C-4-6. Non-State Match Restrictions.

This section requires that recipients of an appropriation requiring a match must actually possess the required match amount and must expend a proportionate amount with each disbursement.

(See G.S. 143-31.4)

§ 143C-4-7. General Fund operating budget size limited.

This section limits the size of the General Fund operating budget to 7% of projected total State personal income. The limitation does not affect expenditures for Medicaid, prison operations, or the teachers and State employees health insurance plan.

(See G.S. 143-15.4)

§ 143C-4-8. Limit on number of permanent positions budgeted.

This section prohibits growth in the State employee work force at a rate that exceeds the State's residential population growth rate. The growth comparison is based on a ten-year moving average. Public school and community college employees are not included in the computations.

(See G.S. 143-10.2)

ARTICLE 5.

Enactment of the Budget.

§ 143C-5-1. Appropriations Chairs to introduce Governor's appropriations bills.

This section, which is treated as rule of procedure in the Senate and House of Representatives, provides that the required appropriations acts recommended by the Governor shall be introduced in the General Assembly by the chairs of the committees on appropriations.

(See G.S. 143-13)

§ 143C-5-2. Order of appropriations bills

This section requires that, except under special circumstances, each house of the General Assembly must first act on the Current Operations Appropriations Act before taking up any other act of appropriations.

(See G.S. 143-15)

§ 143C-5-3. Availability Statement required.

This section requires that the adopted Current Operations Appropriations Act contain a Statement of availability for the General Fund, the Highway Fund, and the Highway Trust Fund.

(See G.S. 143-15.1)

§ 143C-5-4. Enactment deadline.

This section requires that the General Assembly enact the Current Operations budget by June 15 in odd-numbered years and June 30 in even-numbered years.

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(See G.S. 143-15.1)

§ 143C-5-5. Committee report used to construe intent of budget acts.

This section provides that the appropriations committee report must be used as a basis for construing appropriations acts passed by the General Assembly.

(No provision; but is budget bill boilerplate.)

ARTICLE 6.

Administration of the Budget.

Part 1. Certification and Administration of the Budget.

§ 143C-6-1. Budget enacted by the General Assembly; certified budgets of State agencies.

This section provides that the Comprehensive Financial Plan and the Budget Support Document recommended by the Governor and revised by the General Assembly shall comprise the line items, purposes and programs for which appropriations are enacted. The Governor is required to certify to each agency the amount appropriated to it by the General Assembly for each program and object of expenditure from all governmental and proprietary funds.

(See G.S. 143-23)

§ 143C-6-2. Methods to avoid deficit.

This section specifies that funds appropriated by the General Assembly are to be expended only if necessary and only if the funds are available. In the event that the Governor finds that a fund will encounter a deficit, the Governor must notify the General Assembly. Prior to implementing remedial measures, the Governor must preset to the General Assembly a plan containing expenditure reductions or other lawful measures. The Governor may not withhold funds collected by the State for local governments or funds appropriated to local government unless all other sources have been exhausted.

(See G.S. 143-25)

§ 143C-6-3. Allotments.

This section gives the Governor authority to allot operating funds to State agencies at intervals fixed by the Governor based on actual need for cash.

(See G.S. 143-17)

§ 143C-6-4. Budget Adjustments Authorized

This section allows adjustments to the enacted budget under exceptional and unforeseen circumstances. Generally, budget transfers can be made without restriction within a program or purpose. However, unlimited over-expenditures for a program or purpose is not allowed except for emergencies, judicial and quasi-judicial directives, or National Guard mobilization. Limited over-expenditures of up to one per cent of a departmental budget are allowed if required by unforeseen changes in circumstance, but only on a non-recurring basis and only if over expenditure does not expand the scope of a program. The section provides that program over-expenditures approved by the Director must be reported quarterly to the Joint Legislative Commission on Governmental Operations.

The section further provides that the Speaker and President Pro Tem may make budget transfers within the General Assembly, and budget transfers within the University of North Carolina are governed by language in Chapter 116.

(See G.S. 143-23)

HOUSE BILL 914

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§ 143C-6-5. No expenditures for purposes for which the General Assembly has considered but not enacted an appropriation.

This section prohibits expenditures that have been considered but rejected or not acted upon by the General Assembly, unless the expenditure would be from one of the following sources: gifts, grants, funds allocated from the Repair and Renovations Account in accordance with G.S. 143C-4-3, or funds allocated from the Contingency and Emergency Fund in accordance with G.S. 143C-4-5.

(See G.S. 143-16.3)

§ 143C-6-6. Payrolls.

This section prohibits commitments for new or expanded personnel positions except as approved by the Budget Director consistent with the availability of funds. The University of North Carolina is exempt from this section.

(See G.S. 143-34.1)

§ 143C-6-7. Compliance with Chapter and appropriations acts; appropriations to the General Assembly do not revert.

This section prohibits expenditures not in compliance with the enacted budget, and directs the Director to take steps to prevent unauthorized expenditures by withholding allocations and /or requesting action by the Attorney General. This section further provides that appropriations to the General Assembly do not revert, but remain available until expended.

(See G.S. 143-16)

§ 143C-6-8. State agencies may incur financial obligations only if authorized by the Director of the Budget and subject to the availability of appropriated funds.

This section subjects financial commitments made by State agencies to the availability of funds.

(No provision)

§ 143C-6-9. Use of lapsed salary savings.

This section prohibits the expenditure of lapsed salary savings for recurring purposes.

(See G.S. 143-23(a2))

Part2. Highway Appropriations.

§ 143C-6-11. Highway appropriation.

This section provides that budgeting for transportation projects shall be done on a cash flow basis. The section further provides that contracts for transportation projects must be scheduled in such manner that the cash requirements in a particular fiscal period do not exceed appropriations. Contract obligations in future years cannot exceed a specified percentage of expected revenues. The Department of Transportation must develop and sustain the internal management systems necessary to implement cash flow financing. Contingency provisions must be included in contracts for transportation projects to protect the State against unanticipated revenue shortfalls that could lead to a cash shortage.

(See G.S. 143-28.1)

Part3. Non-State Entities Receiving State Funds.

§ 143C-6-12. Payments to non-State entities.

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Page 8

This section provides that appropriations exceeding one hundred thousand dollars (\$100,000) to non-State entities shall be paid out on a quarterly or monthly basis. Lesser appropriations shall be paid out in a single installment.

(See G.S. 143-26)

§ 143C-6-13. Report on use of State funds by non-State entities.

This section requires reporting by non-State entities that receive State funds, and specifies that funding shall be withheld if the entity fails to meet reporting requirements. It also provides that entities receiving between fifteen thousand dollars (\$15,000) and three hundred thousand dollars (\$300,000) annually must file sworn financial Statements in a format specified by the State Auditor. Entities receiving more than three hundred thousand dollars (\$300,000) must file a financial Statement that has been audited in accord with standards established by the State Auditor.

State agencies that administer grant programs must advise the State auditor of conditions and requirements by which grantees should be audited, must advise grantees of reporting requirements, and must advise the Office of State Budget and Management whether grantees have met reporting requirements.

(See G.S. 143-6.1)

"ARTICLE 7.

"Federal and Other Receipts

§ 143C-7-1. Funds creating an obligation.

This section requires agencies applying for grant funds to furnish a copy of the grant application to the Director. All contracts executed in pursuit of a grant must contain a clause specifically stating that funds are subject to appropriation by the General Assembly.

(See G.S. 143-34.2)

§ 143C-7-2. Federal Block Grants.

This section provides that plans proposing the expenditure of federal Block Grant funds must be submitted to the General Assembly, and prescribes information that must be included in the plans.

(See G.S. 143-16.1)

"ARTICLE 8.

"Budgeting Capital Improvement Projects.

§ 143C-8-1. Legislative intent; purpose.

This section requires the Office of State Budget and Management to establish a capital improvements planning process. The process must include all of the following:

- A facilities inventory
- Criteria for evaluating capital needs
- A 6-year needs estimate
- A 6-year plan,
- Specific recommendations for capital projects during the budget year(s).

(See G.S. 143-34.41)

§ 143C-8-2. Capital facilities inventory.

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This section requires the Department of Administration to maintain an automated inventory of State facilities and to publish an updated inventory every three years.

(See G.S. 143-34.42)

§ 143C-8-3. Capital improvement needs criteria.

This section requires that the Office of State Budget and Management develop a weighted list of factors that will be used to evaluate capital needs.

(See G.S. 143-43)

§ 143C-8-4. Agency capital improvement needs estimates.

This section provides for six-year capital needs estimates by State agencies. The estimates must be prepared biennially and submitted to both the Office of Budget and Management and to the Division of Fiscal Research. The needs estimate must be shown in two parts, with repairs and renovations needs in one part and real property and new construction needs in a second part.

(See G.S. 143-34.44)

§ 143C-8-5. Six-year capital improvements plan.

This section requires the Governor to prepare and submit to the General Assembly a six-year capital plan based on the six-year needs estimate. The plan must be divided into two parts, repairs and renovations as the first part and real property acquisition and new construction as the second part.

The capital plan must recommend a mechanism for financing all recommended projects, and show a schedule for project completion.

(See G.S. 143-34.45)

§ 143C-8-6. Recommendations for capital improvements set forth in the Comprehensive Financial Plan.

This section requires that the Governor's Comprehensive Financial Plan include: (i) recommended expenditures for repairs and renovations, and (ii) recommended expenditures for property acquisition, new construction, and rehabilitation. Details such as project schedules, cash flow requirements, and financing methods must be provided in the Budget Support Document for both types of capital expenditures.

(No provision)

§ 143C-8-7. When a State agency may begin a capital improvement project.

This section requires that all capital improvements be authorized by the General Assembly.

(No provision)

§ 143C-8-8. When a State agency may increase the cost of a capital improvement project.

This section provides that the Director can increase the cost of a capital project when bids exceed budgeted funds, provided that the project scope has not been altered and there is sufficient money the Project Reserve Account.

(See G.S. 143-18.1)

§ 143C-8-9. When a State agency may change the scope of a capital improvement project.

This section allows the Director to reduce the scope of a capital project upon request of a State agency. The project scope can only be increased with the approval of the General Assembly.

(No provision)

§ 143C-8-10. Project Reserve Account.

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This section establishes a Project Reserve Account. Where appropriations for a capital project exceed the project cost, the excess must be deposited in the Project Reserve Account. The Director may direct that funds in the Project Reserve Account:

- Be used for emergency repairs or renovations;
- Be used to cover a deficit occurring because the bid costs of a project exceed the amount appropriated for the project; or
- Revert to the fund from which a capital project was funded.

Any use of Project Reserve Account funds must be reported to the Joint Legislative Commission on Governmental Operations.

(No provision)

§ 143C-8-11. Reversion of appropriation and lapse of project authorization.

This section provides that construction of capital projects must begin within the fiscal year for which the funds are appropriated, except that the Director may grant a 12-month extension for cause. If project construction is not initiated as required, the Director must either credit the project appropriation to the Project Reserve Account or revert it to the fund from which the appropriation was made. Project authorization lapses if project construction does not begin within two years, if funds are reverted, or if the Governor diverts the project funding to avert address a budget deficit.

(No provision)

§ 143C-8-12. University system capital improvement projects from sources that are not General Fund sources: approval of new project or change in scope of existing project.

This section provides that the Director may approve expenditures for The University of North Carolina capital improvement projects funded with non General Fund money upon request of the Board of Governors and after consultation with the Joint Legislative Commission on Governmental Operations.

(See G.S. 143-18.1)

"ARTICLE 9.

"Special Funds and Fee Reports.

§ 143C-9-1. Medicaid Special Fund; transfers to Department of Health and Human Services

This section permits the Department of Health and Human Services to accept donated funds from public and private sources for in the Medicaid program.

(See G.S. 143-23.2)

§ 143C-9-2. Trust fund for Mental Health, Developmental Disabilities, and Substance Abuse Services and Bridge Funding Need.

This section establishes a special revenue fund in the Office of State Budget and Management to support the creation of community treatment alternatives for individuals currently residing in State mental institutions. It specifies the purposes for which the fund may be used, and requires that net nonrecurring savings that result from the closure of any State psychiatric hospitals shall be credited to the fund.

(See G.S. 143-15.3D)

§ 143C-9-3. Settlement Reserve Fund.

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Page 11

This section creates a special fund to be known as the Settlement Reserve fund to which shall be credited portions of the payments due the State under the Master Settlement Agreement. The Settlement Reserve Fund shall include a Health Trust Account and a Tobacco Trust Account, from which transfers shall be made to the Health and Wellness Trust Fund and the Tobacco Trust Fund.

(See G.S. 143-16.4)

§ 143C-9-4. Annual Fee Report.

This section requires that the Office of Budget and Management prepare an annual report containing comprehensive information about fees charged and collected by State agencies.

(See G.S. 143-11(b)(3))

"ARTICLE 10.

"Penalties.

§ 143C-10-1. Offenses for violation of Chapter.

This section establishes four criminal offenses, all punishable as Class I misdemeanors. Those are:

- Withdraw funds from the State Treasury for any purpose not authorized by an act of appropriation.
- Approve any fraudulent, erroneous, or otherwise invalid claim or bill to be paid from an appropriation.
- Make a written Statement, give a certificate, issue a report, or utter a document required by this Chapter, any portion of which is false.
- Fail or refuse to perform a duty imposed by this Chapter.

The violations must be committed knowingly and willfully to be criminal offenses.

In addition to any criminal penalty imposed, this section also provides that a person convicted of one of these criminal offenses forfeit his or her employment and, if the person is an elected State official may be impeached.

(See G.S. 143-34)

§ 143C-10-2. Civil liability for violation of Chapter.

This section provides that a person convicted of any of the four criminal offenses listed in 143C-9-2 may also be sued in a civil action for damages suffered by the State as a result of the criminal violation.

(See G.S. 143-32)

§ 143C-10-3. Suspension from office or impeachment for refusal to comply with Chapter.

This section provides additional enforcement mechanisms to ensure compliance with the provisions of the State Budget Act and any administrative directives issued to implement that act. This section provides that the Governor may, after providing notice and warning of a violation, suspend a State officer or employee (who is not an elected official) from his or her State employment for failure to comply with the provisions of the State Budget Act or any lawful administrative directive implemented under the State Budget Act. The violator is entitled to notice and a hearing. The Governor must also report the violation to the Attorney General who has the discretion to initiate criminal or civil actions. If the violator is an elected State official

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Page 12

who knowingly and willfully failed to comply with the State Budget Act or any directive issued to implement the act, then the State official is subject to impeachment.

(See G.S. 143-32 and 143-34)

SECTIONS 4 through 9.(with the exception of 4.1) Set out provisions of current law that are relocated by either re-enactment or recodification to other Chapters of the General Statutes. Those provisions are as follows:

Section 4. Transfers the language in G.S. 143-27 regarding the availability of excess receipts to The University of North Carolina to Chapter 116 as a new statute, G.S. 116-30.3A.

Section 4.1. Amends G.S. 116-40.22 to establish a statutory appropriation.

Section 5. Recodifies the Clean Water Management Trust Fund statutory appropriation so that it is located in Chapter 113 of the General Statutes with the other relevant provisions.

Section 6. Recodifies the provision regarding "discontinued service retirement allowance and severance wages for certain State employees".

Section 7. Recodifies the provision regarding the "appropriation, allotment, and expenditure of funds for historic and archeological property."

Section 8. Moves the language currently in G.S. 143-3 regarding the State Controller's responsibility for disbursements and adds that responsibility as a "power and duty" of the State Controller. Section 8 also makes various other conforming changes.

Section 9. Transfers the language in G.S. 143-3.3 (Assignment of claims against State) which addresses voluntary payroll deductions, G.S. 143-3.2 (Issuance of warrants upon State Treasurer; delivery of warrants and disbursements for non-State entities.), and G.S. 143-20.1 (Annual financial Statements.) to Chapter 143B of the General Statutes which is where the statutes governing the Controller and the Controller's duties are located.

SECTIONS 10-125. Make conforming changes in various statutes. It may be helpful to note that Sections 39 through 57 include the conforming changes and clarifications for the UNC system.

Section 126. Provides a July 1, 2007 effective date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 1st Ed

H. B. No. 914

DATE _____

S. B. No. _____

Amendment No. 1

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep. Michaux
Sen.) _____

1 moves to amend the bill on page 9, line 28

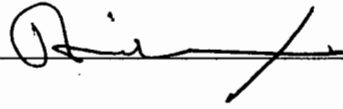
2 () WHICH CHANGES THE TITLE

3 by adding at the end of the line

4 "This section does not apply to
5 the General Assembly ~~or to~~ actions
6 ~~or to~~

7 of the General Assembly to appropriate
8 ~~mon~~ funds to non State entities."

9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 _____
17 _____
18 _____
19 _____

SIGNED 

ADOPTED _____ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 914*

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

H914-ALH-5 [v.1]

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
First Edition

Representative Crawford

- 1 moves to amend the bill on page 123, line 27
- 2 by rewriting that line to read:
- 3 "SECTION 126. This act becomes effective July 1, 2006."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

APPROPRIATIONS

April 20, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Peyton Maynard

agz

Gene Gausby

NCSCA

Molly Ryan

NC SBA

Alice Garland

DOC

Sandra Long

Marki Marzke

Sharon Hango

WCPSS

Roz Smith

NCCAC

Rebecca Trueman

NCCAC

Patrice Reeler

NCCAC

Courtney Crowder

NCDOI

Jessica Sage

NCCAC

VISITOR REGISTRATION SHEET

APPROPRIATIONS

April 20, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
John Rustis	NCFPC
Gary Cooper	NEACA
Evelyn Hawthorne	OHAR
Camron Kirtley	NRDC
Lee Dodge	KCLH
John Palka	pp
Kenneth Kellian	Nelson Mullin
Johanna Reese	DENR
FRAN VOLAN	GRASS ROOTS S. M. C.
Steve Shaver	Poyner + Smull
Joanne Stevens	missing

VISITOR REGISTRATION SHEET

APPROPRIATIONS

April 20, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Caro Crow	BPMHL
John Norris	Public School Forum
Ed Smiley	BPMHL
Katherine Joyce	NCAAA
DAVID BARNES	Paymer & Spauld
Don McCorquodale	SAS
Frank W. Folger	NCDOT
Kathy Hawkins	Progress Energy
Mark Simon	CyberDroid
Hal Miller	NCAECT
Jim Ayre	SBE/DPI
Robert Wilson	S.O.S.

VISITOR REGISTRATION SHEET

APPROPRIATIONS

April 20, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mark Fung	University
John C. ...	NCSG
Mike Casey	Casey Associates
Steve Woodson	NC Farm Bureau
Sandy Sank	WCSPR
Angi Hair	Maupin Taylor
Whitney	NCICU
Son Schmidt	NC Justice Center
Clifford B. ...	Western Carolina University
Lisa Hart	NC Home Builders

VISITOR REGISTRATION SHEET

APPROPRIATIONS

April 20, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Suzanne Buckley	Gov. Office
Kari Barsness	OSBM
CURTIS WOODS	INTERN (REP. SUTTON)
Tom McClure	WESTERN CAROLINA UNIVERSITY
Michael Houser	NCAE
Harry Ogden	NCLM
Don McCorguodale	SAS
C. Deane	OSBM
Kevin Hammond	WCSR
GARRY DIX	DTJOP
Bob Hamner	HHS

VISITOR REGISTRATION SHEET

APPROPRIATIONS

Name of Committee

April 20, 2005

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

JAMES L. FORTE

OSA

Edwina R. Sluder	Amey County Board of Education

Shirley Winstead (Rep. Clary)

From: Linda Winstead (Rep. Jim Crawford)
Sent: Tuesday, May 10, 2005 11:38 AM
Cc: Judy Chriscoe (Sen. Bingham)
Subject: Meeting Notice

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **APPROPRIATIONS** will meet as follows:

DAY & DATE: Wednesday, May 11, 2005

TIME: 8:30 a.m.

LOCATION: 643

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 569 Domestic Violence Recommendations (Reps. Sherrill and McLawhorn)

SB 685 Revise Professional Employer Organization Act (Sen. Bingham)

Respectfully,

Representatives Clary, Crawford, Earle, Nye, Owens,
Sherrill
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **12:00 noon** on **May 10, 2005**.

____Principal Clerk
____Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

Minutes
House Appropriations Committee Meeting
Wednesday, May 11, 2005
8:30 am
643 LOB

The House Appropriations Committee met on Wednesday, May 11, 2005 in Room 643 of the Legislative Office Building at 8:30 a.m. Chairperson Representative Debbie Clary presided. Forty seven (47) members of the committee were present as well as staff to the committee, Lynn Muchmore, Karren Hammonds Blank, Phyllis Pickett and Sean Dail.

Representative Clary called the meeting to order and thanked the Sergeant at Arms' staff for their services and help with the meeting. She took this opportunity to thank the staff as well and welcome the members and visitors. A visitor registration list is attached and made part of these minutes. (Attachment 6)

Representative Wilma Sherrill was recognized to explain Committee Substitute **HB 569 - AN ACT TO CREATE A JOINT LEGISLATIVE COMMITTEE ON DOMESTIC VIOLENCE AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE**. After a brief discussion, Representative Sherrill sent forth an amendment to amend Page 3, lines 35-39, (See Attachment 2). Representative Lorene Coates moved to give a Favorable Report to the Committee Substitute as amended. The motion passed. The Committee Report as reported to the Principal Clerks Office is attached. (See Attachment 3)

Chairperson Clary recognized Senator Stan Bingham to explain the Proposed House Committee Substitute for **SB 685 - A BILL TO BE ENTITLED AN ACT TO REVISE THE PROFESSIONAL EMPLOYER ORGANIZATION ACT BY PROVIDING FOR THE CANCELLATION OF SURETY BONDS UNDER CERTAIN CIRCUMSTANCES, ESTABLISHING THE REQUIREMENTS FOR DE MINIMIS REGISTRATION, PROVIDING THAT APPLICANTS FOR LICENSURE ARE NOT REQUIRED TO PROVIDE EVIDENCE TO THE COMMISSIONER THAT THE WORKERS' COMPENSATION PREMIUM PAID BY THE APPLICANT IS COMMENSURATE WITH EXPOSURE AND ANTICIPATED CLAIM EXPERIENCE FOR ALL EMPLOYEES COVERED UNDER POLICIES IN THE NAME OF THE LICENSEE, REVISING THE LAW GOVERNING EVIDENCE OF FINANCIAL RESPONSIBILITY FOR ORGANIZATIONS APPLYING FOR LICENSURE ON OR BEFORE JUNE 30, 2005, PROVIDING FOR CONDITIONAL AUTHORITY FOR A PROFESSIONAL EMPLOYER ORGANIZATION TO OPERATE PENDING**

House Appropriations Committee

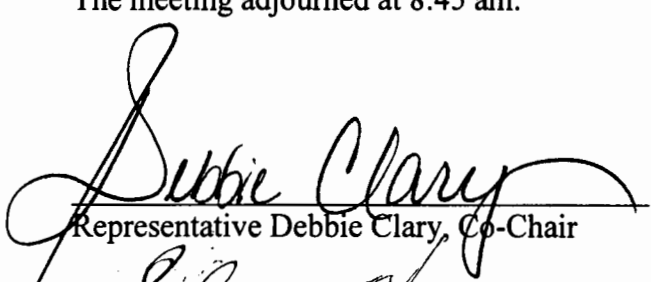
Page 2

May 11, 2005

CONSIDERATION OF ITS LICENSE APPLICATION UPON A SHOWING OF FINANCIAL STABILITY AND NEED, AUTHORIZING THE USE OF FUNDS FROM THE INSURANCE REGULATORY FUND FOR REGULATION OF PROFESSIONAL EMPLOYER ORGANIZATIONS, AND APPROPRIATING FUNDS TO THE DEPARTMENT FOR REGULATION OF PROFESSIONAL EMPLOYER ORGANIZATIONS.

After a brief discussion Representative Wilma Sherrill moved to give the Proposed Committee Substitute a favorable report and an unfavorable report as to the Original Proposed Committee Substitute. The motion carried. The House Committee Substitute Report as reported to the Principal Clerks Office is attached. (See Attachment 5)

The meeting adjourned at 8:45 am.



Representative Debbie Clary, Co-Chair



Shirley Winstead, Committee Assistant

STATE OF NORTH CAROLINA
NORTH CAROLINA GENERAL ASSEMBLY
RALEIGH, NORTH CAROLINA 27601



HOUSE APPROPRIATIONS COMMITTEE
AGENDA
Wednesday, May 11, 2005 8:30 A.M.
643 LOB

Representative Debbie Clary, Presiding

Chair's Comments

Bills

HB 569 Domestic Violence Recommendations – Reps. Sherrill and McLawhorn
SB 685 Revise Professional Employer Organizational Act – Senator Bingham

Adjourn

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute for

HB 569 A BILL TO BE ENTITLED AN ACT TO CREATE A JOINT LEGISLATIVE
COMMITTEE ON DOMESTIC VIOLENCE, TO AMEND THE DOMESTIC VIOLENCE
STATUTES AND TO STUDY OTHER ISSUES RELATED TO DOMESTIC VIOLENCE AS
RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON DOMESTIC VIOLENCE.

☒ With a favorable report as to the committee substitute bill #2, unfavorable as to Committee
Substitute Bill #1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution
(No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____) is placed
on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the
Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute
Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

2

HOUSE BILL 569
Committee Substitute Favorable 3/29/05

Short Title: DV Recommendations.

(Public)

Sponsors:

Referred to:

March 10, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A JOINT LEGISLATIVE COMMITTEE ON DOMESTIC
3 VIOLENCE AND TO STUDY OTHER ISSUES RELATED TO DOMESTIC
4 VIOLENCE AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON
5 DOMESTIC VIOLENCE.

6 The General Assembly of North Carolina enacts:

7 SECTION 1. Chapter 120 of the General Statutes is amended by adding a
8 new Article to read:

9 "Article 30.

10 "Joint Legislative Committee on Domestic Violence.

11 "§ 120-265. Creation and membership of Joint Legislative Committee on Domestic
12 Violence.13 The Joint Legislative Committee on Domestic Violence is established. The
14 Committee consists of 16 members as follows:15 (1) Eight members of the Senate appointed by the President Pro Tempore
16 of the Senate; and17 (2) Eight members of the House of Representatives appointed by the
18 Speaker of the House of Representatives.19 Terms on the Committee are for two years and begin on the convening of the
20 General Assembly in each odd-numbered year, except the terms of the initial members,
21 which begin on appointment and end on the day of the convening of the 2007 General
22 Assembly. Members may complete a term of service on the Committee even if they do
23 not seek reelection or are not reelected to the General Assembly, but resignation or
24 removal from service in the General Assembly constitutes resignation or removal from
25 service on the Committee. A member continues to serve until his successor is appointed.
26 A vacancy shall be filled within 30 days by the officer who made the original
27 appointment.28 "§ 120-266. Purposes and powers of Committee.

(a) The Joint Legislative Committee on Domestic Violence shall examine, on a continuing basis, domestic violence issues in North Carolina in order to make ongoing recommendations to the General Assembly on ways to reduce incidences of domestic violence and to provide additional assistance to victims of domestic violence. In this examination, the Committee shall:

- (1) Study the budget, programs, and policies of the Domestic Violence Commission to determine ways in which the General Assembly may improve the effectiveness of the Commission;
- (2) Study and evaluate the funding sources and needs of domestic violence programs providing services to domestic violence victims and programs providing treatment to domestic violence abusers;
- (3) Study legal services funding for domestic violence victims and explore additional sources of funding;
- (4) Explore sources of additional funding for all domestic violence programs, including visitation centers;
- (5) Examine current programs and explore new programs to provide effective services to domestic violence victims and treatment to domestic violence abusers;
- (6) Examine law enforcement and judicial responses to domestic violence;
- (7) Review data collected on domestic violence cases pursuant to G.S. 15A-1382.1;
- (8) Study the effectiveness of the Crime Victims Rights Act as it relates to domestic violence; and
- (9) Conduct any other studies, evaluations, or assessments necessary for the Committee to carry out its purpose.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

"§ 120-267. Organization of the Committee.

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Committee on Domestic Violence. The Committee shall meet at least once a quarter and may meet at other times upon the joint call of the cochairs.

(b) A quorum of the Committee is nine members. No action may be taken except by a majority vote at a meeting at which a quorum is present. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign

1 clerical staff to the Committee. The expenses for clerical employees shall be borne by
2 the Committee.

3 (d) The Committee cochairs may establish subcommittees for the purpose of
4 making special studies pursuant to its duties and may appoint non-Commission
5 members to serve on each subcommittee as resource persons. Resource persons shall be
6 voting member of the subcommittee and shall receive subsistence and travel expenses in
7 accordance with G.S. 138-5 and G.S. 138-6."

8 **SECTION 2.** The Administrative Office of the Courts, in consultation with
9 the Department of Correction, Division of Community Corrections, shall study and
10 review programs in this State, and other states, that utilize Global Positioning Satellite
11 (GPS) technology to track criminal offenders. Based upon the study and review, the
12 Administrative Office of the Courts shall make written recommendations to the Joint
13 Legislative Committee on Domestic Violence and the Joint Legislative Corrections,
14 Crime Control, and Juvenile Justice Oversight Committee no later than July 1, 2005, for
15 a pilot GPS program as a condition for pretrial release pursuant to G.S. 15A-534.1. The
16 recommendations shall include whether the alleged victim of the charged offense should
17 have a receiver for immediate and direct notification of a GPS tracking violation by the
18 defendant.

19 **SECTION 3.** The Department of Correction, Division of Community
20 Corrections, shall make a written report no later than January 1, 2007, to the Joint
21 Legislative Committee on Domestic Violence and the Joint Legislative Corrections,
22 Crime Control, and Juvenile Justice Oversight Committee on measures the Division is
23 undertaking to address the issue of supervising domestic violence offenders.

24 **SECTION 4.** The Administrative Office of the Courts shall expand the
25 Family Court Model to additional jurisdictions of the State, as resources allow, shall
26 study the elements of the model that might be adopted without additional funding, and
27 implement those elements in jurisdictions where possible. The Administrative Office of
28 the Courts shall also study the automation of court records to allow queries on civil,
29 criminal, and juvenile matters.

30 The Administrative Office of the Courts shall report to the Joint Legislative
31 Committee on Domestic Violence and the North Carolina Courts Commission no later
32 than January 1, 2007, on the results of the studies, the recommendations of the
33 Administrative Office of the Courts, and any steps requiring legislative action to
34 implement the recommendations.

35 **SECTION 5.** There is appropriated to the Department of Administration the
36 sum of thirty-five thousand two hundred forty-five dollars (\$35,245) for fiscal year
37 2005-2006 to create a position to oversee the Abuser Treatment Program within the
38 Council for Women and the Domestic Violence Commission.

39 **SECTION 6.** This act is effective when it becomes law.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 569

H569-ALL-11 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Date 5/10, 2005

Comm. Sub. [NO]
Amends Title [NO]
Second Edition

Representative Sherrill

- 1 moves to amend the bill on page 3, lines 35-39,
2 by rewriting those lines to read:

3
4
5

"SECTION 5. This act is effective when it becomes law."

SIGNED A. Sherrill
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

2005 COMMITTEE REPORT HOUSE OF REPRESENTATIVES

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

By Representative **Clary, Crawford, Earle, Nye, Owens, Sherrill**, (Chairs) for the
Committee on **APPROPRIATIONS**.

☒ House Committee Substitute for

S.B. 685 A BILL TO BE ENTITLED AN ACT TO REVISE THE PROFESSIONAL EMPLOYER ORGANIZATION ACT BY PROVIDING FOR THE CANCELLATION OF SURETY BONDS UNDER CERTAIN CIRCUMSTANCES, ESTABLISHING THE REQUIREMENTS FOR DE MINIMIS REGISTRATION, PROVIDING THAT APPLICANTS FOR LICENSURE ARE NOT REQUIRED TO PROVIDE EVIDENCE TO THE COMMISSIONER THAT THE WORKERS' COMPENSATION PREMIUM PAID BY THE APPLICANT IS COMMENSURATE WITH EXPOSURE AND ANTICIPATED CLAIM EXPERIENCE FOR ALL EMPLOYEES COVERED UNDER POLICIES IN THE NAME OF THE LICENSEE, REVISING THE LAW GOVERNING EVIDENCE OF FINANCIAL RESPONSIBILITY FOR ORGANIZATIONS APPLYING FOR LICENSURE ON OR BEFORE JUNE 30, 2005, PROVIDING FOR CONDITIONAL AUTHORITY FOR A PROFESSIONAL EMPLOYER ORGANIZATION TO OPERATE PENDING CONSIDERATION OF ITS LICENSE APPLICATION UPON A SHOWING OF FINANCIAL STABILITY AND NEED, AUTHORIZING THE USE OF FUNDS FROM THE INSURANCE REGULATORY FUND FOR REGULATION OF PROFESSIONAL EMPLOYER ORGANIZATIONS, AND APPROPRIATING FUNDS TO THE DEPARTMENT FOR REGULATION OF PROFESSIONAL EMPLOYER ORGANIZATIONS.

- ☐ 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), ~~(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.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

S

D

SENATE BILL 685

Commerce Committee Substitute Adopted 3/24/05

House Committee Substitute Favorable 3/30/05

PROPOSED HOUSE COMMITTEE SUBSTITUTE S685-PCS65316-LR-18

Short Title: Revise Professional Employer Organization Act.

(Public)

Sponsors:

Referred to:

March 21, 2005

A BILL TO BE ENTITLED

AN ACT TO REVISE THE PROFESSIONAL EMPLOYER ORGANIZATION ACT
BY PROVIDING FOR THE CANCELLATION OF SURETY BONDS UNDER
CERTAIN CIRCUMSTANCES, ESTABLISHING THE REQUIREMENTS FOR
DE MINIMIS REGISTRATION, PROVIDING THAT APPLICANTS FOR
LICENSURE ARE NOT REQUIRED TO PROVIDE EVIDENCE TO THE
COMMISSIONER THAT THE WORKERS' COMPENSATION PREMIUM PAID
BY THE APPLICANT IS COMMENSURATE WITH EXPOSURE AND
ANTICIPATED CLAIM EXPERIENCE FOR ALL EMPLOYEES COVERED
UNDER POLICIES IN THE NAME OF THE LICENSEE, REVISING THE LAW
GOVERNING EVIDENCE OF FINANCIAL RESPONSIBILITY FOR
ORGANIZATIONS APPLYING FOR LICENSURE ON OR BEFORE JULY 1,
2005, PROVIDING FOR CONDITIONAL AUTHORITY FOR A
PROFESSIONAL EMPLOYER ORGANIZATION TO OPERATE PENDING
CONSIDERATION OF ITS LICENSE APPLICATION UPON A SHOWING OF
FINANCIAL STABILITY AND NEED, AND AUTHORIZING THE USE OF
FUNDS FROM THE INSURANCE REGULATORY FUND FOR REGULATION
OF PROFESSIONAL EMPLOYER ORGANIZATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-89A-50 reads as rewritten:

"§ 58-89A-50. Surety bond; letter of credit.

(a) An applicant for licensure shall file with the Commissioner a surety bond in the amount of one hundred thousand dollars (\$100,000) in favor of the State of North Carolina.

(b) The surety bond required by this section shall be in a form acceptable to the Commissioner, issued by an insurer authorized by the Commissioner to write surety

1 business in this State, and maintained in force while the license remains in effect or any
2 obligations or liabilities of the applicant, licensee or PEO previously licensed by this
3 State remain outstanding.

4 (c) The surety bond required by this section may be exchanged or replaced with
5 another surety bond if (i) the surety bond applies to obligations and liabilities that arose
6 during the period of the original surety bond, (ii) the surety bond that meets the
7 requirements of this section if section, and (iii) 90 days' advance written notice is
8 provided to the Commissioner.

9 (d) A licensee shall not require a client company to contribute in any manner to
10 the payment of the surety bond required by this section.

11 (e) Notice of cancellation or nonrenewal of the surety bond required by this
12 section shall be provided to the Commissioner in writing at least 45 days before
13 cancellation or nonrenewal.

14 (e1) A surety bond may be cancelled by the issuer of the bond with respect to
15 future obligations or liabilities upon proper notice pursuant to this section and without
16 regard to approval or acceptance of the Commissioner.

17 (f) In lieu of the surety bond required by this section, an applicant may submit to
18 the Commissioner an irrevocable letter of credit in a form acceptable to the
19 Commissioner issued by a financial institution, the deposits of which are insured by the
20 Federal Deposit Insurance Corporation, or may maintain on deposit with the
21 Commissioner an amount equal to the amount required under subsection (a) of this
22 section in cash or in value of securities of the kind specified in G.S. 58-5-20 and subject
23 to the same conditions as the surety bond. G.S. 58-5-20.

24 (g) This section does not apply to persons who are licensed pursuant to the
25 alternative licensing procedures set forth in G.S. 58-89A-76. G.S. 58-89A-76 or to
26 persons who are de minimis registrants pursuant to G.S. 58-89A-75.

27 (h) The license of any licensee that fails to provide and maintain a surety bond,
28 letter of credit, cash, or securities pursuant to this section shall be automatically and
29 immediately suspended, and the licensee shall tender its license to the Commissioner
30 within three days of failure to satisfy this requirement."

31 **SECTION 2. G.S. 58-89A-65 reads as rewritten:**

32 **"§ 58-89A-65. Fees.**

33 (a) Each applicant for a professional employer organization license or ~~limited~~
34 ~~professional employer organization license~~ de minimis registration shall pay to the
35 Commissioner, before the issuance of the license, a nonrefundable application fee of
36 one thousand dollars (\$1,000).

37 (b) Each licensee shall pay to the Commissioner when filing the information
38 required under G.S. 58-89A-70(d) an annual filing fee of one thousand dollars (\$1,000).

39 (c) Each applicant for alternative licensing under G.S. 58-89A-76 and each
40 applicant for renewal of a license provided under G.S. 58-89A-76 shall pay to the
41 Commissioner, before issuance or renewal of the license, a fee of five hundred dollars
42 (\$500.00).

43 (d) When the Commissioner finds that a licensee has committed an act that is a
44 ground for disciplinary violation under G.S. 58-89A-155 or that a licensee has

committed a prohibited act in violation of G.S. 58-89A-170, and such decision becomes final following the conclusion of all administrative or judicial proceedings, the Commissioner may charge an applicant or licensee reasonable fees to recover the Department's costs associated with investigations, inspections, examinations, and any other administrative or enforcement responsibilities created under this Article.

(e) Fees collected by the Commissioner under this Article shall be deposited in the Insurance Regulatory Fund under G.S. 58-6-25 and shall be used to implement this Article."

SECTION 3. G.S. 58-89A-75 reads as rewritten:

"§ 58-89A-75. ~~Limited license.~~ De minimis registration.

~~The Commissioner, by rule, shall provide for the issuance of a limited license to a person who seeks to offer limited professional employer services in this State. A person who seeks to offer limited professional employer services in this State shall be eligible for de minimis registration status upon compliance with this section and may operate as a de minimis registrant in this State upon notification pursuant to this section. A person shall satisfy the requirements for a de minimis registration only if the professional employer organization:~~

- (1) Does not maintain a physical professional employer organization office located in this State;
- (2) Does not employ salespersons who reside or direct their sales activities in this State;
- (3) Does not employ directly or in common control with another person, as defined in G.S. 58-89A-5(12), more than 50 assigned employees in this State;
- (4) Does not advertise through any media outlet physically located in this State;
- (5) Is a licensed or registered professional employer organization in at least one other state of the United States; and
- (6) Is operated by and under the control of persons of good moral character.

A professional employer organization operating under a de minimis registration shall be subject to all of the responsibilities and authority of a licensee under this Article except for G.S. 58-89A-50, 58-89A-60 and 58-89A-70(c), (d), and (e).

A person seeking de minimis registration status shall notify the Commissioner, on a form prescribed by the Commissioner, attesting that the professional employer organization meets all of the eligibility requirements for de minimis registration status under this section and additionally provide, at a minimum, the following information:

- (1) The name of the professional employer organization, the address of its principal office, the name of the contact person, and the taxpayer or employer identification number;
- (2) A list by jurisdiction of each name under which the registrant has operated in the preceding five years, including any alternative names, names of predecessors, and, if known, successor business entities;

(3) A list of all officers, directors, and controlling person(s) of the registrant and their biographical information in a form to be determined by the Commissioner; and

(4) The location of the business records of the person.

If the Commissioner finds that the person seeking de minimis registration has not fully met the requirements for de minimis registration, the person shall not be eligible for de minimis registration status, and the Commissioner shall notify the person in writing. Within 30 days after service of the notification, the person may make a written demand upon the Commissioner for a review to determine the reasonableness of the Commissioner's action. The review shall be completed without undue delay, and the person shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the person may make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General Statutes if the person disagrees with the outcome.

If the Commissioner determines that the notification of eligibility for de minimis registration is incomplete, the Commissioner shall notify the person of the deficiency, and the registrant shall be allowed time, not to exceed 15 days from the date of the notice, to correct the deficiency. Failure of the person to correct the deficiency within the 15-day time period shall result in the de minimis being deemed denied. Except as otherwise provided in this section, a person notified of a deficiency under this section may continue to operate while the deficiency is being corrected unless the Commissioner determines that the person is ineligible for de minimis registration status or is otherwise not authorized to operate in this State.

After a de minimis registrant's initial notification, a de minimis registrant shall annually notify the Commissioner of its continuing eligibility for de minimis registration status no earlier than January 1 and no later than January 15 of each year. The annual notification shall include the attestation of eligibility for de minimis registration and any change in the information previously provided to the Commissioner under this section."

SECTION 4. G.S. 58-89A-110(d) reads as rewritten:

"(d) A license shall not be issued to any professional employer organization unless (i) the organization first files with the Commissioner evidence of workers' compensation coverage for all assigned employees in this State, including those leased from or coemployed with another person, ~~and that the premium paid by the licensee is person,~~ and (ii) the organization certifies to the Commissioner that it has provided its workers' compensation carrier with proper and necessary documentation to allow the carrier to determine and charge a premium that is commensurate with exposure and anticipated claim experience for all employees covered under policies issued by the carrier in the name of the licensee."

SECTION 5. Section 2 of S.L. 2004-162 reads as rewritten:

"**SECTION 2.** The Department of Insurance shall report to the ~~2005-2007~~ General Assembly on the implementation, administration, and enforcement of Article 89 of Chapter 58 of the General Statutes, as enacted in Section 1 of this act. In its report, the

1 Department shall recommend any statutory changes required to regulate professional
2 employer organizations and enforce Article 89 of Chapter 58 of the General Statutes."

3 **SECTION 6.** Effective March 31, 2005, Section 3 of S.L. 2004-162 reads as
4 rewritten:

5 "SECTION 3. A person registered to engage in and offer professional employer
6 services in this State, pursuant to G.S. 58-89-15, on ~~the last day prior to the effective~~
7 ~~date of this act~~ December 31, 2004, may continue to operate pending approval of the
8 person's application for a license as long as the application is filed with the
9 Commissioner no later than ~~April 1, 2005~~ July 1, 2005. If the application for licensure
10 is denied, the person shall cease offering professional employer services in this State. A
11 Except as otherwise provided herein, a person not registered to engage in and offer
12 professional employer services in this State, pursuant to G.S. 58-89-15, on ~~the last day~~
13 ~~prior to the effective date of this act~~ December 31, 2004, shall not engage in or offer
14 professional employer services in this State until the person has been issued a license
15 under this act.

16 A person that was not registered to engage in and offer professional employer
17 services in this State, pursuant to G.S. 58-89-15 on December 31, 2004, may engage in
18 and offer professional employer services prior to approval of licensure upon satisfying
19 each of the following conditions:

- 20 (1) The person submits with its application an audited GAAP financial
21 statement that has been issued no more than 90 days from the date the
22 application is received by the Commissioner, and the statement is
23 accompanied by an unqualified opinion;
- 24 (2) The person is a licensed or registered professional employer
25 organization in good standing in at least one other state of the United
26 States;
- 27 (3) The person has a client preexisting December 31, 2004, and that client
28 acquires or adds employees in this State on or before July 1, 2005; and
- 29 (4) The person has submitted his or her application for licensure in
30 compliance with the provisions of Article 89A of Chapter 58 of the
31 General Statutes on or before July 1, 2005.

32 The conditional authority to engage in and offer professional employer services
33 pursuant to this provision shall cease upon the earliest of the following: the granting of a
34 license under Article 89A of Chapter 58 of the General Statutes, the denial of a license
35 under Article 89A of Chapter 58 of the General Statutes, or the failure to satisfy any of
36 the conditions upon which the conditional authority exists.

37 Notwithstanding any other provision of this act, an audited GAAP financial
38 statement filed with the Commissioner by an applicant for licensure that otherwise
39 meets the requirements of this act shall be accepted by the Commissioner if it has been
40 filed with the Commissioner on or before July 1, 2005, has been issued within the
41 previous 180 days, and covers a fiscal year that ended December 31, 2004, or is
42 otherwise acceptable to the Commissioner."

43 **SECTION 7.** G.S. 58-6-25(d) is amended by adding a new subdivision to
44 read:

1 "(9) Money appropriated to the Department of Insurance for the regulation
2 of the professional employer organization industry pursuant to Article
3 89A of Chapter 58 of the General Statutes."

4 **SECTION 8.** Except as otherwise expressly provided in this act, this act is
5 effective when it becomes law.



SENATE BILL 685: Revise Professional Employer Organization Act

BILL ANALYSIS

Committee: House Appropriations Committee
Date: April 20, 2005
Version: Proposed House Committee
Substitute

Introduced by: Senators Bingham and Rand
Summary by: Phyllis Pickett; Sean Dail
House Appropriations Counsel
Tim Hovis, Insurance Comm.
Counsel

REFERRAL: Senate Bill 685 was referred from the House Insurance Committee to the House Appropriations Committee.

BACKGROUND: Article 89A of Chapter 58 of the General Statutes, *the North Carolina Professional Employer Organization Act*, was passed by the General Assembly in 2002 to require registration of professional employer organizations (PEOs) in the State. The Act was amended in 2004 to require PEOs to be licensed by the Department of Insurance, in addition to the Act's registration requirements.

A "professional employer organization" is defined in Article 89A as "a person that offers professional employer services." Typically, PEOs contract with businesses to provide human resource, employee benefit, payroll and workers compensation functions for the business. Under existing law, PEOs doing business in the State are required to file completed license applications by April 1, 2005. A violation of the Act is punishable by civil penalties and conviction of a Class H felony.

SUMMARY: Current law requires an applicant for licensure to file with the Commissioner of Insurance a surety bond in the amount of \$100,000. **Section 1** of the bill amends this law to allow the issuer of the bond to cancel the bond, but only with respect to future obligations or liabilities under the bond. Likewise, a bond may be exchanged or replaced, but only if the new surety bond applies to obligations arising during the period of the original bond. However, a licensee must maintain a bond at all times and failure to do so will result in an automatic and immediate suspension of his or her PEO license.

Section 2 of the bill amends G.S. 58-89A-65 governing PEO licensing application fees to change the name of a limited license to a "de minimis registration."

The provisions for de minimis registration are set out in Section 3 of the bill.

Section 3 of the bill establishes standards for de minimis registration status. To qualify for de minimis registration, the PEO must:

- Not maintain a physical professional employer organization office in the State.
- Not employ salespersons who reside or direct sales activities in the State.
- Not employ directly or in common control with another person more than 50 assigned employees in the State.
- Not advertise through any media outlet physically located in the State.
- Be a licensed or registered PEO in at least one other state.
- Be operated by and under control of persons of good moral character.

SENATE BILL 685

Page 2

A person seeking de minimis registration status must notify the Commissioner on a prescribed form attesting that the PEO meets all eligibility requirements and provide additional information including the name and address of its principal office, a list by jurisdiction of each name under which the registrant has operated during the preceding five years, a list of all officers directors and controlling persons of the registrant, and the location of the business records of the person.

Section 3 also provides a process by which the Commissioner notifies a person of his or her ineligibility for de minimis registration and a review of the Commissioner's decision. The Commissioner must also notify a registrant of an incomplete registration and must allow a registrant 15 days from notification to correct the deficiency. After approval of a de minimis registration, the registrant must annually notify the Commissioner of its continuing eligibility for de minimis registration status.

Section 4 clarifies G.S. 58-89A-110(d) to require a PEO to certify to the Commissioner that it has provided its workers compensation carrier with all proper and necessary documentation for the carrier to determine and charge a premium commensurate with anticipated claim experience. The PEO does not need to provide evidence of this documentation.

Section 5 changes existing reporting requirements on the implementation, administration and enforcement of the Act to require the Department to report to the 2007 General Assembly instead of the 2005 Session.

Section 6 changes the deadline for filing a license application. Under current law, a person who registered prior to the Act's effective date of January 1, 2005 may continue to operate pending approval of the person's application for licensure if the license application is filed no later than April 1, 2005.

Effective March 31, 2005, Section 6 moves the deadline to file an application for licensing from April 1, 2005 to July 1, 2005. This section also provides conditions under which a PEO that failed to register on or before December 31, 2004 may offer PEO services pending approval of license application. For this provision to apply, the license application must be submitted on or before July 1, 2005.

In addition, Section 6 provides that for initial license applications received prior to July 1, 2005, the Commissioner must accept a GAAP financial statement prepared within the previous 180 days. The statement must cover a fiscal year ending December 31, 2004 or later.

Section 7 provides that money from the Insurance Regulatory Fund may be used to reimburse the General Fund for money appropriated to the Department for regulation of PEOs.

EFFECTIVE DATE: Section 8 provides that Senate Bill 685 is effective when it becomes law, except as otherwise indicated. (Section 6 becomes effective March 31, 2005.)

VISITOR REGISTRATION SHEET

House App.

5/11/05

Name of Committee

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANTNAMEFIRM OR AGENCY

Joanne Stevens	nursing
Myrland Spearman	NCDOC
Jim Edgar	ALHRC
Kari Barzness	OSBM
Jason Murphy	District Attorney's Office - Charlotte
Ashley Williams	intern
Barbara Lowery	MeckCo Drug Treatment Court (Charlotte)
Sherry Faust	MeckCo Drug Treatment Court (Charlotte NC)
Bill Rustin	Asst
Paul Foglene	Infon Inc.
Lon Trostch	Dist. Court
TOO NUCO	TRIAL COURT ADMINISTRATOR
Janeane Tourkellott	Drug Treatment Court Administration
Philip F. Howerton Jr.	Drug Court Judge DWI Court Meck.
Julie Abraham	NCR
Terry Rhodes	NCR
Jacqui Hansen	AOC-DTC
John Maly	LOW OFFICE
William Harlee	Drug Treatment Court Client
Thomas Austin	SAIL-Treatment Provider for Drug Treatment Court
Theodore Holmes	Drug Court graduate.
DAVID BRANES	Payne & Spruill
Chad Essick	Payne & Spruill

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **APPROPRIATIONS** will meet as follows:

DAY & DATE: **Wednesday, June 15, 2005**

TIME: **8:00 a.m.**

LOCATION: **643**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):
SB 622 2005 Appropriations Act (Senators Garrou, Dalton, Hagan)

Respectfully,

Representatives Clary, Crawford, Earle, Nye,
Owens, Sherrill
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at
1:30 p.m. on June 14, 2005.

____Principal Clerk
____Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

MINUTES
HOUSE COMMITTEE ON APPROPRIATIONS
JUNE 15, 2005

The House Committee on Appropriations met on Wednesday, June 15, 2005, in Room 643 of the Legislative Office Building at 8:00 a.m. Chairs Jim Crawford presided alternating at times with the other chairs. A total of 77 members of the committee were present as well as staff to the committee, Lynn Muchmore and Karen Hammonds-Blanks. A visitor registration list is attached and made part of these minutes. Chair Crawford explained the rules for conducting the committee meeting (handout).

SB 622 2005 APPROPRIATIONS ACT Proposed Committee Substitute (2 Handouts)

The chair introduced the individual subcommittee chairs to present their portion of the budget:

Education	Reps. Jeffus, Tolson, Yongue
Health & Human Services	Reps. Barnhart, Insko
Natural & Economic Resources	Reps. Hunter, Warren
Justice & Public Safety	Reps. Haire, Kiser
General Government	Reps. Adams, Lucas
Transportation	Reps. Coates, Cole
Employee Benefits	Staff - Mark Trogdon, Stanley Moore, Marshall Barnes
Debt Service/Reserves/Capital	Karen Hammonds-Blanks, Lynn Muchmore

Chair Crawford began accepting amendments, and the following action was taken:

#	Draft #	Sponsor	Action	Votes
1	ALN-18	Stam	Adopted	V
2	ALR-12	Kiser	Withdrawn	
3	ALE-29	Hilton	Withdrawn	
4	ALB-73	Tolson	Adopted	V
5	ALB-75	Tolson	Adopted	V
6	ALE-28	Dickson	Withdrawn	
7	ALE-32	Parmon	Withdrawn	
8	ALB-76	Kiser	Withdrawn	
9	ALN-26	Clary/Wright	Adopted	V
10	ALN-17	Insko	Adopted	V
11	ALN-16	Insko	Adopted	V
12	ALN-25	Insko	Withdrawn	
13	ALH-33	Wright	Adopted	V
14	ALK-12	Williams	Failed 38/32	D
15	ALR-14	Kiser	Adopted	V

House Appropriations Committee

Page 2

June 15, 2005

16	ALH-27	Cleveland	Failed	V
17	ALH-29	Moore, Clary, England, Kiser	Failed	V
18	ALN-19	Wright	Withdrawn	
19	ALN-31	Insko	Adopted	V
20	ALU-12	Insko	Withdrawn	
21	ALU-14	Insko	Adopted	V
22	ALH-34	Hackney	Withdrawn	
23	ALB-78	Tolson	Adopted	V
24	ARO-27	Dickson	Withdrawn	
25	ALU-10	Farmer-Butterfield	Adopted	V
26	ALE-28	Dickson	Adopted	V
27	ALE-32	Parmon	Adopted	V
28	ALG-7	Sutton	Adopted	V 26-24
29	ALM-5	Michaux	Adopted	V
30	ALG-6	Harrison	Adopted	V
31	ALB-79	Miller	Withdrawn	
32	ALH-34	Hackney	Adopted	V
33	ALN-32	Insko	Adopted	V
34	ALH-32	Parmon	Withdrawn	
35	ALL-19	Kiser	Adopted	V
36	ALE-33	Daughtry	Adopted	V
37	ALY-19	Kiser	Withdrawn	
38	ALN-31	Insko	Withdrawn	
39	ALH-35	Haire, McLawhorn	Adopted	V
40	ALG-9	Goforth	Withdrawn	
41	ALD-9	LaRoque	Adopted	32-15
42	AMA-21	Coates	Adopted	V
43	ALD-8	Harrison	Failed	V
44	ALE-29	Hilton	Adopted	V
45	ALD-7	Owens	Adopted	V
46	ALM-7	Lucas	Failed	V
47	ALN-27	LaRoque	Failed	V
48	ALN-19	Wright	Adopted	V
49	ALN-34	Wright/McComas	Withdrawn	
50	ALD-10	Warren/McLawhorn	Withdrawn	
51	ALU-13	Insko	Adopted	V
52	ALM-6	Jeffus	Adopted	V
53	No #	Yongue	Adopted	V
54	ALT-13	Miller	Adopted	V
55	ALB-79	Miller	Withdrawn	
56	ALH-37	Cleveland	Withdrawn	
57	ALL-18	Crawford	Adopted	V

House Appropriations Committee

Page 3

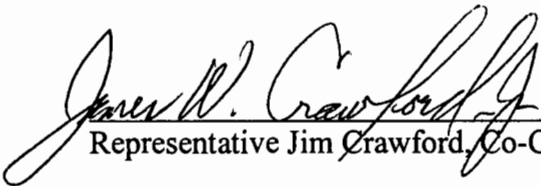
June 15, 2005

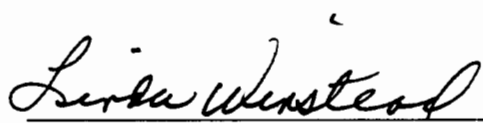
58	ALT-14	Stiller	Withdrawn	
59	ALT-15	Wilkins	Failed	V
60	ALN-11	Stam	Failed	V
61	No #	Crawford	Adopted	V
62	No #	Culpepper	Adopted	V
63	ALH-37	Cleveland	Failed	V
64	ALH-38	Wilkins	Adopted	V
65	ALT-12	Haire	Withdrawn	
66	ALB-79	Miller	Failed	V
67	ALB-1	Coleman	Failed	V

Code: V – Voice, R – Roll Call, D - Division

Chair Crawford moved that Senate Bill 622, as amended, be rolled into a House committee substitute with a favorable report as to the committee substitute, unfavorable report as to the original bill; and further move that staff be authorized to make technical corrections and conforming changes related to reconciling the various amendments adopted, and that the appropriate totals may be adjusted accordingly. The motion carried.

The meeting adjourned at 2:15 p.m.


Representative Jim Crawford, Co-Chair


Linda Winstead, Committee Assistant

Representative Beverly Earle
Representative Debbie Clary
Representative Edd Nye
Representative Bill Owens
Representative Wilma Sherrill

STATE OF NORTH CAROLINA
NORTH CAROLINA GENERAL ASSEMBLY
RALEIGH, NORTH CAROLINA 27601



HOUSE APPROPRIATIONS COMMITTEE
AGENDA
Tuesday, June 15, 2005
8:00 A.M.

Representative Jim Crawford, Presiding

Chair's Comments

Bills

SB 622 2005 Appropriations Act

Adjourn

RULES FOR HOUSE APPROPRIATIONS

June 15, 2005

When amendments are offered, the following rules must be met in order for the amendment to be eligible for consideration.

1. Money can only be transferred among items within the same subcommittee.
2. Amendments cannot increase total spending within a subcommittee report beyond what the subcommittee recommended.
3. Amendments cannot increase total spending beyond the total amount shown in the draft committee report.
4. Amendments cannot spend reversions.
5. Nonrecurring reductions cannot be used to fund recurring items.
6. Amendments that cause the budget to be unbalanced are not in order.
7. Amendments proposing to include material not directly related to the budget are not in order.
8. Amendments must be in writing, with 150 copies available for distribution. The Sergeant-at-Arms will distribute copies only at the direction of the chairs.
9. No documents may be distributed to members except by prior arrangement with the chairs.
10. To be considered a proposed amendment (a) must have been requested from drafting staff by 11:30 AM and (b) must have been logged in at the podium by committee staff by 1:00 PM. The Chairs will review amendments to make sure they are eligible for consideration. Eligible amendments will be heard after all of the subcommittee presentations have been made.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ House Committee Substitute for #1

SB 622 A BILL TO BE ENTITLED AN ACT TO INCREASE FEES FOR LICENSING OF PROPRIETARY SCHOOLS AS RECOMMENDED BY THE STATE BOARD OF COMMUNITY COLLEGES; TO EXPAND THE EXPRESS REVIEW PROGRAM UNDER THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES STATEWIDE; TO INCREASE THE CHARGE FOR APPELLATE DIVISION REPORTS TO THE ACTUAL COST; TO INCREASE COURT COSTS IN CRIMINAL ACTIONS FOR THE BENEFIT OF THE SUPPLEMENTAL PENSION BENEFITS FOR SHERIFFS; TO PERMANENTLY INCREASE THE EXCISE TAX ON CIGARETTES BY TWENTY-FIVE CENTS A PACK BEGINNING JULY 1, 2005; TO PERMANENTLY INCREASE THE EXCISE TAX RATE ON TOBACCO PRODUCTS OTHER THAN CIGARETTES AND CIGARS TO SIX PERCENT BEGINNING JULY 1, 2005; TO EQUALIZE THE GROSS PREMIUMS TAX RATES BY SETTING THE RATE FOR HEALTH MAINTENANCE ORGANIZATIONS AT ONE AND NINE-TENTHS PERCENT BEGINNING JANUARY 1, 2006; TO SET THE PRIVILEGE TAX ON ENTERTAINMENTS AND MOVIES AT SEVEN PERCENT; TO PROVIDE A TAX CREDIT EQUAL TO FIFTEEN PERCENT OF QUALIFYING EXPENSES FOR CERTAIN FILM PRODUCTIONS OCCURRING IN THIS STATE; TO PROVIDE FOR A TAX CREDIT OF UP TO FOUR HUNDRED DOLLARS PER EMPLOYEE FOR SMALL BUSINESSES WHO PROVIDE HEALTH INSURANCE COVERAGE FOR THEIR EMPLOYEES; TO SET THE INSURANCE REGULATORY CHARGE AT FIVE AND FIVE-TENTHS PERCENT; TO SET THE REGULATORY FEE FOR UTILITIES COMMISSION AT TWELVE HUNDREDTHS PERCENT; TO SET THE NEWBORN SCREENING FEE AT FOURTEEN DOLLARS; TO SET NUMEROUS FEES IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, DIVISION OF FACILITY SERVICES; TO INCREASE VARIOUS AGRICULTURAL FEES; TO INCREASE THE CAP FOR CAMA PERMIT FEES TO EIGHT HUNDRED DOLLARS; TO INCREASE GENERAL COURT OF JUSTICE FEES FOR CRIMINAL CASES BY NINE DOLLARS AND FIFTY CENTS; TO INCREASE GENERAL COURT OF JUSTICE FEES FOR CIVIL CASES BY TEN DOLLARS; TO INCREASE THE MAXIMUM COURT FEE FOR THE ADMINISTRATION OF ESTATES AND TRUSTS TO SIX THOUSAND DOLLARS; TO INCREASE THE FEE FOR EXPUNCTION TO ONE HUNDRED TWENTY-FIVE DOLLARS; TO INCREASE THE FEES FOR ELECTRONIC MONITORING; TO INCREASE THE COURT COSTS FOR FAILURE TO WEAR A SEAT BELT TO SEVENTY-FIVE DOLLARS; TO INCREASE BUTNER PROPERTY TAXES TO A RATE OF TWENTY-FIVE CENTS PER ONE HUNDRED DOLLARS VALUATION; TO SET FEES FOR THE POLICE INFORMATION NETWORK; TO INCREASE VARIOUS DEPARTMENT OF TRANSPORTATION FEES; AND TO ALLOW THE INDUSTRIAL COMMISSION TO ESTABLISH FEES BY RULE.

☒ With a favorable report as to House committee substitute bill 2, which changes the title, unfavorable as to House committee substitute bill #1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the (House) committee substitute bill/(joint) resolution (No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____) is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

**HOUSE
APPROPRIATIONS COMMITTEE**

**REPORT
ON THE
CONTINUATION, EXPANSION
AND CAPITAL BUDGETS**

June 15, 2005

AMENDMENT LOC
APPROPRIATIONS COMMITTEE
JUNE 4, 2004
HB 1414

#	Time	Draft #	Sponsor	Subcom	Action	Votes
1	8:20 AM	S622-ALN-18	V3 Stam		OK yes	VV
2	8:24	S622-ALB-12	V2 Kiser		OK out-of-order	
3	8:26	S622-ALE-29	V2 Hilton		OK	
4	8:34	S622-ALB-73	V3 Tolson		OK	
5	9:00	S622-ALB-75	V3 Tolson		OK out-of-order	
6	9:09	S622-ALE-28	V3 Dickson		OK replaced by 26	
7	9:10	S622-ALE-32	V4 Parmar		OK replaced by 27	
8	9:14	S622-ALB-V76	V1 Kiser		out-of-order replaced by 15	
9	9:16	S622-ALN-26	V2 Clary/Wright		OK	
10	9:25	S622-ALN-18	V3 Wright/Stam		No. 1 Above	
10	9:25	S622-ALN-17	V4 Insko		OK	
11	9:25	S622-ALN-16	V2 Insko		OK	
12	9:25	S622-ALN-25	V1 Insko		withdrawn	
13	9:41	S622-ALN-33	V2 Wright		OK	
14	9:45	S622-ALK-12	V2 Williams		OK	
15	9:50	S622-ALB-14	V1 Kiser		OK	
16	9:59	S622-ALH-27	V3 Cleveland		OK	
17	10:03	S622-ALH-29	V5 Moore/Clary/Eng/Kiser		OK	
18	10:05	S622-ALN-19	V2 Wright		withdrawn	
19	10:06	S622-ALN-31	V1 Insko		OK withdrawn for new version	
20	10:06	S622-ALU-12	V7 Insko		OK out-of-order	
21	10:06	S622-ALU-14	V2 Insko		OK	
22	10:10	S622-ALH-34	V1 Hackney		OK withdrawn	
23	10:10	S622-ALB-78	V1 Tolson		OK yes	VV

V - Voice Vote

RR - Roll Call

D - Division

AMENDMENT LOG
APPROPRIATIONS COMMITTEE
JUNE 4, 2004
HB 1414

#	Time	Draft #	Sponsor	Subcom	Action	Votes
24	10:15	S622-ARO-27	V4 Dickson		no out-of-order	
25	10:21	S622-ALU-10	V3 Farmer Butterfield		OK	
26	10:26	S622-ALE-28	V4 Dickson	replaces 6	OK	
27	10:30	S622-ALE-32	V5 Parmon	replaces 7		
28	10:43	S622-ALG-7	V3 Sutton		OK	
29	10:44	S622-ALM-5	V3 Michaux		OK	
30	10:44	S622-ALG-6	V5 Harrison		OK	
31	10:44	S622-ALB-79	V1 Miller		out of order	
32	10:44	S622-ALH-34	V2 Hackney		OK	
33	10:45	S622-ALN-32	V1 Insko		OK	
34	10:45	S622-ALH-32	V1 Parmon		OK	
35	10:46	S622-ALL-19	V1 Haire-Kiser		OK	
36	10:47	S622-ALE-33	V3 Daughtry		OK	
37	10:50	S622-ALY-19	V2 Kiser		out-of-order	
38	10:50	S622-ALN-31	V2 Insko		OK pulled	
39	10:44	S622-ALH-35	V4 Haire/Mhawhorn		OK	
40	10:56	S622-ALG-9	V3 Goforth		out-of-order	
41	10:57	S622-ALD-9	V1 LaRogue		OK passed	D
42	10:57	S622-AMA-21	V1 Coates		OK A	VV
43	11:05	S622-ALD-8	V3 Harrison		OK	
44	11:07	S622-ALE-29	V6 Hilton		OK	
45	11:10	S622-ALD-7	V4 Owens		OK	
46	11:14	S622-ALM-7	V2 Lucas		OK	
47	11:14	S622-ALN-27	V4 LaRogue		OK	

● - Voice Vote

RR - Roll Call

D - Division

AMENDMENT LOG
APPROPRIATIONS COMMITTEE
JUNE 14, 2005
SB 622

#	Time	Draft #	Sponsor	Subcom	Action	Votes
48	11:15	S622-ALN-19	V4 Wright		OK	
49	11:27	S622-ALN-34	V1 Wright M. Comas		OK	
50	11:28	S622-ALD-10	V1 Warren, M. Chawton		OK withdrawn	
51	11:33	S622-ALU-13	V4 Insko		OK	
52	11:35	S622-ALM-6	V4 Jeffus		OK	
53	11:40	S622-Yongue	V1 Yongue		OK Stanley Moore	
54	11:40	S622-ALT-13	V1 Miller		OK	
55	12:13	S622-ALB-79	V2 Miller		out-of-order	
56	12:18	S622-ALH-37	V2 Cleveland		withdrawn-replaced by 61	
57	12:18	S622-ALL-18	V5 Crawford		OK	
58	12:18	S622-ALT-14	V2 Stiller		OK withdrawn	
59	12:29	S622-ALT-15	V1 Wilkins		OK	
60	12:37	S622-ALN-11	V8 Stam		OK	
61	12:57	S622-LR-28	Crawford		OK T. Aye	VV
62	12:59	S622-LR-28	Culpepper		OK	
63	12:59	S622-ALH-37	V3 Cleveland		OK	
64	1:12	S622-ALH-38	V1 Wilkins		OK Aye	VV
65	1:13	S622-ALT-12	V2 Haine		OK T.	
66	1:22	S622-ALB-79	V2 Miller		OK No	VV
67	1:35	S622-ABL-1	V1 Coleman		OK No	

● - Voice Vote

RR - Roll Call

D - Division



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S622-ALN-18 [v.3]

Page 1 of 1

Date 06-15, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-CSLR-28

Representatives Wright and Stam

1 moves to amend the bill on page 132, line 18
2 by inserting on the line the following:

3 "Requested by: Representatives Wright, Stam

4 **MEDICAID WAIVER/TRANSFER OF ASSETS LOOK-BACK**

5 **SECTION 10.21D.** The Department of Health and Human Services,
6 Division of Medical Assistance, shall request a waiver from the Centers for Medicare
7 and Medicaid Services (CMS) such that the look-back period for determining transfer of
8 assets for the purpose of establishing or retaining eligibility for Medicaid may be
9 increased from three years to five years, and from five to eight years for purposes of
10 estate recovery. If the waiver is granted the Department shall implement the waiver. If
11 the waiver is implemented the increased look-back period shall apply to applications for
12 establishing or retaining eligibility submitted on and after the effective date of the
13 waiver. The Department shall report on the status of the waiver to the House of
14 Representatives Appropriations Subcommittee on Health and Human Services, the
15 Senate Appropriations Committee on Health and Human Services, and the Fiscal
16 Research Division, not later than April 1, 2006."
17

SIGNED [Signature]
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____



REPRESENTATIVE PAUL STAM
NORTH CAROLINA HOUSE OF REPRESENTATIVES
37TH DISTRICT

STATE LEGISLATIVE OFFICE BUILDING
300 N. SALISBURY STREET ROOM 610
RALEIGH, NC 27603-5925
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APEX, NC
919-36

REVIEW & OUTLOOK

Medicaid for Millionaires

Congress has periodically tried to clamp down on abuses but usually ends up making things worse. In 1993 it passed a law requiring states to recover the cost of benefits from the estates of deceased recipients (or from the estates of the spouses they pre-decease). This bombed, as most states make only half-hearted efforts to recover Medicaid costs. In 2002, state Medicaid programs spent \$46.5 billion on nursing home care but recovered a measly \$350 million from estates.

An excellent way to keep seniors off Medicaid would be to encourage more to buy their own long-term care insurance. The Department of Health and Human Services was experimenting with a "Partnership" program to do just that in the early 1990s, only to be shut down by Congressman Henry Waxman (D., Calif.).

Under the Partnership program, a consumer who purchases, say, \$100,000 in long-term care insurance can exempt that sum before drawing down the rest of his assets and, if necessary, going on Medicaid. Not only does this give the senior a guaranteed amount of money to preserve for his heirs, the insurance payouts give him the freedom to purchase the long-term care of his choice. If he wishes to use the money for home care, he can do so.

The four states that had already implemented Partnerships before Mr. Waxman imposed a ban—New York, Connecticut, Indiana and California—were permitted to proceed and 13 years later their experience suggests that incentives work. According to Michael O'Grady, an assistant secretary at HHS, 180,000 insurance policies have been sold (a faster rate than in non-Partnership states), 2,000 policyholders have received insurance payments, yet only 86 people have gone on Medicaid.

Long-term Care Partnerships are an even better idea now that baby boomers are approaching retirement and every state is looking for ways to slow the growth in Medicaid spending. As part of its proposed reforms, the Bush Administration wants Congress to lift the

Waxman ban. Mr. Waxman's office says he remains skeptical, which is not surprising since he is renowned for using his power to make more Americans dependent on government. Many liberals actually want more of the middle class to get hooked on Medicaid because it helps them build support for

The Administration also wants Congress to update the look-back law, so that the three-year grace period for giving away assets doesn't begin until a senior enters a nursing home or goes on Medicaid. Other measures worth considering include eliminating the home exemption, and requiring seniors who need long-term care to take out reverse mortgages (borrowing against the value of their home) to pay for it.

Ohio is considering a proposal under which the state would claim title to a senior's assets giving him a zero-interest loan against Medicaid benefits until he is deceased and the assets are used to offset the costs incurred by the state for his care. Seniors who choose cheaper care options would get to keep more assets. This is "the most aggressive effort to control long-term care costs anywhere in the nation," says John Goodman of the National Center for Policy Analysis.

Long-term care accounts for about one third of federal and state expenditures on Medicaid, to the tune of \$100 billion this year. It is the biggest driver of skyrocketing Medicaid costs that are bankrupting many states and localities. Medicaid was created 40 years ago to care for the needy. The rest of us have an obligation to pay for our own care—or to protect our wealth with private insurance.

Who Pays?

Nursing-home costs are increasingly borne by Medicaid.

	1968	2001
Medicaid	23.7%	47.5%
Out of Pocket	55.9	27.8
Other*	12.3	13.6
Medicare	8.2	11.7
Total	\$2.9 billion	\$98.9 billion

* In 2001 other expenditures included private health insurance and Veterans Administration spending. In 1968, they were mostly spending by federal, state and local governments.

Source: Centers for Medicare & Medicaid Services

Medicaid was established in 1965 with the worthy aim of providing medical care for the poor; it was never intended as a middle-class entitlement or as inheritance protection for the children of well-off seniors. Yet the latter is precisely what has happened—to the point that sheltering assets and income to qualify for Medicaid is now as routine as writing a will.

If you don't believe us, Google "Medicaid estate planning" on the Web and see what pops up. There's a whole "elderlaw" industry out there dedicated to the children of seniors who want to make sure that other taxpayers, not they, pay for nursing-home care via Medicaid should mom or dad ever need it. As one advertiser puts it, "You can qualify for Medicaid while preserving most assets & savings!"

Such "asset-shifting" may be morally questionable, but in most cases it is entirely legal. Anyone can give away most of his assets and three years later become eligible for Medicaid with no questions asked. Or, since a home, business and car of unlimited value are excluded from the calculation of assets, someone who wishes to qualify for Medicaid may shield his money by remodeling his house, investing in the family business, or purchasing expensive cars that he then gives away to family members (the notorious "two Mercedes rule"). Term life insurance—also of unlimited value—is excluded as well.

Medicaid "planners" often counsel well-to-do clients to save enough money to pay for a year of care at a private, high-quality nursing home, which under federal law can't kick you out if you then switch over to Medicaid. As Stephen Moses of the Center for Long-Term Care Financing points out, "Poor people don't have key money, so they end up in the least desirable 100%-Medicaid facilities, while the lawyers' clients occupy the scarcer Medicaid beds in nicer nursing homes." About 70% of nursing-home patients are on Medicaid.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

S622-ALR-12 [v.2]

Page 1 of 2

Date 6-15, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-CSLR-28

Representative Kiser

moves to amend the bill on page 41, line 13, by inserting the following:

"Requested by: Representatives Sherrill, Kiser
RESENTENCE AFTER APPELLATE REVIEW

SECTION 6.33. G.S. 15A-1335 reads as rewritten:

'§ 15A-1335. Resentencing after appellate review.

(a) ~~When~~ Except as provided in subsection (b) of this section, when a conviction or sentence imposed in superior court has been set aside on direct review or collateral attack, the court may not impose a new sentence for the same offense, or for a different offense based on the same conduct, which is more severe than the prior sentence less the portion of the prior sentence previously served.

(b) This section does not apply in the following circumstances:

- (1) The original sentence was imposed as a result of a negotiated plea agreement.
- (2) The judge includes in the order imposing the sentence the reasons for imposing the more severe sentence and the factual data on which the increased sentence is based.'



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALR-12 [v.2]

Page 2 of 2

1 **SECTION 2.** This section becomes effective December 1, 2005, and applies
2 to cases appealed on or after that date."

SIGNED *Joe Kiser*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED *withdrawn*



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 3
(to be filled in by
Principal Clerk)

S622-ALE-29 [v.2]

Page 1 of 1

Date 06-15, 2005

Comm. Sub. [YES]
Amends Title [NO]
PCS

Representative Hilton

1 moves to amend the bill on page 82, line 26,
2 by adding a new section after the line to read:

3 "Requested by: Representative Hilton

4 **AUTHORIZATION FOR ADDITIONAL CHARTER SCHOOLS**

5 **SECTION 7.57.** G.S. 115C-238.29D(b) reads as rewritten:

6 (b) The State Board shall authorize no more than five charter schools per year in
7 one local school administrative unit. The State Board shall authorize no more than ~~100~~
8 110 charter schools statewide, statewide for the 2005-2006 fiscal year, 120 for the 2006-
9 2007 fiscal year, and 130 for the 2007-2008 and subsequent fiscal years. If more than
10 five charter schools in one local school administrative unit or more than ~~100~~ the
11 maximum number of schools permitted statewide meet the standards for final approval,
12 the State Board shall give priority to applications that are most likely to further State
13 education policies and to strengthen the educational program offered in the local school
14 administrative units in which they are located."
15

SIGNED

Mark Hilton
Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED

Withdrawn

OK
6/15/05
16422



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 4
(to be filled in by
Principal Clerk)

S622-ALB-73 [v.3]

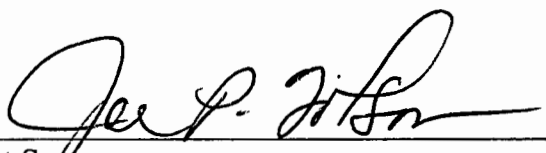
Page 1 of 1

Date 6-15, 2005

Comm. Sub. [YES]
Amends Title [NO]
Fourth Edition

Representative Tolson

- 1 moves to amend the committee report on page F 15 by reducing the total for FY 05-06
- 2 in item 91 by \$25,000
- 3
- 4 and on page F 17, by adding a new item immediately after item 107 to be numbered
- 5 appropriately and to read
- 6 " Off-set of Under-realized Receipts \$25,000 NR
- 7 Provides funds to off-set under-realized receipts from FY04-05."
- 8
- 9

SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 5
(to be filled in by
Principal Clerk)

S622-ALB-75 [v.3]

Page 1 of 1

Date 6-15, 2005

Comm. Sub. [YES]
Amends Title [NO]
Fifth Edition

Representative Tolson

1 moves to amend the bill on page 88, line 33, by adding the following between lines 33
2 and 34:

3 "(c) A massage and bodywork therapy program operated by a degree or diploma
4 granting college or university that offers a degree or diploma in massage therapy and is
5 accredited by any accrediting agency that is recognized by the United States Department
6 of Education and is licensed by the North Carolina Community College System or the
7 University of North Carolina Board of Governors is exempt from the approval process,
8 licensure process, or both, established by the Board. The college or university shall
9 certify annually to the Board that the program meets or exceeds the minimum standards
10 for curriculum, faculty, and learning resources established by the Board. Students who
11 complete the program shall qualify for licenses from the Board as if the program were
12 approved, licensed or both, by the Board."

13
14 and by deleting the quote at the end of line 33 on page 88

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED



FAILED

TABLED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 5
(to be filled in by
Principal Clerk)

S622-ALB-75 [v.3]

Page 1 of 1

Date 6-15, 2005

Comm. Sub. [YES]
Amends Title [NO]
Fifth Edition

Representative Tolson

- 1 moves to amend the bill on page 88, line 33, by adding the following between lines 33
2 and 34:
3 "(c) A massage and bodywork therapy program operated by a degree or diploma
4 granting college or university that offers a degree or diploma in massage therapy and is
5 accredited by any accrediting agency that is recognized by the United States Department
6 of Education and is licensed by the North Carolina Community College System or the
7 University of North Carolina Board of Governors is exempt from the approval process,
8 licensure process, or both, established by the Board. The college or university shall
9 certify annually to the Board that the program meets or exceeds the minimum standards
10 for curriculum, faculty, and learning resources established by the Board. Students who
11 complete the program shall qualify for licenses from the Board as if the program were
12 approved, licensed or both, by the Board."
13
14 and by deleting the quote at the end of line 33 on page 88

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

OK
6/15/05
(LAW)



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 6
(to be filled in by
Principal Clerk)

S622-ALE-28 [v.3]

Page 1 of 2

Date 6-15, 2005

Comm. Sub. [YES]
Amends Title [NO]
PCS

Representative Dickson

1 moves to amend the bill on page 82, line 26,
2 by adding a new section after the line to read:

3 "Requested by: Representative Dickson

4 **STUDY OF SCHOOL TRANSPORTATION**

5 **SECTION 7.57.** Of the funds appropriated for Low Wealth Supplemental
6 Funding for the 2005-2006 fiscal year, the Department of Public Instruction shall use
7 two hundred thousand dollars (\$200,000) for a study of the current allotment formula
8 for school transportation.. The study shall be conducted by an independent consultant.

9 In the course of the study, the consultant shall consider whether (i) the current
10 formula sufficiently encourages the efficient and effective use of school transportation
11 funds by urban and rural school systems, (ii) the formula is adequately and equitably
12 meeting the needs of school systems, and (iii) the formula is appropriate in light of the
13 Leandro litigation. The consultant shall also propose options for reducing the severe and
14 growing disparity in funding that exists under the formula among local school
15 administrative units.

16 The consultant shall report the results of its study to the State Board of
17 Education by December 1, 2005. The State Board of Education shall consider the
18 consultant's report and shall report its recommendations to the Joint Legislative
19 Education Oversight Committee by March 15, 2006."
20
21

W



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALE-28 [v.3]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 2 of 2

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Withdrawn

OK
6/15/05
[Signature]



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 7
(to be filled in by
Principal Clerk)

S622-ALE-32 [v.4]

Page 1 of 2

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
PCS

Representative Parmon

- 1 moves to amend the committee report on page F-5, by adding a new item to read:
2 **"39. Science Olympiad Funding** **\$50,000 R** **\$50,000 R**
3 Provide funds to year to expand the Science
4 Olympiad program to all LEAs in the State.";
5
6 and by renumbering the remaining item accordingly;
7
8 and further moves to amend the committee report on page F-2, by rewriting item # 16 to
9 read:
10 **"16 ADM Contingency Reserve** **(\$2,050,000) R** **(\$2,050,000) R**
11 Reduce ADM Contingency Reserve.
12 Resulting appropriation is \$4,950,000."
13
14

Replaced by
27
W. H. H. H.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 7
(to be filled in by
Principal Clerk)

S622-ALE-32 [v.4]

Page 2 of 2

SIGNED Earlene W. Parnon
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____

TABLED Withdrawn

out of order
Replaced by 15



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 8
(to be filled in by
Principal Clerk)

S622-ALB-76 [v.1]

Page 1 of 1

Date , 2005

Comm. Sub. [YES]
Amends Title [NO]
Fifth Edition

Representative Kiser

- 1 moves to amend the bill on page 288, line 29, by adding the following:
2 "Requested by: Representative Kiser
3 **COURT FEE INCREASES TO BENEFIT JUDICIAL BRANCH.**
4 **SECTION 43.1A.** Chapter 7A of the General Statutes is amended by adding
5 a new section to read:
6 **"§ 7A-321. Selected court fee increases to benefit Judicial Branch.**
7 Any increased revenue on account of fee increases enacted after January 1, 2006 to G.S.
8 7A-304(a)(4) and (6), 7A-305(a)(2), 7A-307(a)(2) and (3), and 7A-308(a)(1) to (20) are
9 appropriated for the support of the General Court of Justice and the Judicial Branch."

SIGNED Joe Kiser
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED withdrawn

6/15/05
LHAB



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 9
(to be filled in by
Principal Clerk)

S622-ALN-26 [v.2]

Page 1 of 2

Date 6-15, 2005

Comm. Sub. [YES]

Amends Title [NO]

S622 ~~CS-20507-28~~ PCS-20507-28

Representatives Clary and Wright

1 moves to amend the bill on page 167, line 3,
2 by inserting on the line, the following:

3 "Requested by: Representatives Clary, Wright

4 **LRC STUDY SCHOOL-BASED AND SCHOOL-LINKED HEALTH CENTERS**

5 **SECTION 10.59F.(a)** The Legislative Research Commission may study and
6 evaluate the number of school-based and school-linked health centers in providing
7 primary care, mental health, and other health care services to determine the centers'
8 impact on providing health care. In conducting the study, the Commission may consider
9 the following:

- 10 (1) The health centers' role in contributing to the health and well being of
11 adolescents and in reducing the cost of health care.
12 (2) Adequacy of current funding and measures needed to sustain the
13 centers as part of the overall school health strategy to improve the
14 health of adolescents.
15 (3) The secured-care rate for students who have access to not only a
16 school nurse but also to a school-based or school-linked health center
17 and whether students receive care in a timely manner from appropriate
18 health care providers.
19 (4) Other matters related to the efficacy and efficiency of school-based
20 and school-linked health centers such that care provided enables
21 students to remain in class, be productive and attentive while in class,
22 and have fewer absences from school.

23 To assist in the study, the Commission may consult with such stakeholders as the North
24 Carolina Association of School-Based and School-Linked Health Centers, the North
25 Carolina Pediatric Society, the Adolescent Pregnancy Prevention Coalition of North



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALN-26 [v.2]

Page 2 of 2

1 Carolina, the Department of Health and Human Services, Division of Public Health, and
2 other interested parties.

3 **SECTION 10.59F.(b)** The Legislative Research Commission may make an
4 interim report, including proposed legislation, to the 2006 Regular Session of the 2005
5 General Assembly and shall make its final report to the 2007 General Assembly upon its
6 convening.

7 **SECTION 10.59F.(c)** The Legislative Services Officer shall allocate funds
8 appropriated in this act to the General Assembly for the expenditures of the Legislative
9 Services Commission in conducting this study."

SIGNED Debbie Clary
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

OK
6/15/05
RAB



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 10
(to be filled in by
Principal Clerk)

S622-ALN-17 [v.4]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]

Amends Title [NO]

S622-~~CSLR-28~~ PCS-20507-LR-28

Representative Insko

- 1 moves to amend the bill on page 122, lines 44 through 48, by rewriting the lines to
2 read:
3 "1, 2005. The Department may use up to six hundred seventy-five thousand dollars
4 (\$675,000) of funds in the Women's Health Services Fund to provide State matching
5 funds for the family-planning demonstration waiver. The remainder of the funds in the
6 Women's health Services Fund shall be used for community-based organizations that
7 are currently receiving these funds in accordance with the purposes of the Fund."
8

SIGNED

Verle Insko

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED



FAILED

TABLED

6/15/05
OK



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 11
(to be filled in by
Principal Clerk)

S622-ALN-16 [v.2]

Page 1 of 1

Date , 2005

Comm. Sub. [YES]

Amends Title [NO]

S622-~~CS-28~~ PCS-20507-LR-28

Representative Insko

- 1 moves to amend the bill on page 127, lines 6 through 13, by rewriting the lines to
2 read:
3 "SECTION 10.20(a) The Department of Health and Human Services,
4 Division of Medical Assistance, shall study developing a new system for reimbursing
5 the Community Alternatives programs. The new system shall:
6 (1) Use a case-mix reimbursement system, similar to the one used by
7 nursing facilities and home health agencies to determine the level of
8 care provided and the amount paid for the care provided;
9 (2) Incorporate into the case mix system, the home environment and social
10 support systems; and
11 (3) Use the Resource Utilization Groups-III (RUG-III) to determine the
12 level of need for Community Alternatives Programs services."
13

SIGNED Vereen Insko
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

No
6/15/05
KLM



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 12
(to be filled in by
Principal Clerk)

S622-ALN-25 [v.1]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]

Amends Title [NO]

S622-~~ALN-25~~ PCS-00607 LR-28

Representative Insko

- 1 moves to amend the House Appropriations Committee Report, June 1⁵, 2005, on page
2 G~~15~~, Item 88, by increasing the amount reduced for that item in each fiscal year by
3 eight hundred thousand dollars (\$800,000); and
4
5 Further moves to amend the House Appropriations Committee Report, June 1⁵, 2005,
6 on page G15, by adding the following new item to read:
7 **Provider Tracking Database**
8 Provides fund to ~~implement~~ a provider tracking \$800,000NR \$800,000NR
9 Database to monitor the performance and
10 provide effective oversight of all provider facilities
11 serving vulnerable populations."

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED

Withdrawn

OK
6/15/05
KUP



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 13
(to be filled in by
Principal Clerk)

S622-ALH-33 [v.2]

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
PCS 20507-LR-28

Representative Wright

- 1 moves to amend the House Appropriations Committee Report as follows:
2 on page F-14, Item 83,
3 by rewriting that Item to read:

4 **"83 NCSU Green Industry Study**

\$150,000 NR

- 5 Appropriates funds to the UNC Board of Governors to be allocated to North
6 Carolina State University to evaluate the economic impact of the green industry in the
7 State of North Carolina. The Green Industry is defined as well over 5,000 firms
8 statewide involved in the production, design, installation, maintenance and sale of plants
9 (trees, shrubs, flowers), sod and related goods and services to enhance, beautify, and
10 protect human environments, provide jobs and economic growth. The Board of
11 Governors shall report to the Chairs of the Appropriations Committees of the Senate
12 and House of Representatives regarding the findings of the study."
13

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ☒ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 14
(to be filled in by
Principal Clerk)

S622-ALK-12 [v.2]

Page 1 of 2

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Williams

- 1 moves to amend the bill on page 9, line 22,
- 2 by deleting the number "832,457,458" and substituting the number "830,154,953" and
- 3 by deleting the number "830,423,288" and substituting the number "829,356,719";
- 4
- 5 and further moves the bill on page, 9, line 37,
- 6 by deleting the number "236,639,318" and substituting the number "238,941,823" and
- 7 by deleting the number "231,279,392" and substituting the number "232,345,961";
- 8
- 9 and further moves to amend the report on page K 2, item 6,
- 10 by rewriting the last sentence of that item to read:
- 11 "Funding total of 25 new troopers for FY 2006." and by changing the numbers
- 12 for FY 05-06 from "\$197,495 R" to "\$1,375,000 R" and "\$1,125,000 NR" and by
- 13 changing the numbers for FY 06-07 from "\$308,431 R" to "\$1,375,000 R";
- 14
- 15 and further moves to amend the report on page I 15, item 72,
- 16 by rewriting that item to read:
- 17



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALK-12 [v.2]

Page 2 of 2

- 1 **"72 Additional Trooper Positions**
- 2 Highway Fund monies are provided to increase the number of State Trooper positions.
- 3 \$2,500,000 is provided to add 25 positions in FY 2005-06. That amount is decreased to
- 4 \$1,375,000 in FY 2006-07."

SIGNED Arthur W. Williams
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ 38-32 TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 15
(to be filled in by
Principal Clerk)

S622-ALR-14 [v.1]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-CSLR-28

Representative Kiser

- 1 moves to amend the bill on page 288, line 29, by adding the following:
2 "Requested by: Representative Kiser
3 **COURT FEE INCREASES TO BENEFIT JUDICIAL BRANCH.**
4 **SECTION 43.1A.** Chapter 7A of the General Statutes is amended by adding
5 a new section to read:
6 "§ 7A-321. Selected court fee increases to benefit Judicial Branch.
7 Any increased revenue on account of fee increases enacted after January 1, 2007, to
8 G.S. 7A-304(a)(4) and (6), 7A-305(a)(2), 7A-307(a)(2) and (3), and 7A-308(a)(1) to
9 (20) shall be used to support the General Court of Justice and the Judicial Branch."

SIGNED Joe Kiser
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

OK
6/15/05
KAG



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 16
(to be filled in by
Principal Clerk)

S622-ALH-27 [v.3]

Page 1 of 3

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
S622-CSLR-28

Representative Cleveland

- 1 moves to amend the bill on page 2, line 45, by increasing the amount appropriated to the
- 2 Department of Public Instruction on that line by \$13,084,719 for each fiscal year;
- 3 and
- 4 on page 3, line 14, by decreasing the amount appropriated to the University of North
- 5 Carolina at Charlotte by \$5,000,000 each fiscal year; and
- 6
- 7 on page 3, line 17, by decreasing the amount appropriated to the University of North
- 8 Carolina at Wilmington by \$1,285,048 each fiscal year; and
- 9
- 10 on page 2, line 48, by decreasing the amount appropriated to Appalachian State
- 11 University by \$253,671 each fiscal year; and
- 12
- 13 On page 3, line 3, by decreasing the amount appropriated to North Carolina Central
- 14 University by \$1,500,000 each fiscal year; and
- 15
- 16 On page 3, line 20, by reducing the amount appropriated to The University of North
- 17 Carolina – General Administration by \$1,000,000 for each fiscal year; and
- 18
- 19 On page 3, line 21, by reducing the amount appropriated for University Institutional
- 20 Programs by \$300,000 for each fiscal year; and
- 21
- 22 On page 3, line 22, by reducing the amount appropriated for Related Educational
- 23 Programs by \$3,746,000 fore each fiscal year;
- 24
- 25 And on page 93, line 1, through page 94, line 8, by deleting those lines;
- 26
- 27 And on page 109, line 29 through page 110, line 21, by deleting those lines;



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALH-27 [v.3]

Page 2 of 3

1
2 And moves to amend the House Appropriations Committee Report as follows:
3 on page F2, by deleting Item 13 (Vocational Education);
4
5 on page F10, by deleting Item 58 (Legislative Tuition Grant for Part-Time Teacher and
6 Nursing Students) and by deleting Item 59 (State Contractual Scholarship Fund
7 Increase);
8
9 on page F11, by deleting Item 67 (Teacher Scholarship for Math and Science);
10
11 on page F12, by deleting Item 75 (Initiatives to Close the Achievement Gap);
12
13 on page F13, by deleting Item 79 (Hunt Institute);
14
15 on page F10, Item 55 (UNCW/ASU Equity Funding) by reducing the sum for each
16 fiscal year by \$1,538,719;
17
18 on page F10, Item 56 (UNCC Transition to Doctoral Status), by reducing the sum for
19 each fiscal year by \$5,000,000;
20
21 on page F11, Item 64 (Biotechnology Initiatives) by reducing the sum for each fiscal
22 year by \$1,500,000;
23
24 on page F13, Item 81 (Model Teacher Education Consortium) by reducing the sum for
25 each fiscal year by \$500,000;
26
27 and by adjusting the appropriate totals in both the bill and the Committee Report
28 accordingly.
29
30



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALH-27 [v.3]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 3 of 3

SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ☒ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 17
(to be filled in by
Principal Clerk)

S622-ALH-29 [v.5]

Page 1 of 2

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Moore, Clary, England, Kiser

1 moves to amend the bill on page 202, line 53
2 by adding at the end of the line the following: ",Moore, England, Kiser" and
3 On page 203, line 1
4 by rewriting that line to read:
5 **"ESTABLISH A NEW DISTRICT COURT JUDGE IN DISTRICT 14, A NEW**
6 **DISTRICT COURT JUDGE IN DISTRICT 27-B, A NEW";**
7 On page 204, line 43, by deleting "4" and substituting "45"; and
8
9 On page 4, line 14 by increasing the amount on that line for fiscal year 2005-2006 by
10 \$106,788 and by increasing the amount on that line for fiscal year 2006-2007 by
11 \$125,912; and
12
13 On page 4, line 15 by reducing the amount on that line for fiscal year 2005-2006 by
14 \$106,788 and by reducing the amount on that line for fiscal year 2006-2007 by
15 \$125,912; and
16
17 moves to amend the House Appropriations Committee Report, as follows:
18 On page I-2, Item 11, by increasing the amounts for fiscal year 2005-2006 by \$96, 504
19 R and by \$10,284 NR, and by increasing the amount for fiscal year 2006-2007 by
20 \$125,912 R; and
21
22 On page I-2, Item 11, by adding after the first paragraph the following:
23 "Provides funds for one District Court Judge in District Court District 27-B, comprising
24 Cleveland and Lincoln counties, effective October 1, 2005."; and
25



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALH-29 [v.5]

Page 2 of 2

- 1 On page I-4, Item 13, by reducing the amounts for fiscal year 2005-2006 by \$96, 504 R
2 and by \$10,284 NR, and by decreasing the amount for fiscal year 2006-2007 by
3 \$125,912 R; and
4
5 By adjusting the appropriate totals accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ☒ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 18
(to be filled in by
Principal Clerk)

S622-ALN-19 [v.2]

Page 1 of 3

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-CSLR-28

Representative Wright

moves to amend the bill on page ___, line ___,
by inserting on the line the following:

"Requested by: Representative Wright

**DHHS, COMMUNITY COLLEGES, AND STATE BOARD OF EDUCATION
STUDY USE OF MEDICATION AIDES TO PERFORM TECHNICAL
ASPECTS OF MEDICATION ADMINISTRATION**

SECTION 10.40D. (a) The Secretary of Health and Human Services and the President of the Community Colleges System shall jointly convene a study group to review and consider the use of medication aides to perform the technical aspects of medication administration. The study group shall consist of members representing at least the following entities and licensed health care facilities and providers:

- (1) Appointed by the Secretary of Health and Human Services:
 - a. Adult care homes.
 - b. Home care agencies.
 - c. Ambulatory surgical centers.
 - d. Hospitals.
 - e. Facilities providing mental health, developmental disabilities, and Substance Abuse Services.
 - f. Nursing homes
 - g. The Nursing profession, as recommended by the Board of Nursing.
- (2) Community Colleges appointed by the President of the Community Colleges System
- (3) The Secretary of Corrections.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALN-19 [v.2]

Page 2 of 3

- (4) Others as may be appointed by the Secretary of Health and Human Services or the President of the Community Colleges System.

SECTION 10.40D.(b) The study group shall address at least the following in its study and its recommendations regarding medication aide performance of the technical aspects of medication administration:

- (1) Training and competency evaluation of medication aides;
- (2) Training standards;
- (3) Ongoing review and evaluation of medication aide training; and
- (4) Requirements for supervision of medication aides.

SECTION 10.40D.(c) The Secretary of Health and Human Services and the President of the Community Colleges System shall report the progress and recommendations of the study group to the 2006 Regular Session of the 2005 General Assembly upon its convening, and the 2007 General Assembly upon its convening. Recommendations to the 2006 Regular Session of the 2005 General Assembly may include proposed legislation. A copy of the report shall be provided 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 at the same time as the report is submitted to the General Assembly.

SECTION 10.40D.(d) The Department of Health and Human Services shall continue its pilot program on the use of medication aides and shall report on the status of the pilot programs at the same time and to the same persons as the study group report to the General Assembly.

SECTION 10.40D.(f) G.S. 115C-47 is amended by adding the following new subdivision to read:

'§ 115C-47. Powers and duties generally.

In addition to the powers and duties designated in G.S. 115C-36, local boards of education shall have the power or duty:

- ...
- '(45) To adopt policies and procedures authorizing schools that operate programs under G.S. 115C-307(c) to utilize unlicensed health care personnel to perform the technical aspects of medication administration to students. The policies and procedures shall be



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALN-19 [v.2]

Page 3 of 3

1 consistent with the requirements of Article 9A of Chapter 90 of the
2 General Statutes and shall include the following:

- 3 a. Training and competency evaluation of medication aides as
4 provided for under G.S. 131E-270.
5 b. Requirements for listing under the Medication Aide Registry as
6 provided for under G.S. 131E-271.
7 c. Requirements for supervision of medication aides by licensed
8 health professionals or appropriately qualified supervisory
9 personnel consistent with Articles 5, 6, 10, and 16 of Chapter
10 131E of the General Statutes."
11
12

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Withdrawn

OK
6/15/05
[Signature]



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 19
(to be filled in by
Principal Clerk)

S622-ALN-31 [v.1]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Insko

- 1 moves to amend the House Appropriations Committee Report, June 15, 2005, on page
2 G15, Item 89, by increasing the amount reduced for that item in each fiscal year by
3 eight hundred thousand dollars (\$800,000); and
4
5 further moves to amend the House Appropriations Committee Report, June 15, 2005, on
6 page G15, by adding the following new item to read:
7 **"94A Provider Tracking Database**
8 Provides fund to develop a provider tracking \$800,000NR
9 Database to monitor the performance and
10 provide effective oversight of all provider facilities
11 serving vulnerable populations."

SIGNED Vella Insko
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

[Signature]



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 20
(to be filled in by
Principal Clerk)

S622-ALU-12 [v.7]

Page 1 of 2

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Insko

1 moves to amend the House of Representatives Appropriations Committee Report on the
2 Continuation, Expansion and Capital Budgets dated June 15, 2005, on page 4, in the
3 "Summary of General Fund Appropriations Fiscal Year 2005-2006" relating to the
4 University System under the column "FTE Changes", by deleting the number "-2.50"
5 and substituting the number "-24.50"; and

6
7 further moves to amend the Committee Report on page 8, in the "Summary of General
8 Fund Appropriations Fiscal Year 2006-2007" relating to the University System under
9 the column "FTE Changes", by deleting the number "-2.50" and substituting the number
10 "-24.50"; and

11
12 further moves to amend the Committee Report on page G12, item 79, by rewriting the
13 sentence that begins with the word "Creates" and ends with the phrase "Smokies." to
14 read:

15 "Transfers twenty receipt-supported positions from Western Carolina University
16 to the Division of Public Health, Women's and Children's Health Section, for the
17 purpose of operating the Children's Developmental Services Agency of the
18 Smokies."; and

19
20 further moves to amend the Committee Report on page G13, item 80, by rewriting the
21 sentence that begins with the word "Creates" and ends with the phrase "Smokies." to
22 read:

23 "Transfers twenty-two State supported positions from Western Carolina
24 University to the Division of Public Health, Women's and Children's Health



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 20
(to be filled in by
Principal Clerk)

S622-ALU-12 [v.7]

Page 2 of 2

- 1 Section, for the purpose of operating the Children's Developmental Services
2 Agency of the Smokies."; and
3
4 by adjusting the appropriate totals accordingly.

SIGNED Uella Ingho
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED Withdrawn

OK
KAP
6/15/05



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 21
(to be filled in by
Principal Clerk)

S622-ALU-14 [v.2]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Insko

- 1 moves to amend the House of Representatives Appropriations Committee Report on the
- 2 Continuation, Expansion and Capital Budgets dated June 15, 2005, on page G14, item
- 3 84, by deleting that item.

SIGNED *Veel Insko*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

6/15/05
K.H.M.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALH-34 [v.1]

AMENDMENT NO. 22
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
PCS20507-LR-28

Representative Hackney

1 Moves to amend the House Appropriations Committee Report as follows:

2 On page F-8, Item 40 (Management Flexibility Reduction for UNC Campuses and
3 Programs) by increasing the amount for the 2005-2006 fiscal year by 2.39 % and by
4 increasing the figure for the 2006 fiscal year by 2.48%; and

5
6 On page F-8, by deleting Item 41 (Summer School) and Item 42 (Building Reserves-
7 Minimum Hiring Rate); and

8
9 On page F-9, by deleting Item 51 (Non-credit and Receipt Supported Instruction) and
10 Item 52 (Strategic Initiatives Reserve); and

11
12 By adjusting the appropriate totals in both the bill and the report accordingly.
13
14

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

Withdrawn

OK
6/15/05
[Signature]



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALB-78 [v.1]

AMENDMENT NO. 23
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
Fourth Edition

Representative Tolson

- 1 moves to amend the committee report on page F 15 by reducing the total for FY 05-06
- 2 in item 91 by \$100,000 and increasing item 99 by \$100,000
- 3
- 4

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 24
(to be filled in by
Principal Clerk)

S622-ARO-27 [v.4]

Page 1 of 3

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
Fourth Edition

Representative Dickson

1 moves to amend the bill on page 266, line 15, by inserting the following new section:

2 "Requested by: Representatives Dickson, Lucas, Glazier

3 **LEO CREDITABLE SERVICE/WORKERS' COMPENSATION.**

4 **SECTION 29.30B(a).** G.S. 128-26(l) reads as rewritten:

5 '(l) Notwithstanding any other provision of this Chapter, any member may
6 purchase creditable service for periods of employer approved leaves of absence when in
7 receipt of benefits under the North Carolina Workers' Compensation Act. This service
8 shall be purchased by paying a cost calculated in the following manner:

9 (1) Leaves of Absence Terminated Prior to July 1, 1983. – The cost to a
10 member whose employer approved leave of absence, when in receipt
11 of benefits under the North Carolina Workers' Compensation Act,
12 terminated upon return to service prior to July 1, 1983, shall be a lump
13 sum amount payable to the Annuity Savings Fund equal to the full
14 liability of the service credits calculated on the basis of the
15 assumptions used for purposes of the actuarial valuation of the
16 system's liabilities, and shall take into account the retirement
17 allowance arising on account of the additional service credit
18 commencing at the earliest age at which the member could retire on an
19 unreduced retirement allowance, as determined by the board of
20 trustees upon the advice of the consulting actuary, plus an
21 administrative fee to be set by the Board of Trustees. Notwithstanding
22 the foregoing provisions of this subdivision that provide for the
23 purchase of service credits, the terms "full cost", "full liability", and
24 "full actuarial cost" include assumed annual post-retirement allowance
25 increases, as determined by the Board of Trustees, from the earliest



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 24
(to be filled in by
Principal Clerk)

S622-ARO-27 [v.4]

Page 2 of 3

age at which a member could retire on an unreduced service allowance.

- (2) Leaves of Absence Terminating On and After July 1, 1983. – The cost to a member whose employer approved leave of absence, when in receipt of benefits under the North Carolina Workers' Compensation Act, terminates upon return to service on and after July 1, 1983, shall be a lump sum amount due and payable to the Annuity Savings Fund within six months from return to service equal to the total employee and employer percentage rates of contribution in effect at the time of purchase and based on the annual rate of compensation of the member immediately prior to the leave of absence; Provided, however, the cost to a member whose amount due is not paid within six months from return to service shall be the amount due plus one percent (1%) per month penalty for each month or fraction thereof the payment is made beyond the six-month period.

Whenever the creditable service purchased pursuant to this subsection is for a period that occurs during the four consecutive calendar years that would have produced the highest average annual compensation pursuant to G.S. 128-21(5) had the member not been on leave of absence without pay, then the compensation that the member would have received during the purchased period shall be included in calculating the member's average final compensation. In such cases, the compensation that the member would have received during the purchased period shall be based on the annual rate of compensation of the member immediately prior to the leave of absence.

In the case of a law enforcement officer electing to purchase service under this section who is in receipt of benefits under the North Carolina Workers' Compensation Act due to serious bodily injury suffered in the line of duty as a result of an intentional or unlawful act of another, as certified by the head of the employing law enforcement agency, and whose approved leave of absence terminates on or before a return to service on and after August 1, 2005, the employer percentage rate of contribution payable under subdivision (2) of this subsection shall be made by the employer that granted the leave of absence. The cost to the law enforcement officer shall be reduced by the amount paid by the employer. For purposes of this subsection, "serious bodily injury" means bodily injury that creates a substantial risk of death, or that causes serious permanent



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 24
(to be filled in by
Principal Clerk)

S622-ARO-27 [v.4]

Page 3 of 3

1 disfigurement, coma, a permanent or protracted condition that causes extreme pain, or
2 permanent or protracted loss or impairment of the function of any bodily member or
3 organ, or that results in prolonged hospitalization.

4 Nothing in this subsection prevents an employer from voluntarily paying all or a part
5 of the employee portion of the total cost of the service credit purchased, and the
6 employer does not discriminate against any eligible law enforcement officer in this
7 subsection employed by the employer by paying that portion of cost. To the extent paid
8 by the employer, the employee portion paid by the employer shall be credited to the
9 Pension Accumulation Fund; to the extent paid by the member, the employee portion
10 paid by the member shall be credited to the member's annuity savings account. A
11 member shall pay any part of the employee portion of the total cost not paid by the
12 employer.'

13 **SECTION 29.30B(b).** This section becomes effective August 1, 2005, and
14 applies to members who return to service from an approved leave of absence on or after
15 that date."
16

SIGNED Mary F. O'Brien
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED Withdrawn

OK
6/15/05
[Signature]



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 25
(to be filled in by
Principal Clerk)

S622-ALU-10 [v.3]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Farmer-Butterfield

- 1 moves to amend the bill on page 154, line 36, by deleting the word "settings" and
- 2 inserting the following: "settings, including unlicensed health care settings,".

SIGNED _____
Amendment Sponsor

[Signature of Jean Farmer-Butterfield]

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____



AMENDMENT NO. 26
(to be filled in by
Principal Clerk)

Page 1 of 2

Date _____, 2005

Representative Dickson

STUDY OF SCHOOL TRANSPORTATION

In the course of the study, the consultant shall consider whether (i) the current formula sufficiently encourages the efficient and effective use of school transportation funds by urban and rural school systems, (ii) the formula is adequately and equitably meeting the needs of school systems, and (iii) the formula is appropriate in light of the Leandro litigation. The consultant shall also propose options for reducing the severe and growing disparity in funding that exists under the formula among local school administrative units.

20
21



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALE-28 [v.4]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 2 of 2

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ☒ _____ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 27
(to be filled in by
Principal Clerk)

S622-ALE-32 [v.5]

Page 1 of 2

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
PCS

Representative Parmon

1 moves to amend the committee report on page F-5, by adding a new item to read:

2 **"39. Science Olympiad Funding \$50,000 R \$50,000 R**

3 Provide funds to year to expand the Science

4 Olympiad program to all LEAs in the State.";

6 and by renumbering the remaining item accordingly;

8 and further moves to amend the committee report on page F-3, item # 22, by deleting

9 "\$11,000,000) R (\$11,000,000) R" and substituting

10 "\$11,050,000) R (\$11,050,000) R";

12 and further moves to amend the bill on page 61, lines 24-25, by deleting the language

13 "two million seven hundred fifty thousand dollars (\$2,750,000)" and substituting "two

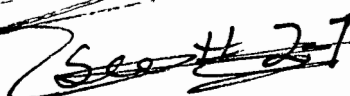
14 million seven hundred sixty-two thousand five hundred dollars (\$2,762,500)";

16 and further moves to amend the bill on page 61, lines 39-40, by deleting the language

17 "four million seven hundred fifty thousand dollars (\$4,750,000)" and substituting "four

18 million seven hundred sixty-two thousand five hundred dollars (\$4,762,500)".

19
20





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALE-32 [v.5]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 2 of 2

SIGNED *Carline M. Parmen*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

OK
6/15/05



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 28
(to be filled in by
Principal Clerk)

S622-ALG-7 [v.3]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Sutton

- 1 moves to amend the House Appropriations Committee Report (June 15, 2005), on page
2 J25, Item 54 by reducing that figure by \$50,000; and
3
4 on page J25, by adding a new Item 54A to read:
5
6 **"54A Indian Cultural Center** \$30,000 NR
7 Provides funding for preparation and construction of picnic shelters
8 and visitors' restrooms and to upgrade public ceremonial grounds
9 at the North Carolina Indian Cultural Center.";
10
11 on page J7, by adding a new Item 24A to read:
12
13 **"24A 'Strike at the Wind' Drama** \$20,000 NR
14 Provides funding for the upgrade, replacement, and modification
15 of electronic equipment.";
16
17 and by adjusting the appropriate totals accordingly.

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ☒ 26.24 FAILED _____ TABLED _____

OK
6/15/05



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALM-5 [v.3]

AMENDMENT NO. 29
(to be filled in by
Principal Clerk)

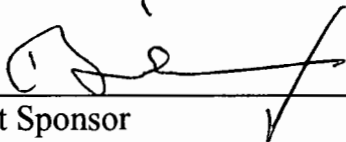
Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Michaux

- 1 moves to amend the House Appropriations Committee Report (June 15, 2005) on page
- 2 H21, Item 136, by rewriting the first sentence to read:
- 3 "Provide funding to continue the North Carolina Infrastructure Program, provide
- 4 matching grants to local governments, and provide grants for minority economic
- 5 development programs."
- 6

SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____



S622-ALG-6 [v.5]

AMENDMENT NO. 30
(to be filled in by
Principal Clerk)

(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Harrison

1 moves to amend the House Appropriations Committee Report (June 15, 2005), on page
2 J7, Item 21, by deleting the figure "\$100,000 NR"; and
3
4 on page J8, by adding a new Item 28 to read:
5
6 **"1500 Museum of History**
7 **28 International Civil Rights Center and Museum** \$100,000 NR
8 Provides a grant for the final renovation costs of the Museum."
9

SIGNED Matt Johnson
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED TABLED



AMENDMENT NO. 31
(to be filled in by
Principal Clerk)

S622-ALB-79 [v.1]

Page 1 of 2

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
PCS

Representative Miller

moves to amend the bill on page 256, line 21, by adding the following:

"Requested by: Representative Miller

STATE EMPLOYEES SHALL HAVE THE OPTION TO BE PAID SEMIMONTHLY

SECTION 29.24(a). Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"§ 126-8.5. Pay periods.

Notwithstanding any other provision of law, every State employee who is not paid more frequently shall have the option to be paid twice per month."

SECTION 29.24(b). G.S. 126-5 is amended by adding a new subsection to read:

"(c9) G.S. 126-8.5 shall apply to all State employees, including employees in the executive, judicial, and legislative branches and employees of The University of North Carolina and its constituent institutions."



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 31
(to be filled in by
Principal Clerk)

S622-ALB-79 [v.1]

Page 2 of 2

SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED withdrawn



AMENDMENT NO. 32
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2005

Representative Hackney

- 1 Moves to amend the House Appropriations Committee Report as follows:
2 On page F-8, Item 40 (Management Flexibility Reduction for UNC Campuses and
3 Programs) by increasing the reduction for the 2005-2006 fiscal year by \$6,771,376 and
4 by increasing the figure for the 2006 fiscal year by \$8,348,432; and
5
6 On page F-8, by deleting Item 41 (Summer School) and Item 42 (Building Reserves-
7 Minimum Hiring Rate); and
8
9 On page F-9, by deleting Item 51 (Non-credit and Receipt Supported Instruction) and
10 Item 52 (Strategic Initiatives Reserve); and
11
12 By adjusting the appropriate totals in both the bill and the report accordingly.
13
14

Hach

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ☒ FAILED ☐ TABLED ☐

OK
6/15/05



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 33
(to be filled in by
Principal Clerk)

S622-ALN-32 [v.1]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Insko

- 1 moves to amend the House Appropriations Committee Report on page G15, Item #90,
- 2 by deleting from the text the words "Central Management" and substituting the words
- 3 "the Department."
- 4

SIGNED

A handwritten signature in cursive script, appearing to read "Urra Insko", written over a horizontal line.

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

A handwritten checkmark drawn over a horizontal line.

FAILED

TABLED



AMENDMENT NO. 34
(to be filled in by
Principal Clerk)

Page 1 of 1

Representative Parmon

- 1 moves to amend the bill on page 107, line35,
2 by deleting "forty-five percent(45%)." and substituting "forty percent (40%); and
3
4 on page 107, line37 by deleting "forty percent (40%)" and substituting "thirty-five
5 percent (35%).
6

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED

bk
6/15/05
RHB



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 35
(to be filled in by
Principal Clerk)

S622-ALL-19 [v.1]

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
S622-PCS2057-LR-28

Representative Haire Kiser

- 1 moves to amend the committee report on page I 12, item 58,
- 2 by decreasing the reductions on that line by \$100,000 for each year;
- 3
- 4 and on page I 11, item 52,
- 5 by increasing the reductions on that line by \$100,000 for each year;
- 6
- 7 and by adjusting the appropriate totals accordingly.

SIGNED Philip Haire Kiser
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____



AMENDMENT NO. 34
(to be filled in by
Principal Clerk)

S622-ALE-33 [v.3]

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
Fifth Edition

Representative Daughtry

moves to amend the bill on page 82, line 25,
by adding a new section after the line to read:
"Requested by: Representative Daughtry

SCHOOLS MUST SPEND UP TO 60% OF EXPANSION FUNDS IN THE CLASSROOM

SECTION 7.58. It is the intent of the General Assembly that each local administrative unit spends at least sixty percent (60%) of the State expansion budget funding it receives in the classroom. Expenditures in the classroom shall include expenditures for instructional personnel and for supplies, equipment, textbooks, and materials in the classroom.

The State Board of Educations shall monitor these expenditures and report to the Joint Legislative Education Oversight prior to September 15, 2006 and September 15, 2007 on local school administrative units that do not comply with this intent."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ☒ FAILED ☐ TABLED ☐

Bill of rules
+ rules 2 & 3
[Signature]



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 37
(to be filled in by
Principal Clerk)

S622-ALY-19 [v.2]

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
S622-PCS20507-LR-28

Representative ~~Sherrill~~

Kine

1 moves to amend the bill on page 271, line 52, through page 272, line 3, by rewriting
2 those lines to read:

3 "SECTION 34.1.(a) G.S. 105-113.5 reads as rewritten:

4 '§ 105-113.5. Tax on cigarettes.

5 (a) Levy. — A tax is levied on the sale or possession for sale in this State, by a
6 distributor, of all cigarettes at the rate of ~~two and one-half mills~~ one and one-half cents
7 (1.50¢) per individual cigarette.

8 (b) Distribution. — Eighty-three and thirty-three one-hundredths percent (83.33%)
9 of the revenue collected under this section is appropriated from the General Fund to the
10 Department of Health and Human Services, Division of Medical Assistance. All funds
11 appropriated by this subsection shall be used to reimburse each county for a portion of
12 the county's share of its Medicaid expenditures, excluding administrative costs. The
13 amount of funds distributed to each county shall be a percentage of the funds
14 appropriated that is equal to the percentage that the county's Medicaid expenditures
15 bears to total Medicaid expenditures of all counties in the State.' "

SIGNED

Amendment Sponsor

Joe Kiser

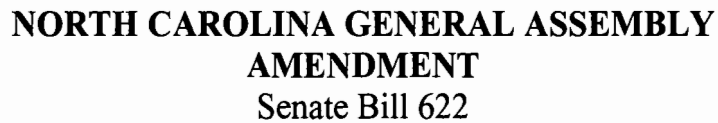
SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED Withdrawn



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 38
(to be filled in by
Principal Clerk)

S622-ALN-31 [v.2]

Page 1 of 2

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Insko

moves to amend the House Appropriations Committee Report, June 15, 2005, on page G15, Item 89, by increasing the amount reduced for that item in each fiscal year by eight hundred thousand dollars (\$800,000); and

further moves to amend the House Appropriations Committee Report, June 15, 2005, on page G15, by adding the following new item to read:

"94A Provider Tracking Database

Provides fund to develop a provider tracking	\$800,000NR

Database to monitor the performance and provide effective oversight of all provider facilities serving vulnerable populations."; and

further moves to amend the bill on page 111, line 29, by inserting the following new special provision to read:

"Requested by: Representative Insko

PROVIDER TRACKING DATABASE

SECTION 10.1A.(a) The Department of Health and Human Services shall develop and implement a provider tracking database that shall monitor the performance and provide effective oversight of all provider facilities serving vulnerable populations. This database shall generate demographic data regarding the facilities for use by monitors, investigators, and the public.

SECTION 10.1A.(b) Funding for this project shall be held in reserve pending Office of State Budget and Management approval and Office of Information Technology Services approval.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALN-31 [v.2]

Page 2 of 2

- 1 **SECTION 10.1A.(c)** The Department of Health and Human Services shall
2 submit an interim report on the status of the project to the Senate Appropriations
3 Committee on Health and Human Services, the House of Representatives
4 Appropriations Subcommittee on Health and Human Services, and the Fiscal Research
5 Division no later than January 1, 2006, and a final report no later than June 1, 2006."

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____

withdrawn

OK
6/15/05
(KAP)



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

39

AMENDMENT NO. 39
(to be filled in by
Principal Clerk)

S622-ALH-35 [v.4]

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
PCS 20507-LR-28

Representative Haire, McLawhorn

- 1 moves to amend the House Appropriation Committee Report dated June 15, 2005, as
- 2 follows:
- 3 On page F-8, Item 40, by increasing that reduction by \$498,975; and
- 4
- 5 On page F-9, by deleting Item 50 and renumbering the items accordingly; and
- 6
- 7 By adjusting the appropriate totals in both the bill and the report accordingly.
- 8

SIGNED

Amendment Sponsor

Chip Haire

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

✓

FAILED

TABLED

The seal of the State of North Carolina is a circular emblem. It features two female figures: Liberty on the left, holding a staff with a Phrygian cap, and Justice on the right, seated and holding a scale. The text "THE GREAT SEAL OF THE STATE OF NORTH CAROLINA" is inscribed around the top inner border. At the bottom, the date "APRIL 12, 1776" is written, and the motto "ESSE QUAM VIDERI" is at the very bottom.

AMENDMENT NO. 40
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2005

Representative Goforth

"Requested by: Representative Goforth

SECTION 21.2. The North Carolina Code Officials Qualification Board shall take steps to ensure that authorities issuing building permits enforce the requirements of G.S. 87-14."

ADOPTED _____ FAILED _____ TABLED *withdrawn*



AMENDMENT NO. 41
(to be filled in by
Principal Clerk)

S622-ALD-9 [v.1]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative LaRoque, Warren, McLawhorn

moves to amend the bill on page 192, lines 12 and 13, by adding a new section between those lines to read:

"Requested by: Representatives LaRoque, Warren, McLawhorn

RURAL ECONOMIC DEVELOPMENT CENTER FUNDS FOR WATER PROJECTS

SECTION 13.12A.(a) There is appropriated from the Dry-Cleaning Solvent Cleanup Fund to the Rural Economic Development Center, Inc. the sum of four million dollars (\$4,000,000) for the 2005-2006 fiscal year to be allocated as follows:

- (1) To the Neuse Regional Water and Sewer Authority.
- (2) To the Town of Farmville for the Farmville-Greene County Greenville Utilities water project.

SECTION 13.12A.(b) The Rural Economic Development Center, Inc. shall distribute the funds appropriated under this section between the recipients under subsection (a) of this section as it determines appropriate."

SIGNED Steve
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ 32-15 FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 42
(to be filled in by
Principal Clerk)

S622-AMA-21 [v.1]

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Coates

- 1 moves to amend the bill on page 239 line 52 by substituting the words "may include"
- 2 for the words "shall be limited to".

SIGNED *Robert Coates*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____



Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

1 moves to amend the on page 175, between lines 25 and 26, by adding a new section to
2 read:
3 "Requested by: Representative Harrison
4 **FUNDS FOR NORTH CAROLINA FARMLAND PRESERVATION TRUST**
5 **FUND**
6 **SECTION 11.5.(a)** There is appropriated from the Dry-Cleaning Solvent
7 Cleanup Fund to the North Carolina Farmland Preservation Trust Fund the sum of fifty
8 thousand dollars (\$50,000) for the 2005-2006 fiscal year to be used in accordance with
9 subsection (b) of this section.
10 **SECTION 11.5.(b)** If House Bill 347, 2005 Session, becomes law, the fifty
11 thousand dollars (\$50,000) appropriated in this section to the North Carolina Farmland
12 Preservation Trust Fund, which is renamed North Carolina Agricultural Development
13 and Farmland Preservation Trust Fund by House Bill 347, as enacted, shall be used to
14



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALD-8 [v.3]

Page 2 of 2

- 1 fund the North Carolina Agricultural Development and Farmland Preservation Trust
2 Fund Advisory Committee created by House Bill 347, as enacted. If House Bill 347,
3 2005 Session does not become law, the fifty thousand dollars (\$50,000) appropriated in
4 this section to the North Carolina Farmland Preservation Trust Fund shall be used as
5 provided in G.S. 106-744."
6

SIGNED *W. B. Harrison*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ✓ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 44
(to be filled in by
Principal Clerk)

Page 1 of 2

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
PCS

Representative Hilton

moves to amend the bill on page 82, line 25,
by adding a new section after the line to read:
"Requested by: Representative Hilton

AUTHORIZATION FOR ADDITIONAL CHARTER SCHOOLS

SECTION 7.57.(a) 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.~~ statewide for the 2005-2006 fiscal year, 120 for the 2006-2007 fiscal year, and 130 for the 2007-2008 and subsequent fiscal years. If more than five charter schools in one local school administrative unit or more than ~~100~~ the maximum number of schools permitted 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 7.57.(b) This section shall become effective only if North Carolina receives a federal grant under the Public Charter Schools Program for start-up funds for charter schools for the 2005-2006 fiscal year."



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALE-29 [v.6]

AMENDMENT NO. 44
(to be filled in by
Principal Clerk)

Page 2 of 2

SIGNED *Mark Hiltner*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 46
(to be filled in by
Principal Clerk)

S622-ALM-7 [v.2]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Lucas

- 1 moves to amend the House Appropriations Committee Report (June 15, 2005) on page
- 2 H16, Item 115, by reducing the amount for fiscal year 2005-2006 by the sum of
- 3 \$30,000; and
- 4
- 5 on page H13, by adding a new item for the 2005-2006 fiscal year to read:
- 6 **"101 Regional Land Use Advisory Commission, Inc. \$30,000 NR";**
- 7
- 8 and by adjusting the appropriate totals accordingly.
- 9

SIGNED Marvin W. Lucas
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED TABLED _____

OK
HHS
6/15/05



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 47
(to be filled in by
Principal Clerk)

S622-ALN-27 [v.4]

Page 1 of 3

Date , 2005

Comm. Sub. [YES]

Amends Title [NO]

S622-~~ALN-27~~ PLS-20507-LR-28

Representative LaRoque

after the line

1 moves to amend the bill on page 267, line 38,
2 by inserting the following:

3 "Requested by: Representative LaRoque

4 **RESTRICT STATE HEALTH PLAN ABORTION COVERAGE**

5 **SECTION 29.32.(a)** G.S. 135-40.1(16) reads as rewritten:

6 **"§ 135-40.1. General definitions.**

7 As used in Parts 2 and 3 of this Article, the following terms have the meaning
8 specified as follows:

9 ...

10 (16) Pregnancy. – Shall include resulting ~~childbirth, miscarriage or~~
11 ~~abortion~~ childbirth or miscarriage, and shall include abortion when the
12 pregnancy results from cases of rape or incest or when pregnancy, in
13 the written opinion of the attending physician, endangers the life of the
14 mother.

15 ..."

16 **SECTION 29.32.(b)** G.S. 135-40.6(5)d. reads as rewritten:

17 "(5) Surgical Benefits. – The Plan pays the usual, customary and
18 reasonable charges for covered surgical services as follows:

19 ...

20 d. Maternity Care: Independent operative procedures in
21 connection with pregnancy, such as: manipulative obstetrical
22 delivery, delivery by Caesarean section, removal of ectopic
23 pregnancy, dilation and curettage. Benefits for manipulative
24 obstetrical delivery include use of forceps and/or episiotomy.
25 No benefits are provided for antepartum or postpartum care,



NORTH CAROLINA GENERAL ASSEMBLY
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Senate Bill 622

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(to be filled in by
Principal Clerk)

S622-ALN-27 [v.4]

Page 2 of 3

except for direct surgical procedures of delivery and surgical treatment. No benefits are provided for medical or surgical abortion procedures except under the following circumstances:

1. When the pregnancy is the result of cases of rape or incest.
2. In cases of medical emergency where abortion procedures are necessary because, in the written opinion of the attending physician, failure to terminate the pregnancy endangers the life of the mother.

..."

SECTION 29.32(c) G.S. 135-40.7 is amended by adding the following new subdivision to read:

"§ 135-40.7. General limitations and exclusions.

The following shall in no event be considered covered expenses nor will benefits described in G.S. 135-40.5 through G.S. 135-40.11 be payable for:

...

(24) Charges for medical or surgical abortion procedures except:

- a. When the pregnancy is the result of cases of rape or incest.
- b. In cases of medical emergency where abortion procedures are necessary because, in the written opinion of the attending physician, failure to terminate the pregnancy endangers the life of the mother.

SECTION 29.32(d) Any savings realized from the implementation of this



NORTH CAROLINA GENERAL ASSEMBLY
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Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALN-27 [v.4]

Page 3 of 3

1
2 section shall be deposited to the General Fund."
3
4

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ☒ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 48
(to be filled in by
Principal Clerk)

S622-ALN-19 [v.4]

Page 1 of 3

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Wright

1 moves to amend the bill on page 155, line 53,
2 by inserting on the line the following:

3 "Requested by: Representative Wright

4 **DHHS AND COMMUNITY COLLEGES STUDY USE OF MEDICATION**
5 **AIDES TO PERFORM TECHNICAL ASPECTS OF MEDICATION**
6 **ADMINISTRATION**

7 **SECTION 10.40D. (a)** The Secretary of Health and Human Services and the
8 President of the Community Colleges System shall jointly convene a study group to
9 review and consider the use of medication aides to perform the technical aspects of
10 medication administration. The study group shall consist of members representing at
11 least the following entities and licensed health care facilities and providers:

12 (1) Appointed by the Secretary of Health and Human Services:

- 13 a. Adult care homes.
14 b. Home care agencies.
15 c. Ambulatory surgical centers.
16 d. Hospitals.
17 e. Facilities providing mental health, developmental disabilities,
18 and Substance Abuse Services.
19 f. Nursing homes
20 g. The Nursing profession, as recommended by the Board of
21 Nursing.

22 (2) Community Colleges appointed by the President of the Community
23 Colleges System

24 (3) The Secretary of Corrections.



NORTH CAROLINA GENERAL ASSEMBLY
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Senate Bill 622

AMENDMENT NO. 48
(to be filled in by
Principal Clerk)

S622-ALN-19 [v.4]

Page 2 of 3

- 1 (4) Others as may be appointed by the Secretary of Health and Human
2 Services or the President of the Community Colleges System.

3 **SECTION 10.40D.(b)** The study group shall address at least the following
4 in its study and its recommendations regarding medication aide performance of the
5 technical aspects of medication administration:

- 6 (1) Training and competency evaluation of medication aides;
7 (2) Training standards;
8 (3) Ongoing review and evaluation of medication aide training; and
9 (4) Requirements for supervision of medication aides.

10 **SECTION 10.40D.(c)** The Secretary of Health and Human Services and the
11 President of the Community Colleges System shall report the progress and
12 recommendations of the study group to the 2006 Regular Session of the 2005 General
13 Assembly upon its convening, and the 2007 General Assembly upon its convening.
14 Recommendations to the 2006 Regular Session of the 2005 General Assembly may
15 include proposed legislation. A copy of the report shall be provided to the House of
16 Representatives Appropriations Subcommittee on Health and Human Services, the
17 Senate Appropriations Committee on Health and Human Services, and the Fiscal
18 Research Division at the same time as the report is submitted to the General Assembly.

19 **SECTION 10.40D.(d)** The Department of Health and Human Services shall
20 continue its pilot program on the use of medication aides and shall report on the status
21 of the pilot programs at the same time and to the same persons as the study group report
22 to the General Assembly.

23 **SECTION 10.40D.(f)** G.S. 115C-47 is amended by adding the following
24 new subdivision to read:

25 '**§ 115C-47. Powers and duties generally.**

26 In addition to the powers and duties designated in G.S. 115C-36, local boards of
27 education shall have the power or duty:

28 ...

- 29 '(45) At the discretion of the board, to adopt policies and procedures
30 authorizing schools that operate programs under G.S. 115C-307(c) to
31 utilize unlicensed health care personnel to perform the technical
32 aspects of medication administration to students. If adopted, the
33 policies and procedures shall be consistent with the requirements of



NORTH CAROLINA GENERAL ASSEMBLY
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Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALN-19 [v.4]

Page 3 of 3

Article 9A of Chapter 90 of the General Statutes and shall include the following:

- a. Training and competency evaluation of medication aides as provided for under G.S. 131E-270.
- b. Requirements for listing under the Medication Aide Registry as provided for under G.S. 131E-271.
- c. Requirements for supervision of medication aides by licensed health professionals or appropriately qualified supervisory personnel consistent with Articles 5, 6, 10, and 16 of Chapter 131E of the General Statutes."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ☒ FAILED ☐ TABLED ☐

OK
6/15/05



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 49
(to be filled in by
Principal Clerk)

S622-ALN-34 [v.1]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Wright, McComas

- 1 moves to amend the bill on page 240, lines 1 and 2,
- 2 by deleting "installation in high traffic areas." and substituting "installation.".
- 3
- 4
- 5

SIGNED [Signature]
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED Withdrawn



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALN-34 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Wright, McComas

- 1 moves to amend the bill on page 240, lines 1 and 2,
- 2 by deleting "installation in high traffic areas." and substituting "installation.".
- 3
- 4
- 5

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 50
(to be filled in by
Principal Clerk)

S622-ALD-10 [v.1]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Warren, McLawhorn

1 moves to amend the bill on page 192, lines 12 and 13, by adding a new section between
2 those lines to read:

3 "Requested by: Representatives Warren, McLawhorn

4 **RURAL ECONOMIC DEVELOPMENT CENTER FUNDS FOR WATER**
5 **PROJECT**

6 **SECTION 13.12A.(a)** There is appropriated from the Dry-Cleaning Solvent
7 Cleanup Fund to the Rural Economic Development Center, Inc. the sum of two million
8 dollars (\$2,000,000) for the 2005-2006 fiscal year to be allocated as follows:

9 (1) To the Neuse Regional Water and Sewer Authority.

10 (2) To the Town of Farmville for the Farmville-Greene County Greenville
11 Utilities water project.

12 **SECTION 13.12A.(b)** The Rural Economic Development Center, Inc. shall distribute
13 the funds appropriated under this section between the recipients under subsection (a) of
14 this section as it determines appropriate."
15

SIGNED Edith McLawhorn, Thairan McLawhorn
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____

TABLED Withdrawn



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 51
(to be filled in by
Principal Clerk)

S622-ALU-13 [v.4]

Page 1 of 4

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Insko

1 moves to amend the House Appropriations Committee Report on the Continuation,
2 Expansion and Capital Budgets dated June 15, 2005, on page G12, item 79, by rewriting
3 the sentence that begins with the word "Creates" and ends with the phrase "Smokies." to
4 read:

5 "Transfers twenty receipt-supported positions from Western Carolina University
6 to the Division of Public Health, Women's and Children's Health Section, for the
7 purpose of operating the Children's Developmental Services Agency of the
8 Smokies."; and
9

10 further moves to amend the Committee Report on page G13, item 80, by rewriting the
11 sentence that begins with the word "Creates" and ends with the phrase "Smokies." to
12 read:

13 "Transfers twenty-two State-supported positions from Western Carolina
14 University to the Division of Public Health, Women's and Children's Health
15 Section, for the purpose of operating the Children's Developmental Services
16 Agency of the Smokies."; and
17

18 further moves to amend the Committee Report on page F14, by inserting after item 83,
19 the following new items to read:

20 **"C. Other**

21 **83A Transfer of Receipt-Supported Positions – Child Developmental**
22 **Services Agency**

23 Transfers twenty receipt-supported positions from
24 Western Carolina University to the Division of Public
25 Heath, Women's and Children's Health Section, for the



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALU-13 [v.4]

Page 2 of 4

1 purpose of operating the Children's Developmental
2 Services Agency of the Smokies. The CDSA currently
3 operated by Western Carolina University through
4 contract is transferred to the Division of Public Health.

5
6 Habilitation Specialist III - \$32,289
7 Habilitation Specialist III - \$35,311
8 Habilitation Specialist III - \$36,286
9 Habilitation Specialist III - \$35,772
10 Habilitation Specialist III - \$36,373
11 Habilitation Specialist III - \$34,008
12 Habilitation Specialist III - \$33,930
13 Habilitation Specialist III - \$31,200
14 Habilitation Specialist III - \$30,354
15 .50 Staff Psychologist II- \$25,336
16 Two Staff Psychologist II's @ \$44,161
17 Two Educational Diagnostician II's @ \$32,940
18 Educational Diagnostician II - \$37,886
19 Educational Diagnostician II - \$42,066
20 Spanish Translator - \$28,038
21 Physical Therapist II - \$56,346
22 Occupational Therapist I - \$51,260
23 Speech and Language Pathologist - \$40,310

24
25 These positions will be funded through the Individuals
26 with Developmental Disabilities Education Act and
27 Medicaid receipts.

28
29 **83B Transfer of State-Supported Positions**

30 Transfers twenty-two State-supported positions from
31 Western Carolina University to the Division of Public
32 Health, Women's and Children's Health Section for the
33 purpose of operating the Children's Developmental

-22.00 -22.00



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ALU-13 [v.4]

Page 3 of 4

1 Services Agency of the Smokies. The CDSA currently
2 operated by Western Carolina University through
3 contract is transferred to the Division of Public Health.
4
5 .5 FTE Computing Support Technician I - \$11,626
6 Two Program Assistant IV's @ \$21,576
7 Program Assistant IV - \$29,326
8 Program Assistant IV - \$29,627
9 Development Evaluation Center Assistant Director - \$52,783
10 Staff Psychologist II - \$42,292
11 Staff Psychologist II - \$42,131
12 Staff Psychologist II - \$46,334
13 Administrative Officer III - \$44,923
14 .625 FTE Administrative Assistant I - \$22,091
15 Processing Assistant IV - \$25,047
16 Processing Assistant IV - \$22,800
17 .75 Physical Therapist II - \$46,800
18 Occupational Therapist I - \$38,773
19 Occupational Therapist I - \$42,424
20 Speech and Language Pathologist I - \$56,466
21 Nutritionist III - \$42,126
22 Habilitation Program Supervisor I - \$40,125
23 Habilitation Program Coordinator - \$33,363
24 Physician Extender II - \$58,210
25 DEC Director - \$60,916
26

27 These positions will be funded 100% with State funds.
28 The transfer will not have any fiscal impact on the DPH
29 CDSA Program budget because all funds supporting
30 the transfer are currently located within the DPH budget
31 code. There is a reduction of 22 positions for Western
32 Carolina University."; and
33



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALU-13 [v.4]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 4 of 4

- 1 by adjusting the appropriate totals accordingly.

SIGNED Verla Insley
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED / FAILED _____ TABLED _____



AMENDMENT NO. 52
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2005

Representative Jeffus

- 1 moves to amend the House Appropriations Committee Report (June 15, 2005) on page
2 H16, Item 115, by rewriting the sentence to read:
3 "Provide funds to promote North Carolina industries.
4 \$500,000 shall be designated for the High Point International Home Furnishing
5 Industry."
6

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ☒ FAILED ☐ TABLED ☐

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

OK
[Signature]

EDITION No. _____

H. B. No. _____

DATE 6-19-05

S. B. No. 622

Amendment No. 53

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE X

(Rep.) Yongue - VI
(Sen.)

1 moves to amend the bill on page 253, line 43

2 () WHICH CHANGES THE TITLE

3 by rewriting the line to read:
4 "Carolina shall use up to three
5 million, seven hundred thousand
6 (\$3,700,000) from tuition receipts to
7 support additional salary"

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED

[Signature]

ADOPTED ✓ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY ~
AMENDMENT
Senate Bill 622

AMENDMENT NO. 54
(to be filled in by
Principal Clerk)

S622-ALT-13 [v.1]

Page 1 of 2

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Miller

1 moves to amend the bill on page 224, line 50, through page 225, line 7, by rewriting the
2 lines to read:

3
4 "Requested by: Representatives Kiser, Haire, Miller

5 **REPORT ON ELECTRONIC MONITORING COSTS/STUDY THE USE OF**
6 **GLOBAL POSITIONING SYSTEMS IN THE LOCATION AND TRACKING**
7 **OF CONVICTED SEX OFFENDERS**

8 **SECTION 17.19.(a)** The Department of Correction shall report by March 1
9 of each year to the Chairs of the Senate and House of Representatives Appropriations
10 Committees and the Chairs of the Senate and House of Representatives Appropriations
11 Subcommittees on Justice and Public Safety on its efforts to increase the use of
12 electronic monitoring of sentenced offenders in the community as an alternative to the
13 incarceration of probation violators. The report shall also document the geographical
14 distribution of electronic monitoring use compared to other intermediate sanctions. The
15 Department shall also analyze the reasons for the underutilization of the electronic
16 monitoring program and include its findings in the report.

17 **SECTION 17.19.(b)** The Joint Legislative Corrections, Crime Control, and
18 Juvenile Justice Oversight Committee shall study the use of global positioning
19 monitoring devices for released felons convicted of crimes of sexual predation. The
20 review shall include the consideration of ways to enhance the effectiveness of the
21 Division of Criminal Statistics in locating individuals required to register as sex
22 offenders."
23
24



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALT-13 [v.1]

AMENDMENT NO. 54
(to be filled in by
Principal Clerk)

Page 2 of 2

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

No
rule # 4
6/15/05



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 55
(to be filled in by
Principal Clerk)

S622-ALB-79 [v.2]

Page 1 of 2

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
PCS

Representative Miller

1 moves to amend the bill on page 256, line 21, by adding the following:

2 "Requested by: Representative Miller

3 **STATE EMPLOYEES SHALL HAVE THE OPTION TO BE PAID**
4 **SEMIMONTHLY**

5 **SECTION 29.24(a).** Effective Jul 1, 2009, Article 2 of Chapter 126 of the
6 General Statutes is amended by adding a new section to read:

7 "**§ 126-8.5. Pay periods.**

8 Notwithstanding any other provision of law, every State employee who is not paid
9 more frequently shall have the option to be paid twice per month."

10 **SECTION 29.24(b).** Effective July 1, 2009, G.S. 126-5 is amended by
11 adding a new subsection to read:

12 "(c9) G.S. 126-8.5 shall apply to all State employees, including employees in the
13 executive, judicial, and legislative branches and employees of The University of North
14 Carolina and its constituent institutions."

15
16



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALB-79 [v.2]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 2 of 2

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED Withdrawn

W. H. H. H.



NORTH CAROLINA GENERAL ASSEMBLY
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Senate Bill 622

AMENDMENT NO. 54
(to be filled in by
Principal Clerk)

S622-ALH-37 [v.2]

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
S622-CSLR-28

Representative Cleveland

- 1 moves to amend the bill on page 2, line 45, by increasing the amount appropriated to the
- 2 Department of Public Instruction on that line by \$13,084,719 for each fiscal year;
- 3
- 4 and on page 3, line 26, by reducing the amount for both fiscal years by \$13,084,719.
- 5
- 6 And moves to amend the House Appropriations Committee Report as follows:
- 7 on page F2, by deleting Item 13 (Vocational Education); and
- 8
- 9 on page F8, by increasing that reduction by \$13,084,719 for each fiscal year.
- 10
- 11
- 12 and by adjusting the appropriate totals in both the bill and the Committee Report
- 13 accordingly.
- 14
- 15

SIGNED *George D. ...*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

OK
6/15/05



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 57
(to be filled in by
Principal Clerk)

S622-ALL-18 [v.5]

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
S622-PCS2057-LR-28

Representative Crawford

- 1 moves to amend the committee report on page I 14, item 64, by deleting that item;
- 2
- 3 and on page I 4, item 13, by increasing the reductions on that line by \$90,294 for the
- 4 2005-2006 fiscal year and by \$90,294 for the 2006-2007 fiscal year;
- 5
- 6 and by adjusting the appropriate totals accordingly.

SIGNED J. W. Crawford Jr.
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 58
(to be filled in by
Principal Clerk)

S622-ALT-14 [v.2]

Page 1 of 2

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Stiller

1 moves to amend the House Appropriations Committee Report on the Continuation,
2 Expansion, and Capital Budget on page I-2, item 11, by increasing the recurring
3 appropriations for the 2005-2006 fiscal year and for the 2006-2007 fiscal year by
4 \$57,400, and by adding the following language to the description at the end of the
5 description:

6
7 "Provides funds for a Special Projects Coordinator
8 for Superior Court District 13, comprising Bladen,
9 Columbus, and Brunswick Counties. This coordinator
10 will report to the Senior Resident Superior Court
11 Judge and will provide sentencing plans to judges in
12 the district, and other duties as requested by the Senior
13 Resident Superior Court Judge." ;

14
15 and further moves to amend the Committee Report on page I-4, item 14, by increasing
16 the cut for the 2005-2006 fiscal year and for the 2006-2007 fiscal year by \$57,400;

17
18 and by adjusting the appropriate totals accordingly;

19
20 and further moves to amend the bill on page 4, line 14, by increasing the amounts for
21 the 2005-2006 fiscal year and for the 2006-2007 fiscal year by \$57,400;

22
23 and further moves to amend the bill on page 4, line 15, by decreasing the amounts for
24 the 2005-2006 fiscal year and for the 2006-2007 fiscal year by \$57,400.
25



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALT-14 [v.2]

AMENDMENT NO. 58
(to be filled in by
Principal Clerk)

Page 2 of 2

1

SIGNED Brunner Stiller
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED withdrawn



OK
[Signature]

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 59
(to be filled in by
Principal Clerk)

S622-ALT-15 [v.1]

Page 1 of 2

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Wilkins

1 moves to amend the House Appropriations Committee Report on the Continuation,
2 Expansion, and Capital Budget on page I-2, item 11, by increasing the recurring amount
3 appropriated for the 2005-2006 fiscal year by \$58,357, by increasing the nonrecurring
4 amount appropriated for the 2005-2006 fiscal year by \$4,661, by increasing the
5 recurring amount for the 2006-2007 fiscal year by \$78,145, and by adding the following
6 new language to the item description:

7
8 "Provides funds for an Assistant District Attorney for District 9A,
9 comprising Caswell and Person Counties, effective October 1, 2005.";

10
11 and further moves to amend the committee report on page I-8, item 33, by reducing the
12 recurring appropriation for the 2005-2006 fiscal year by \$58,357, by reducing the
13 nonrecurring appropriation for the 2005-2006 fiscal year by \$4,661, and by reducing the
14 recurring appropriation for the 2006-2007 fiscal year by \$78,154;
15

16 and by adjusting the appropriate totals accordingly;

17
18 and further moves to amend the bill on page 205, line 33, by deleting "4" and
19 substituting "4.5";

20
21 and further moves to amend the bill on page 4, line 14, by increasing the amount
22 appropriated on that line for the 2005-2006 fiscal year by \$63,018 and by increasing the
23 amount appropriated on that line for the 2006-2007 fiscal year by \$78,154;
24



NORTH CAROLINA GENERAL ASSEMBLY
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S622-ALT-15 [v.1]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 2 of 2

1 and further moves to amend the bill on page 4, line by decreasing the amount
2 appropriated on that line for the 2005-2006 fiscal year by \$63,018 and by decreasing the
3 amount appropriated on that line for the 2006-2007 fiscal year by \$78,154.
4
5

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ☒ TABLED _____

OK
6/15/05



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 60
(to be filled in by
Principal Clerk)

S622-ALN-11 [v.8]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-CSLR-28

Representative Stam

- 1 moves to amend the bill on page ____, line ____, by inserting the following on that line:
2 "Requested by: Representative Stam
3 **GOLDEN LEAF FOUNDATION GRANT-IN-AID TO SUPPORT EARLY**
4 **INTERVENTION PROGRAMS**
5 "SECTION 10.53A. The Golden L.E.A.F. (Long-Term Economic
6 Advancement Foundation), Inc., shall provide a grant-in-aid in the sum of six million
7 three hundred thousand dollars (\$6,300,000) for the 2005-2006 fiscal year, and in the
8 sum of six million three hundred thousand dollars (\$6,300,000) for the 2006-2007 fiscal
9 year, to the Department of Health and Human Services, Division of Public Health.
10 These grant funds shall be used to support early intervention programs and early
11 intervention services in tobacco dependent regions of the State or those communities
12 receiving impact assistance under the Tobacco Litigation Master Settlement
13 Agreement."

SIGNED Stam
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ☒ TABLED _____

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

OK 
EDITION No. _____

H. B. No. _____

DATE _____

S. B. No. 622

Amendment No. 601

COMMITTEE SUBSTITUTE PCS20507-LR-28

(to be filled in by
Principal Clerk)

(Rep.) Crawford
(Sen.) _____

1 moves to amend the bill on page 268, line 50

2 () WHICH CHANGES THE TITLE

3 by deleting "Deep Creek (Yadkin County) Water Management"
4 and substituting "Yadkin Pee Dee Lakes Project".

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED

JW Crawford

ADOPTED ✓

FAILED ~~XXXX~~

TABLED ~~XXXX~~

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

DATE _____

S. B. No. 622

Amendment No. 602

COMMITTEE SUBSTITUTE PCS20507-LR-28

(to be filled in by
Principal Clerk)

Rep.)

Sen.)

Culpepper

1 moves to amend the bill on page 41, line 12

2 () WHICH CHANGES THE TITLE

3 by deleting "April, 1, 2006" and substituting
4 "October 1, 2006".

5 _____

6 _____

7 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED

[Signature]

ADOPTED _____ FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 604
(to be filled in by
Principal Clerk)

S622-ALH-37 [v.3]

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
S622-CSLR-28

Representative Cleveland

1 moves to amend the bill on page 2, line 45, by increasing the amount appropriated to the
2 Department of Public Instruction on that line by \$13,084,719 for each fiscal year;
3
4 and on page 3, line 26, by reducing the amount for both fiscal years by \$13,084,719.
5
6 And moves to amend the House Appropriations Committee Report as follows:
7 on page F2, by deleting Item 13 (Vocational Education); and
8
9 on page F8, item 40, by increasing that reduction by \$13,084,719 for each fiscal year.
10
11
12 and by adjusting the appropriate totals in both the bill and the Committee Report
13 accordingly.
14
15

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ☒ TABLED _____



AMENDMENT NO. 64
(to be filled in by
Principal Clerk)

S622-ALH-38 [v.1]

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
PCS 20507-LR-28

Representative Wilkins

moves to amend the bill on page 224, lines 2-3, by inserting between those lines the following:

"SECTION 17.15.(f) The Executive Administrator of the State Employees Comprehensive Major Medical Plan shall work with the North Carolina Association of County Commissioners to determine the potential savings and cost of authorizing local confinement facilities to reimburse health care providers for inmate medical services rendered at a rate not to exceed the rate paid for the same or similar services or diagnostic related groupings under the Teachers and State Employees Comprehensive Major Medical Plan."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ☒ FAILED ☐ TABLED ☐

OK
6/15/05
[Signature]



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

S622-ALT-12 [v.2]

AMENDMENT NO. 65
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-PCS20507-LR-28

Representative Haire

- 1 moves to amend the bill on page 32, line 21, by reducing the amounts appropriated on
2 that line for the 2005-2006 fiscal year and for the 2006-2007 fiscal year by \$3,000,000;
3
4 and further moves to amend the bill on page 32, line 24, by adding the following
5 language on that line:
6
7 **"Administrative Office of the Courts**
8 To provide for a Statewide document
9 management and retrieval system to facilitate
10 open file discovery \$3,000,000 ~~NR~~ \$3,000,000 ~~NR~~".
11

SIGNED *[Signature]*
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____

TABLED *Withdrawn*

6/15/05
KUP



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. 666
(to be filled in by
Principal Clerk)

S622-ALB-79 [v.2]

Page 1 of 2

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
PCS

Representative Miller

1 moves to amend the bill on page 256, line 21, by adding the following:

2 "Requested by: Representative Miller

3 **STATE EMPLOYEES SHALL HAVE THE OPTION TO BE PAID**
4 **SEMIMONTHLY**

5 **SECTION 29.24(a).** Effective Jul 1, 2009, Article 2 of Chapter 126 of the
6 General Statutes is amended by adding a new section to read:

7 "**§ 126-8.5. Pay periods.**

8 Notwithstanding any other provision of law, every State employee who is not paid
9 more frequently shall have the option to be paid twice per month."

10 **SECTION 29.24(b).** Effective July 1, 2009, G.S. 126-5 is amended by
11 adding a new subsection to read:

12 "(c9) G.S. 126-8.5 shall apply to all State employees, including employees in the
13 executive, judicial, and legislative branches and employees of The University of North
14 Carolina and its constituent institutions."

15
16



NORTH CAROLINA GENERAL ASSEMBLY
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S622-ALB-79 [v.2]

AMENDMENT NO. 666
(to be filled in by
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SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ☒ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
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(to be filled in by
Principal Clerk)

S622-ABL-1 [v.1]

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Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
S622-CSLR-28

Representative Coleman

moves to amend the bill on page 243, line 37, through page 249, line 42, by deleting those lines and inserting the following:

"Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

GOVERNOR AND COUNCIL OF STATE/SALARY INCREASES

SECTION 29.1.(a) Effective July 1, 2005, G.S. 147-11(a) reads as rewritten:

'(a) The salary of the Governor shall be ~~one hundred twenty-one thousand three hundred ninety-one dollars (\$121,391)~~ one hundred twenty-two thousand four hundred seventy-seven dollars (\$122,477) annually, payable monthly.'

SECTION 29.1.(b) Effective July 1, 2005, the annual salaries for the members of the Council of State, payable monthly, for the 2005-2006 and 2006-2007 fiscal years are:

<u>Council of State</u>	<u>Annual Salary</u>
Lieutenant Governor	\$108,222
Attorney General	108,222
Secretary of State	108,222
State Treasurer	108,222
State Auditor	108,222
Superintendent of Public Instruction	108,222
Agriculture Commissioner	108,222
Insurance Commissioner	108,222
Labor Commissioner	108,222

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

NONELECTED DEPARTMENT HEADS/SALARY INCREASES



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(to be filled in by
Principal Clerk)

S622-ABL-1 [v.1]

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SECTION 29.2. In accordance with G.S. 143B-9, the maximum annual salaries, payable monthly, for the nonelected heads of the principal State departments for the 2005-2006 and 2006-2007 fiscal years are:

<u>Nonelected Department Heads</u>	<u>Annual Salary</u>
Secretary of Administration	\$105,758
Secretary of Correction	105,758
Secretary of Crime Control and Public Safety	105,758
Secretary of Cultural Resources	105,758
Secretary of Commerce	105,758
Secretary of Environment and Natural Resources	105,758
Secretary of Health and Human Services	105,758
Secretary of Juvenile Justice and Delinquency Prevention	105,758
Secretary of Revenue	105,758
Secretary of Transportation	105,758

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

SECTION 29.3. The annual salaries, payable monthly, for the 2005-2006 and 2006-2007 fiscal years for the following executive branch officials are:

<u>Executive Branch Officials</u>	<u>Annual Salary</u>
Chairman, Alcoholic Beverage Control Commission	\$96,356
State Controller	134,416
Commissioner of Motor Vehicles	96,356
Commissioner of Banks	108,222
Chairman, Employment Security Commission	133,161
State Personnel Director	105,758
Chairman, Parole Commission	88,079
Members of the Parole Commission	40,701
Chairman, Utilities Commission	120,401
Members of the Utilities Commission	108,222
Executive Director, Agency for Public Telecommunications	81,401
Director, Museum of Art	98,707
Executive Director, North Carolina Agricultural Finance Authority	93,818
State Chief Information Officer	134,336



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Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
Michaux

JUDICIAL BRANCH OFFICIALS/SALARY INCREASES

SECTION 29.4.(a) The annual salaries, payable monthly, for specified
Judicial Branch officials for the 2005-2006 and 2006-2007 fiscal years are:

<u>Judicial Branch Officials</u>	<u>Annual Salary</u>
Chief Justice, Supreme Court	\$122,477
Associate Justice, Supreme Court	119,305
Chief Judge, Court of Appeals	116,349
Judge, Court of Appeals	114,379
Judge, Senior Regular Resident Superior Court	111,301
Judge, Superior Court	108,222
Chief Judge, District Court	98,371
Judge, District Court	95,293
Administrative Officer of the Courts	111,301
Assistant Administrative Officer of the Courts	101,757

SECTION 29.4.(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 annual salaries of assistant district attorneys or assistant public
defenders in that district do not exceed sixty-two thousand seven hundred eighty-two
dollars (\$62,782), and the minimum annual salary of any assistant district attorney or
assistant public defender is at least thirty-three thousand one hundred twenty-one dollars
(\$33,121), effective July 1, 2005.

SECTION 29.4.(c) Effective July 1, 2005, the annual salaries of permanent,
full-time employees of the Judicial Department whose salaries are not itemized in this
act shall be increased by ninety dollars and fifty cents (\$90.50) per month.

SECTION 29.4.(d) Effective July 1, 2005, the annual salaries of permanent,
part-time employees of the Judicial Department whose salaries are not itemized in this
act shall be increased by ninety dollars and fifty cents (\$90.50) per month.

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
Michaux

CLERK OF SUPERIOR COURT/SALARY INCREASES

SECTION 29.5. Effective July 1, 2005, 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



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of the county as determined in subsection (a1) of this section, according to the following schedule:

Population	Annual Salary
Less than 100,000	~~\$71,659~~ <u>\$72,745</u>
100,000 to 149,999	~~80,413~~ <u>81,499</u>
150,000 to 249,999	~~89,169~~ <u>90,255</u>
250,000 and above	~~97,925~~ <u>99,011</u>

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, Clary, Earle, Nye, Owens, Sherrill, Michaux

ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASES

SECTION 29.6. Effective July 1, 2005, G.S. 7A-102(c1) reads as rewritten:

'(c1) A full-time assistant clerk or a full-time deputy clerk, and up to one full-time deputy clerk serving as head bookkeeper per county, shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks and Head Bookkeeper	Annual Salary
Minimum	~~\$27,515~~ <u>\$28,601</u>
Maximum	~~47,626~~ <u>48,712</u>

Deputy Clerks	Annual Salary
Minimum	~~\$23,565~~ <u>\$24,651</u>
Maximum	~~36,934~~ <u>38,020</u>

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill, Michaux

MAGISTRATES' SALARY INCREASES

SECTION 29.7.(a) Effective July 1, 2005, G.S. 7A-171.1(a) reads as rewritten:



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1 '(a) The Administrative Officer of the Courts, after consultation with the chief
2 district judge and pursuant to the following provisions, shall set an annual salary for
3 each magistrate.

- 4 (1) A full-time magistrate shall be paid the annual salary indicated in the
5 table set out in this subdivision. A full-time magistrate is a magistrate
6 who is assigned to work an average of not less than 40 hours a week
7 during the term of office. The Administrative Officer of the Courts
8 shall designate whether a magistrate is full-time. Initial appointment
9 shall be at the entry rate. A magistrate's salary shall increase to the
10 next step every two years on the anniversary of the date the magistrate
11 was originally appointed for increases to Steps 1 through 3, and every
12 four years on the anniversary of the date the magistrate was originally
13 appointed for increases to Steps 4 through 6.

Table of Salaries of Full-Time Magistrates

Step Level	Annual Salary	
Entry Rate	\$27,889	\$28,975
Step 1	30,525	31,611
Step 2	33,393	34,479
Step 3	36,523	37,609
Step 4	39,952	41,038
Step 5	43,789	44,875
Step 6	48,036	49,122.

- 25 (2) A part-time magistrate is a magistrate who is assigned to work an
26 average of less than 40 hours of work a week during the term, except
27 that no magistrate shall be assigned an average of less than 10 hours of
28 work a week during the term. A part-time magistrate is included, in
29 accordance with G.S. 7A-170, under the provisions of G.S. 135-1(10)
30 and G.S. 135-40.2(a). The Administrative Officer of the Courts
31 designates whether a magistrate is a part-time magistrate. A part-time
32 magistrate shall receive an annual salary based on the following
33 formula: The average number of hours a week that a part-time
34 magistrate is assigned work during the term shall be multiplied by the
35 annual salary payable to a full-time magistrate who has the same
36 number of years of service prior to the beginning of that term as does
37 the part-time magistrate and the product of that multiplication shall be
38 divided by the number 40. The quotient shall be the annual salary
39 payable to that part-time magistrate.



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- (3) Notwithstanding any other provision of this subsection, a magistrate who is licensed to practice law in North Carolina or any other state shall receive the annual salary provided in the Table in subdivision (1) of this subsection for Step 4.'

SECTION 29.7.(b) Effective July 1, 2005, G.S. 7A-171.1(a1) reads as rewritten:

'(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	~~\$22,325~~	<u>\$23,411</u>
1 or more but less than 3 years of service	~~23,389~~	<u>24,475</u>
3 or more but less than 5 years of service	~~25,530~~	<u>26,616</u>

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.'

Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
Michaux

GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

SECTION 29.8. Effective July 1, 2005, G.S. 120-37(c) reads as rewritten:



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Principal Clerk)

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1 '(c) The principal clerks shall be full-time officers. Each principal clerk shall be
2 entitled to other benefits available to permanent legislative employees and shall be paid
3 an annual salary of ~~ninety thousand five hundred fourteen dollars (\$90,514)~~ninety-one
4 thousand six hundred dollars (\$91,600) payable monthly. The Legislative Services
5 Commission shall review the salary of the principal clerks prior to submission of the
6 proposed operating budget of the General Assembly to the Governor and Advisory
7 Budget Commission and shall make appropriate recommendations for changes in those
8 salaries. Any changes enacted by the General Assembly shall be by amendment to this
9 paragraph.'

10
11 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
12 Michaux

13 **SERGEANTS-AT-ARMS AND READING CLERKS**

14 **SECTION 29.9.** Effective July 1, 2005, G.S. 120-37(b) reads as rewritten:

15 '(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
16 salary of ~~three hundred eleven dollars (\$311.00)~~three hundred thirty-two dollars
17 (\$332.00) per week plus subsistence at the same daily rate provided for members of the
18 General Assembly, plus mileage at the rate provided for members of the General
19 Assembly for one round trip only from their homes to Raleigh and return. The
20 sergeants-at-arms shall serve during sessions of the General Assembly and at such time
21 prior to the convening of, and subsequent to adjournment or recess of, sessions as may
22 be authorized by the Legislative Services Commission. The reading clerks shall serve
23 during sessions only.'

24
25 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
26 Michaux

27 **LEGISLATIVE EMPLOYEES**

28 **SECTION 29.10.** Effective July 1, 2005, the Legislative Services Officer
29 shall increase the salaries of nonelected employees of the General Assembly in effect
30 for fiscal year 2005-2006 by ninety dollars and fifty cents (\$90.50) per month. Nothing
31 in this act limits any of the provisions of G.S. 120-32.

32
33 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
34 Michaux

35 **COMMUNITY COLLEGE PERSONNEL/SALARY INCREASES**

36 **SECTION 29.11.** The Director of the Budget shall transfer from the Reserve
37 for Compensation Increases, created in this act for fiscal years 2005-2006 and
38 2006-2007, funds to the North Carolina Community Colleges System Office necessary
39 to provide an annual salary increase of the greater of five hundred dollars (\$500.00) or
40 two and five-tenths percent (2.5%), including funds for the employer's retirement and



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1 social security contributions, commencing July 1, 2005, for all community college
2 employees supported by State funds.

3
4 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
5 Michaux

6 **UNIVERSITY OF NORTH CAROLINA SYSTEM/EPA COMPENSATION**

7 **SECTION 29.12.(a)** The Director of the Budget shall transfer to the Board
8 of Governors of The University of North Carolina sufficient funds from the Reserve for
9 Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007,
10 to provide an annual salary increase of ninety dollars and fifty cents (\$90.50) per month,
11 including funds for the employer's retirement and social security contributions,
12 commencing July 1, 2005, for all employees of The University of North Carolina, as
13 well as employees other than teachers of the North Carolina School of Science and
14 Mathematics, supported by State funds and whose salaries are exempt from the State
15 Personnel Act (EPA). These funds shall not be used for any purpose other than for
16 salary increases and necessary employer contributions provided by this section.

17 **SECTION 29.12.(b)** The Director of the Budget shall transfer to the Board
18 of Governors of The University of North Carolina sufficient funds from the Reserve for
19 Compensation Increases, created in this act for fiscal years 2005-2006 and 2006-2007,
20 to provide an average annual salary increase of two and five-tenths percent (2.5),
21 including funds for the employer's retirement and social security contributions,
22 commencing July 1, 2005, for all teaching employees of the North Carolina School of
23 Science and Mathematics, supported by State funds and whose salaries are exempt from
24 the State Personnel Act (EPA). These funds shall not be used for any purpose other
25 than for salary increases and necessary employer contributions provided by this section.

26
27 Requested by: Representatives Crawford, Clary, Earle, Nye, Owens, Sherrill,
28 Michaux

29 **MOST STATE EMPLOYEES/SALARY INCREASES**

30 **SECTION 29.13.(a)** The salaries in effect June 30, 2005, of all permanent
31 full-time State employees whose salaries are set in accordance with the State Personnel
32 Act and who are paid from the General Fund or the Highway Fund shall be increased,
33 effective July 1, 2005, by ninety dollars and fifty cents (\$90.50) per month, unless
34 otherwise provided by this act.

35 **SECTION 29.13.(b)** Except as otherwise provided in this act, the salaries in
36 effect June 30, 2005, for permanent full-time State officials and persons in exempt
37 positions that are recommended by the Governor or the Governor and the Advisory
38 Budget Commission and set by the General Assembly shall be increased by ninety
39 dollars and fifty cents (\$90.50) per month, effective July 1, 2005, unless otherwise
40 provided by this act.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 622

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S622-ABL-1 [v.1]

Page 9 of 9

1 **SECTION 29.13.(c)** The salaries in effect June 30, 2005, for all permanent
2 part-time State employees shall be increased, effective July 1, 2005, by pro rata amounts
3 of ninety dollars and fifty cents (\$90.50) per month.

4 **SECTION 29.13.(d)** The Director of the Budget may allocate out of special
5 operating funds or from other sources of the employing agency, except tax revenues,
6 sufficient funds to allow a salary increase, effective July 1, 2005, in accordance with
7 subsection (a), (b), or (c) of this section, including funds for the employer's retirement
8 and social security contributions, for the permanent full-time and part-time employees
9 of the agency, provided the employing agency elects to make available the necessary
10 funds.

11 **SECTION 29.13.(e)** Within regular Executive Budget Act procedures as
12 limited by this act, all State agencies and departments may increase on an equitable
13 basis the rate of pay of temporary and permanent hourly State employees, subject to
14 availability of funds in the particular agency or department, by pro rata amounts of the
15 ninety dollars and fifty cents (\$90.50) per month increase provided for permanent
16 full-time employees covered by the provisions of subsection (a) of this section,
17 commencing July 1, 2005."

SIGNED Linda Coleman
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED ☒ TABLED _____

VISITOR REGISTRATION SHEET

APPROPRIATIONS

Name of Committee

June 14, 2005

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Leah Dule	DHHS
Carm Hooker Odom	DHHS
Mark Bohn	DHHS
Linda Altavian	DHHS
HW Plunk	OSBM
Leah Dule	NCIC
Byron K. Harris	OSBM
Dedrick Barnes	OSBM
Kari Barsness	OSBM
Wayne Walker	OSBM
Julie Mitchell	OSBM

VISITOR REGISTRATION SHEET

APPROPRIATIONS

June 14, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Daphne Lynn	OSBM
Greg Piner	OSBM
Biff Alford	OSBM
Debrah Lay	Gov
Elizabeth Hume	OSBM
JB Baker	Gov office
Jim Slate	DHHS
Marjorie Morris	DHHS-DMA
Russ Dubisky	CCPS
Cassandra Skinner	CCPS
LORI Ann Harris	LATIA

VISITOR REGISTRATION SHEET

APPROPRIATIONS

Name of Committee

June 14, 2005

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Cindy Kincaid	Centralia Council of Gov.
Flo Stein	DMH/DD/SAS
Mike Moreley	DMH/DD/SAS
Wanda Mitchell	DMH/DD/SAS
Maura Daut	NCAE
Jane Smith	DHHS/DSS
Leary A Little	NCDOC
Mildred Spearman	NCDOC
Chris Harder	OSBM
Dawn Williams	OSBM
Dot L. Loring	STAL

VISITOR REGISTRATION SHEET

APPROPRIATIONS

Name of Committee

June 14, 2005

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Francis T. Bowman	STAL
Margaret Mathone	NC HFA
W. Dickens	Rep. Coates
Gordon Keith	Project Challenge
Melanie Mason	Staff
Byron Nix	Budget
Dempsey Benton	DENR
Eben Polk	CWMTF
Dr. Holmes	CWMTF
Sue Penny Cole	NCMDC
Ginger Burks	UNC

VISITOR REGISTRATION SHEET

APPROPRIATIONS

Name of Committee

June 14⁵, 2005

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Bill Wilson

NCATL

Down HARGROVE

NC DJJP

John Bowditch

ADA

VISITOR REGISTRATION SHEET

APPROPRIATIONS

June 14, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Conde Lander	EGHS
Don McConquidie	SAS
Lee Hall	KCLH
Jayce Rhodes	LPDSS
Jennifer Boyd	dskh - interpreter
Jan Withers	DSDHH
Connie Wilson	---

VISITOR REGISTRATION SHEET

APPROPRIATIONS

June 14, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

<i>[Signature]</i>	<i>PST/NC</i>
Robert Huffman	NC Psychiatric / C2001
<i>[Signature]</i>	Parker Poe
Andy Pomeroy	<i>nc</i>
Deep Throat X	
Jan Wilk	NCA/TCF
Joni Allmy	BEGINNINGS
Steve Woodson	NCFB
Paula Page	NCFB
Mike Marshall	LISTA
Chris Brown	NCFA

VISITOR REGISTRATION SHEET

APPROPRIATIONS

Name of Committee

June 14, 2005

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Cam Oliver	BPM HL
Paul Ingeman	Haring / Textile Centers
Ed TURLINGTON	BPMAIL
Clara Hays	NCDIA ECS
Linda Sam	NCLMED
Obon Ahepa	Initiative
Vincent STEPHENS	C M. S.
Kathy Johnson	IDS / Sentencing Services
Susan Brooks	IDS / SENTENCING SERVICES
Wesley Taylor	NCGA
Abby Emanuel	UMSS

VISITOR REGISTRATION SHEET

APPROPRIATIONS

Name of Committee

June 14, 2005

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Cathy Hoady	DEUR
Anita McNeil	DEUR.
Johanna Reese	
Susan Seymour	NCCCS BioNetwork
Kris Allsbury	NCCCS BioNetwork
Ann Barth	NC School of the Arts
Jeff Davies	UNC
Ken Dyer	NCCCS
George Millap	DOA
Immi Fitzgerald	NCFPC
Pam Wortham	DST

VISITOR REGISTRATION SHEET

APPROPRIATIONS

June 14, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

DAVID BARRETT	Poyner + Spruill
Wayne Mettler	NC Senior Tax Help
Mamie Smith	GSIC
R. Paul Williams	NCWBA
BILL RUSTIN	ASO
Tom Murray	NCGA intern
Barbara Conslin	BEEGR
Stacy Flannery	NCHEFA
Orin Carlton	attly.
John Doe	JD, AC, PA
Heyward McKinnon	DCR

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **APPROPRIATIONS** will meet as follows:

DAY & DATE: **Wednesday, July 19, 2005**

TIME: **8:30 a.m.**

LOCATION: **643**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 1775 UNC Nonappropriated Capital Projects

HB 1048 Governor's DWI Task Force Recommendations

Respectfully,

Representatives Clary, Crawford, Earle, Nye,
Owens, Sherrill
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at
11:00 a.m. on July 18, 2005.

____Principal Clerk
____Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
MINUTES OF HOUSE APPROPRIATIONS MEETING**

**July 19, 2005 – 8:30 a.m.
Room 643 Legislative Office Building**

The North Carolina House of Representatives met on July 19, 2005 at 8:30 a.m. in Room 643 of the Legislative Office Building. There were 61 members present. Representative Wilma Sherrill presided over the meeting.

Representative Sherrill welcomed the pages and introduced each of them. She also named the Sergeant at Arms staff and thanked them for their services.

Representative Danny McComas was introduced to explain the first bill on the agenda HB 1775 entitled AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA. (See Attachment No. 1) A Fiscal Note was attached. (See Attachment No. 2) Representative McComas summarized the bill and offered to answer any questions the members might have. The Chair asked Mr. Davies from UNC to explain the proposed fees in the bill. After some discussion relative to pertinent parts of the bill, Representative Bill Owens moved that the bill be approved as presented. The vote was unanimous. The 2005 Committee Report as filed in the office of the House Principal Clerk is attached. (See Attachment No. 3)

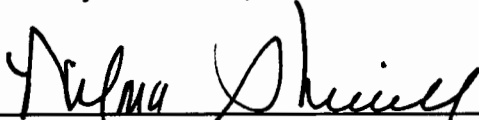
Representative Joe Hackney was introduced to explain HB 1048 entitled AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE GOVERNOR'S TASK FORCE ON DRIVING WHILE IMPAIRED. (See Attachment No. 4) A Summary of HB 1048 is attached. (See Attachment No. 5) A Fiscal Note is attached. (See Attachment No. 6) Representative Sutton wanted to know if there was anything in the bill pertaining persons under the age of 21 from drinking while a passenger in a vehicle. The answer was yes. The question was also asked if a person is injured or killed when pregnant, does this cover the unborn child. Representative Hackney said that this matter should be taken up in a separate bill. Susan Sitze, staff, advised the committee that if a miscarriage occurred as a result of an accident where alcohol was involved, that this could be considered an aggravating circumstance. The section dealing with persons under the age of 21 drinking while a passenger in a vehicle was discussed at length.

Representative Haire offered an amendment which would delete this entire section of the bill (Page 41, Lines 19-43) The amendment failed by a vote of 21 in

favor and 26 opposed. (See Attachment No. 7) The 2005 Committee Report as filed in the office of the House Principal Clerk is attached. (See Attachment No. 8) Representative Crawford moved to approve the bill as submitted. The motion carried.

Representative Sherrill asked the members if there was any further business to come before the Appropriations Committee at this time and there being none stated, the meeting adjourned at 9:40 a.m. (A copy of the Attendance Sheet is attached and made a part of these minutes. (See Attachment No. 9).

Respectfully submitted,



Representative Wilma Sherrill, Chair



Rosa S. Kelley, Committee Assistant

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute for

HB 1775

A BILL TO BE ENTITLED AN ACT TO AUTHORIZE THE
CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE
GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENTS PROJECTS OF THE
CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

☒ With a favorable report as to the committee substitute bill #2, unfavorable as to Committee
Substitute Bill -1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution
(No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____)
is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the
Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute
Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1775
Committee Substitute Favorable 7/7/05
PROPOSED COMMITTEE SUBSTITUTE H1775-PCS60514-RBx-28

Short Title: UNC Nonappropriated Capital Projects.

(Public)

Sponsors:

Referred to:

May 12, 2005

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE CONSTRUCTION AND THE FINANCING,
WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN
CAPITAL IMPROVEMENTS PROJECTS OF THE CONSTITUENT
INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.

The General Assembly of North Carolina enacts:

SECTION 1. The purpose of this act is: (i) to authorize the construction by certain constituent institutions of The University of North Carolina of the capital improvements projects listed in the act for the respective institutions, and (ii) to authorize the financing of these projects with funds available to the institutions from gifts, grants, receipts, self-liquidating indebtedness, Medicare reimbursements for education costs, or other funds, or any combination of these funds, but not including funds received for tuition or appropriated from the General Fund of the State.

SECTION 2. The capital improvements projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 of this act, including by revenue bonds, by special obligation bonds as authorized in Section 6 of this act, or by both, are as follows:

1	Appalachian State University	
	Steam Distribution System – Improvements – Phase III	\$ 6,500,000
	Residence Hall – Renovations	\$12,000,000
	Parking Facilities – Improvements	\$ 2,500,000
2	East Carolina University	
	Residence Hall – Heating, Ventilation and Air	
	Conditioning Improvements	\$ 2,000,000
	Parking Facilities – Expansion	\$ 2,500,000
	Brody School of Medicine – Family Medicine Center	\$30,000,000

1	3	Elizabeth City State University	
2		Student Housing	\$13,500,000
3	4	North Carolina Central University	
4		Student Housing	\$30,000,000
5		Parking Facilities – Expansion	\$10,000,000
6	5	North Carolina State University	
7		Parking Facilities – Expansion	\$ 7,500,000
8		Thompson Theater – Renovation and Expansion	\$15,500,000
9		Residence Halls – Renovation	\$20,550,000
10		Owen Residence Hall – Expansion and Improvements	\$ 3,700,000
11		Carter Finley Stadium – Expansion	\$14,500,000
12		Chancellor's Residence	\$ 3,350,000
13	6	University of North Carolina at Chapel Hill	
14		Parking Facilities – Expansion	\$25,000,000
15		Residence Halls – Improvements	\$ 5,500,000
16		Information Technology Services (ITS) – Infrastructure	
17		Improvements	\$13,000,000
18		Water Reclamation and Reuse Infrastructure	\$15,000,000
19		Major Infrastructure Improvements	\$47,522,000
20		Research Resource Facility	\$ 1,000,000
21		Medical Research – D – Renovations	\$ 1,000,000
22	7	University of North Carolina at Charlotte	
23		Parking Facilities – Expansion	\$14,000,000
24	8	University of North Carolina at Greensboro	
25		Recreation Center – Roof Replacement	\$ 2,500,000
26		Residence Halls Renovation – Phase IV	\$ 7,000,000
27	9	University of North Carolina at Wilmington	
28		Parking Facilities – Expansion	\$ 3,465,000
29	10	Winston-Salem State University	
30		Athletic and Student Recreation Facilities	\$ 2,670,000
31		Bowman Gray Stadium Field House – Expansion and	
32		Renovation	\$ 1,800,000.

SECTION 3. The following capital improvements projects are authorized by the Board of Governors as supplements to previously approved projects, and their respective costs, authorized by this act to be constructed and financed as provided in Section 1 of this act, including by revenue bonds, by special obligation bonds as authorized in Section 6 of this act, or by both:

40	1	Appalachian State University	
41		Central Dining Hall – Supplement	\$ 6,000,000
42		Student Recreation Complex – Supplement	\$ 5,000,000
43	2	North Carolina State University	
44		Classroom Building – Expansion – Supplement	\$10,000,000

3	University of North Carolina at Chapel Hill	
	Residence College – Phase II – Supplement	\$11,000,000
	Genetic Research Building – Supplement	\$10,000,000
	Daniels Building Renovations – Supplement	\$ 4,000,000
	Parking Facilities – Supplement	\$ 1,000,000
	Major Infrastructure Improvements – Supplement	\$61,828,000
4	University of North Carolina at Charlotte	
	Student Union – Supplement	\$ 3,500,000
5	University of North Carolina at Greensboro	
	Parking Deck Addition – Supplement	\$ 4,000,000
6	Western Carolina University	
	New Student Recreation Center – Supplement	\$ 1,250,000.

SECTION 4. The following projects are authorized, and the Board of Governors and the respective campuses are authorized to accept gifts and grants, or to use cash available to the constituent institution, for the costs associated with completing the projects:

1	East Carolina University	
	Geriatrics Center	\$ 3,000,000
	Student Recreation Complex – Phase I	\$ 8,000,000
2	University of North Carolina at Charlotte	
	Applied Optics and Physics Building – Improvement	\$ 4,000,000.

SECTION 5. At the request of the Board of Governors of The University of North Carolina and upon determining that it is in the best interest of the State to do so, the Director of the Budget may authorize an increase or decrease in the cost of, or a change in the method of, funding the projects authorized by this act. In determining whether to authorize a change in cost or funding, the Director of the Budget may consult with the Joint Legislative Commission on Governmental Operations.

SECTION 6. Pursuant to G.S. 116D-26, the Board of Governors may issue, subject to the approval of the Director of the Budget, at one time or from time to time, special obligation bonds of the Board of Governors for the purpose of paying all or any part of the cost of acquiring, constructing, or providing for the projects authorized by Sections 2 and 3 of this act. The maximum principal amount of bonds to be issued shall not exceed the specified project costs in Sections 2 and 3 of this act plus twenty million dollars (\$20,000,000) for related additional costs, such as issuance expenses, funding of reserve funds, and capitalized interest.

SECTION 7. With respect to the University of North Carolina at Chapel Hill's Water Reclamation and Reuse Infrastructure capital project and Research Resource Facility capital project, the institution may accomplish construction and financing notwithstanding the requirement in G.S. 116D-22(5) as to location at the institution and may accomplish the project either through (i) direct ownership of the

1 project or (ii) purchase of capacity in the project from the Orange Water and Sewer
2 Authority.

3 **SECTION 8.** With respect to the project at Winston-Salem State University
4 for the Bowman Gray Stadium Field House – Expansion and Renovation, the institution
5 may accomplish construction and financing notwithstanding the requirement in
6 G.S. 116D-22(5) as to location at the institution and either through (i) direct ownership
7 of the project, or (ii) by participation in a long-term agreement with the City of
8 Winston-Salem.

9 **SECTION 9.** With respect to the project at North Carolina State University
10 for the Carter Finley Stadium – Expansion, the institution may accomplish construction
11 and financing through lease arrangements to and from the North Carolina State
12 University Student Aid Association, Inc.

13 **SECTION 10.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note.]

DATE: July 15, 2005

TO: Representative McComas

FROM: Richard Bostic
Fiscal Research Division

RE: PCS H1775-PCS60514-RBx-28

FISCAL IMPACT

Yes (X) No () No Estimate Available ()

FY 2005-06 FY 2006-07 FY 2007-08 FY 2008-09 FY 2009-10

REVENUES

Various See Assumptions and Methodology

EXPENDITURES

General Fund \$117,002 \$208,765 \$740,310 \$789,875 \$821,082

Various See Assumptions and Methodology

POSITIONS (cumulative):

General Fund 1 9 12 12 12

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: University of North Carolina General Administration

EFFECTIVE DATE: This act is effective when it becomes law.

BILL SUMMARY:

The bill authorizes the construction and financing, without appropriation from the General Fund, of capital improvement projects of the constituent institutions of the University of North Carolina.

ASSUMPTIONS AND METHODOLOGY:

The charts on the following pages detail the revenue sources for the \$446.1 million in campus construction projects listed in the bill. The projects in section three are supplements to existing projects. Projects at NC State University (1) and Winston-Salem State University (2) will require an increase in student fees to retire the debt. Six projects will require General Fund support for their increased operating costs. The financial data for these charts was provided by the Senior Associate Vice President for Finance for the UNC Office of the President.

Section 2						
Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
Appalachian State University	Steam Distribution System – Improvements – Phase III	\$6,500,000	Utility Receipts			
	Residence Hall – Renovations	\$12,000,000	Housing Receipts			
	Parking Facilities – Improvements	\$2,500,000	Parking Receipts			
East Carolina University	Residence Hall – Heating, Ventilation and Air Conditioning Improvements	\$2,000,000	Housing Receipts			
	Parking Facilities – Expansion	\$2,500,000	Parking Receipts			
	Brody School of Medicine–Family Medicine Center	\$30,000,000	Medicare Education Funds		\$1,335,456	Medicare Education Funds
Elizabeth City State University	Student Housing	\$13,500,000	Housing Receipts		\$1,089,381	Housing Receipts
North Carolina Central University	Student Housing	\$30,000,000	Housing Receipts		\$1,351,628	Housing Receipts
	Parking Facilities – Expansion	\$10,000,000	Parking Receipts		\$95,018	Parking Receipts

Section 2						
Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
North Carolina State University	Parking Facilities – Expansion	\$7,500,000	Parking Receipts		\$72,589	Parking Receipts
	Thompson Theater – Renovation and Expansion	\$15,500,000	Debt Service Fee	\$30/year	\$67,643	Student Center Receipts
	Residence Halls – Renovation	\$20,550,000	Housing Receipts		\$241,750	Housing Receipts
	Owen Residence Hall – Expansion & Improvements	\$3,700,000	Housing Receipts		\$65,289/ \$60,267	Gen. Fund/ Housing Receipts
	Carter Finley Stadium – Expansion	\$14,500,000	Athletic Receipts		\$58,184	Athletic Receipts
	Chancellor's Residence	\$3,350,000	Gifts and Grants		\$38,756	General Fund
University of North Carolina at Chapel Hill	Parking Facilities – Expansion	\$25,000,000	Parking Receipts		\$116,138	Parking Receipts
	Residence Halls – Improvements	\$5,500,000	Housing Receipts		\$313,544	Housing Receipts
	Information Technology Services (ITS) – Infrastructure Improvements	\$13,000,000	Telecom and ITS Receipts			
	Water Reclamation and Reuse Infrastructure	\$15,000,000	Utility Receipts			
	Major Infrastructure Improvements	\$47,522,000	Utility Receipts			
	Research Resource Facility	\$1,000,000	Facilities and Administrative Receipts		\$46,279	General Fund

Section 2

Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
University of North Carolina at Chapel Hill (Continued)	Medical Research –D- Renovations	\$1,000,000	Facilities and Administrative Receipts		\$60,795	General Fund
University of North Carolina at Charlotte	Parking Facilities – Expansion	\$14,000,000	Parking Receipts		\$14,061	Parking Receipts
University of North Carolina at Greensboro	Recreation Center – Roof Replacement	\$2,500,000	Facilities Debt Service Fee			
	Residence Halls Renovation – Phase IV	\$7,000,000	Housing Receipts			
University of North Carolina at Wilmington	Parking Facilities – Expansion	\$3,465,000	Parking Receipts		\$215,025	Parking Receipts
Winston-Salem State University	Athletic and Student Recreation Facilities	\$2,670,000	Debt Service Fee	\$54/year	\$88,414	Athletic Fee Receipts
	Bowman Gray Stadium Field House – Expansion and Renovation	\$1,800,000	Debt Service Fee	\$21/year	\$11,708	Athletic Fee Receipts

Section 3						
Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
Appalachian State University	Central Dining Hall – Supplement	\$6,000,000	Dining Receipts			
	Student Recreation Complex – Supplement	\$5,000,000	Student Fees			
North Carolina State University	Classroom Building – Expansion – Supplement	\$10,000,000	Gifts and Grants		\$544,464	General Fund
University of North Carolina at Chapel Hill	Residence College – Phase II – Supplement	\$11,000,000	Housing Receipts			
	Genetic Research Building – Supplement	\$10,000,000	Facilities and Administrative Receipts			
	Daniels Building Renovations – Supplement	\$4,000,000	Student Store Receipts			
	Parking Facilities – Supplement	\$1,000,000	Parking Receipts			
	Major Infrastructure Improvements – Supplement	\$61,828,000	Utility Receipts			
University of North Carolina at Charlotte	Student Union – Supplement	\$3,500,000	Debt Service Fee			
University of North Carolina at Greensboro	Parking Deck Addition – Supplement	\$4,000,000	Parking Receipts			
Western Carolina University	New Student Recreation Center – Supplement	\$1,250,000	Debt Service Fee			

Section 4						
Campus	Project	Amount	Source of Funds	Effect of Debt on Students	Increase in Annual Operating Costs	Source of Operating Costs
East Carolina University	Geriatrics Center	\$3,000,000	Gifts and Grants		\$175,204	Medical Family Practice Plan Receipts
	Student Recreation Complex – Phase I	\$8,000,000	Institutional Accounts		\$16,880	Recreation Services Receipts
University of North Carolina at Charlotte	Applied Optics and Physics Building – Improvement	\$4,000,000	Facilities and Administrative Receipts		\$233,751	General Fund

The following are summary details from the previous charts.

Cost of Construction = \$446,135,000

Debt Payment Funding Methods

Utility Receipts	\$130,850,000
Housing Receipts	105,250,000
Parking Receipts	69,965,000
Medicare Education Funds	30,000,000
Debt Service Fees	27,220,000
Gifts and Grants	16,350,000
Facilities and Administrative Receipts	16,000,000
Athletic Receipts	14,500,000
Telecom & ITS Receipts	13,000,000
Institutional Accounts	8,000,000
Dining Receipts	6,000,000
Student Fees	5,000,000
Student Store Receipts	4,000,000

SOURCES OF DATA: Senior Associate Vice President for Finance for the UNC Office of the President

TECHNICAL CONSIDERATIONS: None



**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute for

HB 1048

A BILL TO BE ENTITLED AN ACT TO IMPLEMENT THE
RECOMMENDATIONS OF THE GOVERNOR'S TASK FORCE ON DRIVING WHILE
IMPAIRED.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

2

HOUSE BILL 1048
Committee Substitute Favorable 6/8/05

Short Title: Governor's DWI Task Force Recommendations.

(Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE GOVERNOR'S
TASK FORCE ON DRIVING WHILE IMPAIRED.

The General Assembly of North Carolina enacts:

PART I. REGULATING MALT BEVERAGE KEGS

SECTION 1. G.S. 18B-403 reads as rewritten:

"(a) Amounts. – With a purchase-transportation permit, a person may purchase and transport an amount of alcoholic beverages greater than the amount specified in G.S. 18B-303(a). A permit authorizes the holder to transport from the place of purchase to the destination within North Carolina indicated on the permit at one time the following amount of alcoholic beverages:

- (1) A maximum of 100 liters of unfortified wine;
- (2) A maximum of 40 liters of either fortified wine or spirituous liquor, or 40 liters of the two ~~combined~~; or combined;
- (3) The amount of fortified wine or spirituous liquors specified on the purchase-transportation permit for a mixed beverage ~~permittee~~; permittee; or
- (4) A keg of malt beverage for off-premises consumption, when purchased by a person who is not a permittee; or

(b) Issuance of Permit. – A purchase-transportation permit may be issued by:

- (1) The local board chairman;
- (2) A member of the local board;
- (3) The general manager or supervisor of the local ~~board~~; or board;
- (4) The manager or assistant manager of an ABC store, if he is authorized to issue permits by the local board ~~chairman~~; chairman; or
- (5) The retailer of a keg of malt beverage for off-premises consumption. A permit issued under this subdivision is only valid for kegs of malt beverage sold by that retailer.

(c) Disqualifications. – A purchase-transportation permit shall not be issued to a person who:

- (1) Is not sufficiently identified or known to the issuer;
- (2) Is known or shown to be an alcoholic or bootlegger;
- (3) Has been convicted within the previous three years of an offense involving the sale, possession, or transportation of nontaxpaid alcoholic beverages; or
- (4) Has been convicted within the previous three years of an offense involving the sale of alcoholic beverages without a permit.

(d) Form. – A purchase-transportation permit shall be issued on a printed form adopted by the Commission. The Commission shall adopt rules specifying the content of the permit form.

(e) Restrictions on Permit. – A purchase may be made only from the store named on the permit. One copy of the permit shall be kept by the issuing person, one by the purchaser, and one by the store from which the purchase is made. The purchaser shall display his copy of the permit to any law-enforcement officer upon request. A permit for the purchase and transportation of spirituous liquor may be issued only by an authorized agent of the local board for the jurisdiction in which the purchase will be made.

(f) Time. – A purchase-transportation permit is valid only until 9:30 P.M. on the date of purchase, which date shall be stated on the permit.

(g) Special Occasion Purchase-Transportation Permit. – When a person holds a special occasion for which a permit under G.S. 18B-1001(8) or (9) is required, the purchase-transportation permit issued to him may provide for the storage at and transportation to and from the site of the special occasion of unfortified wine, fortified wine, and spirituous liquor for a period of no more than 48 hours before and after the special occasion. The purchase-transportation permit authorizes that person to transport only the amounts of those alcoholic beverages authorized by subsection (a). The Commission may adopt rules to govern issuance of these extended purchase-transportation permits.

(h) Any retailer that issues a purchase-transportation permit pursuant to subdivision (b)(5) of this section shall retain the records of all permits issued for at least one year. "

SECTION 2. G.S. 18B-303(a) reads as rewritten:

"(a) Purchases Allowed. – Without a permit, a person may purchase at one time:

- (1) Not more than 80 liters of malt ~~beverages, other than draft malt beverages in kegs; beverages, except draft malt beverages in kegs for off-premises consumption. For purchase of a keg of malt beverages for off-premises consumption, the permit required by G.S. 18B-403(a)(4) must first be obtained;~~
- (2) Any amount of draft malt beverages by a permittee in kegs; kegs for on-premise consumption;
- (3) Not more than 50 liters of unfortified wine;

- (4) Not more than eight liters of either fortified wine or spirituous liquor, or eight liters of the two combined."

PART II. MODIFYING THE STATUTES ON CHECKING STATIONS AND ROADBLOCKS

SECTION 3. G.S. 20-16.3A reads as rewritten:

"§ 20-16.3A. ~~Impaired driving checks.~~ Checking stations and roadblocks.

(a) A law-enforcement agency may ~~make impaired driving checks of drivers of vehicles on highways and public vehicular areas if the agency:~~ conduct checking stations or roadblocks to determine compliance with the provisions of this Chapter. If the agency is conducting a checking station for the purposes of determining compliance with this Chapter, it shall:

- (1) ~~Develops a systematic plan in advance that takes into account the likelihood of detecting impaired drivers, traffic conditions, number of vehicles to be stopped, and the convenience of the motoring public.~~

- (2)(1) ~~Designates~~ Designate in advance the pattern both for stopping vehicles and for requesting drivers that are stopped ~~to submit to alcohol screening tests.~~ to produce a drivers license, a registration card, or insurance information. The ~~plan~~ pattern need not be in writing if the law enforcement officers are operating under a written policy of one of the law enforcement agencies which provides a pattern. The pattern or policy may include contingency provisions for altering either pattern if actual traffic conditions are different from those anticipated, but no individual officer may be given discretion as to which vehicle is stopped or, of the vehicles stopped, which driver is requested ~~to submit to an alcohol screening test to produce a drivers license, a registration card, or insurance information.~~

- (3)(2) ~~Marks the area in which checks are conducted to advise~~ Advise the public that an authorized ~~impaired driving check~~ checking station is being ~~made~~ operated by having at a minimum one law enforcement vehicle with its blue lights in operation during the conducting of the checking station.

An officer who determines there is a reasonable suspicion that a vehicle occupant has violated a provision of this Chapter or any other provision of law may detain the person to further investigate in accordance with law. The driver of any vehicle stopped at a checking station established under this subsection may be requested to submit to an alcohol screening test under G.S. 20-16.3 if during the course of the stop the officer determines the driver had previously consumed alcohol or has an open container of alcoholic beverage in the vehicle. The officer shall consider the results of any alcohol screening test or the driver's refusal in determining if there is reasonable suspicion to investigate further.

(b) Law enforcement agencies may conduct any other type of checking station or roadblock as long as it is established and operated in accordance with the provisions of the United States Constitution and the Constitution of North Carolina.

~~This section does not prevent an officer from using the authority of G.S. 20-16.3 to request a screening test if, in the course of dealing with a driver under the authority of this section, he develops grounds for requesting such a test under G.S. 20-16.3. Alcohol screening tests and the results from them are subject to the provisions of subsections (b), (c), and (d) of G.S. 20-16.3. This section does not limit the authority of a law enforcement officer or agency to conduct a license check independently or in conjunction with the impaired driving check, to administer psychophysical tests to screen for impairment, or to utilize roadblocks or other types of vehicle checks or checkpoints that are consistent with the laws of this State and the Constitution of North Carolina and of the United States.~~

(c) The Attorney General shall develop a model policy or policies to be considered for use by law enforcement agencies.

(d) A law enforcement agency may not repeatedly establish a checking station in the same location if that location is within close proximity to a business with a license to sell alcohol for on-premises consumption. This prohibition shall not be a defense to any criminal charge arising out of the operation of a checking station."

PART III. PROVIDING FOR IMPLIED-CONSENT PRETRIAL AND COURT PROCEEDINGS

SECTION 4. Chapter 20 of the General Statutes is amended by adding a new Article to read:

"Article 2D.

"Implied-Consent Offense Procedures.

"§ 20-38. Applicability.

The procedures set forth in this Article shall be followed for the investigation and processing of an implied-consent offense as defined in G.S. 20-16.2. The trial procedures shall apply to any implied-consent offense litigated in the District Court Division.

"§ 20-38.1. Investigation.

A law enforcement officer who is investigating an implied-consent offense or a vehicle crash is authorized to seek evidence of the driver's impairment wherever the driver is located, and the provisions of the implied-consent law apply even if the driver is located outside of this State or outside of the officer's territorial jurisdiction.

"§ 20-38.2. Police processing duties.

Upon the arrest of a person, with or without a warrant, but not necessarily in the order listed, a law enforcement officer:

- (1) Shall inform the person arrested of the charges or a cause for the arrest.
- (2) May take the person arrested to any place inside or outside the officer's territorial jurisdiction for one or more chemical analyses at the request of any law enforcement officer and for any evaluation by a law enforcement officer, medical professional, or other person to determine the extent or cause of the person's impairment.

- 1 (3) May take the person arrested to some other place for the purpose of
2 having the person identified, to complete a crash report, or for any
3 other lawful purpose.
4 (4) May take photographs and fingerprints in accordance with
5 G.S. 15A-502.
6 (5) Shall take the person arrested before a judicial official for an initial
7 appearance after completion of all investigatory procedures, crash
8 reports, chemical analyses, and other procedures provided for in this
9 section.

10 **"§ 20-38.3. Initial appearance.**

11 (a) Appearance Before a Magistrate. – Except as modified in this Article, a
12 magistrate shall follow the procedures set forth in Article 24 of Chapter 15A of the
13 General Statutes.

- 14 (1) A magistrate may hold an initial appearance at any place within the
15 county and shall, to the extent practicable, be available at locations
16 other than the courthouse when it will expedite the initial appearance.
17 (2) In determining whether there is probable cause to believe a person is
18 impaired, the magistrate may review all alcohol screening tests,
19 chemical analyses, receive testimony from any law enforcement
20 officer concerning impairment and the circumstances of the arrest, and
21 observe the person arrested. If the evidence would lead a reasonable
22 person to believe that a crime has been committed by the person
23 charged, the magistrate shall find probable cause.
24 (3) If there is a finding of probable cause, the magistrate shall consider
25 whether the person is impaired to the extent that the provisions of
26 G.S. 15A-534.2 should be imposed.
27 (4) The magistrate shall also:
28 a. Inform the person in writing of the established procedure to
29 have others appear at the jail to observe his condition or to
30 administer an additional chemical analysis if the person is
31 unable to make bond; and
32 b. Require the person who is unable to make bond to list all
33 persons he wishes to contact and telephone numbers on a form
34 that sets forth the procedure for contacting the persons listed. A
35 copy of this form shall be filed with the case file.

36 (b) The Administrative Office of the Courts shall adopt forms to implement this
37 Article.

38 **"§ 20-38.4. Facilities.**

39 (a) The Chief District Court Judge, the Department of Health and Human
40 Services, the district attorney, and the sheriff shall:

- 41 (1) Establish a written procedure for attorneys and witnesses to have
42 access to the chemical analysis room.
43 (2) Approve the location of written notice of implied-consent rights in the
44 chemical analysis room in accordance with G.S. 20-16.2.

(3) Approve a procedure for access to a person arrested for an implied-consent offense by family and friends or a qualified person contacted by the arrested person to obtain blood or urine when the arrested person is held in custody and unable to obtain pretrial release from jail.

(b) Signs shall be posted explaining to the public the procedure for obtaining access to the room where the chemical analysis of the breath is administered and to any person arrested for an implied-consent offense. The initial signs shall be provided by the Department of Transportation, without costs. The signs shall thereafter be maintained by the county for all county buildings and the county courthouse.

(c) If the instrument for performing a chemical analysis of the breath is located in a State or municipal building, then the head of the highway patrol for the county or the chief of police for the city or that person's designee shall be substituted for the sheriff when determining signs and access to the chemical analysis room. The signs shall be maintained by the owner of the building. When a breath testing instrument is in a motor vehicle or at a temporary location, the Department of Health and Human Services shall alone perform the above functions listed in subdivisions (a)(1) and (a)(2) of this section.

"§ 20-38.5. Motions and district court procedure.

(a) The defendant may move to suppress evidence or dismiss charges only prior to trial, except the defendant may move to dismiss the charges for insufficient evidence at the close of the State's evidence and at the close of all of the evidence without prior notice. If, during the course of the trial, the defendant discovers facts not previously known, a motion to suppress or dismiss may be made during the trial.

(b) Upon a motion to suppress or dismiss the charges, other than at the close of the State's evidence or at the close of all the evidence, the State shall be granted reasonable time to procure witnesses or evidence and to conduct research required to defend against the motion.

(c) The judge shall summarily grant the motion to suppress evidence if the State stipulates that the evidence sought to be suppressed will not be offered in evidence in any criminal action or proceeding against the defendant.

(d) The judge may summarily deny the motion to suppress evidence if the defendant failed to make the motion pretrial when all material facts were known to the defendant.

(e) If the motion is not determined summarily, the judge shall make the determination after a hearing and finding of facts. Testimony at the hearing shall be under oath.

(f) The judge shall set forth in writing the findings of fact and conclusions of law and preliminarily indicate whether the motion should be granted or denied. If the judge preliminarily indicates the motion should be granted, the judge shall not enter a final judgment on the motion until after the State has appealed to superior court or has indicated it does not intend to appeal.

"§ 20-38.6. Appeal to superior court.

(a) The State may appeal to superior court any district court preliminary determination granting a motion to suppress or dismiss. If there is a dispute about the findings of fact, the superior court shall not be bound by the findings of the district court

1 but shall determine the matter de novo. Any further appeal shall be governed by Article
2 90 of Chapter 15A of the General Statutes.

3 (b) The defendant may not appeal a denial of a pretrial motion to suppress or to
4 dismiss but may appeal upon conviction as provided by law.

5 (c) For any implied-consent offense that is first tried in district court and that is
6 appealed to superior court by the defendant for a trial de novo as a result of a
7 conviction, the case shall only be remanded back to district court with the consent of the
8 prosecutor and the superior court. When a case is remanded back to district court, the
9 district court shall hold a new sentencing hearing and shall consider any new
10 convictions, and if the defendant has any pending charges of offenses involving
11 impaired driving, shall delay sentencing in the remanded case until all cases are
12 resolved."

13 **PART IV. ALLOWING THE ADMISSIBILITY OF DRUG RECOGNITION**
14 **EXPERTS, HGN TESTIMONY, AND OPINION AS TO SPEED BY AN**
15 **ACCIDENT RECONSTRUCTION EXPERT**

16 **SECTION 5.** Article 7 of Chapter 8C of the General Statutes is amended by
17 adding a new rule of evidence to read:

18 **"Rule 707. Drug recognition expert and HGN testimony and opinion as to speed of**
19 **an accident reconstruction expert.**

20 (a) Results of Horizontal Gaze Nystagmus (HGN) Test. – The results of a
21 horizontal gaze nystagmus (HGN) test are admissible into evidence, and the opinion of
22 the analyst is admissible as to whether the results are consistent with a chemical analysis
23 or consistent with a person who is under the influence of a particular type or class of
24 impairing substances, when the HGN test is administered by a person who has
25 successfully completed training in HGN and administers the test in accordance with the
26 training.

27 (b) Opinion of Drug Recognition Expert (DRE). – The opinion of a DRE that a
28 person is under the influence of one or more impairing substances, and the opinion as to
29 the category of such impairing substance or substances is admissible in any court or
30 administrative hearing when the DRE holds a current certification as a DRE issued by
31 the Department of Health and Human Services and the DRE has examined the person in
32 accordance with his training.

33 (c) Opinion as to Speed of a Vehicle. – Any person who is found by a court to be
34 an expert in accident reconstruction who has performed a reconstruction of a crash or
35 has reviewed the report of investigation may give an opinion as to the speed of a vehicle
36 even if the expert did not actually observe the vehicle moving.

37 Nothing contained in this section shall be construed to prohibit cross-examination of
38 any person as to their opinions and the basis for the opinions and shall not limit other
39 opinion testimony otherwise admissible under the rules of evidence or court decision."

40 **PART V. ALCOHOL SCREENING DEVICES**

41 **SECTION 6.** G.S. 20-16.3 reads as rewritten:

42 **"§ 20-16.3. Alcohol screening tests required of certain drivers; approval of test**
43 **devices and manner of use by ~~Commission for Health Services;~~**
44 **Department of Health and Human Services; use of test results or refusal.**

1 (a) When Alcohol Screening Test May Be Required; Not an Arrest. – A
2 law-enforcement officer may require the driver of a vehicle to submit to an alcohol
3 screening test within a relevant time after the driving if the officer has:

4 (1) Reasonable grounds to believe that the driver has consumed alcohol
5 and has:

6 a. Committed a moving traffic violation; or

7 b. Been involved in an accident or collision; or

8 (2) An articulable and reasonable suspicion that the driver has committed
9 an implied-consent offense under G.S. 20-16.2, and the driver has been
10 lawfully stopped for a driver's license check or otherwise lawfully
11 stopped or lawfully encountered by the officer in the course of the
12 performance of the officer's duties.

13 Requiring a driver to submit to an alcohol screening test in accordance with this section
14 does not in itself constitute an arrest.

15 (b) Approval of Screening Devices and Manner of Use. – ~~The Commission for~~
16 ~~Health Services-Department of Health and Human Services~~ is directed to examine and
17 approve devices suitable for use by law-enforcement officers in making on-the-scene
18 tests of drivers for alcohol concentration. For each alcohol screening device or class of
19 devices approved, the ~~Commission must-Department shall~~ adopt regulations governing
20 the manner of use of the device. For any alcohol screening device that tests the breath of
21 a driver, the ~~Commission-Department~~ is directed to specify in its regulations the shortest
22 feasible minimum waiting period that does not produce an unacceptably high number of
23 false positive test results.

24 (c) Tests ~~Must Shall~~ Be Made with Approved Devices and in Approved Manner.
25 – No screening test for alcohol concentration is a valid one under this section unless the
26 device used is one approved by the ~~Commission for Health Services-Department of~~
27 ~~Health and Human Services~~, and the screening test is conducted in accordance with the
28 applicable regulations of the ~~Commission-Department~~ as to the manner of its use.

29 (d) Use of Screening Test Results or Refusal by Officer. – ~~The results of an~~
30 ~~fact that a driver showed a positive or negative result on an~~ alcohol screening test, ~~but not~~
31 ~~the actual alcohol concentration result~~, or a driver's refusal to submit may be used by a
32 law-enforcement officer, ~~and is admissible in~~ a court, or an administrative agency in
33 determining if there are reasonable grounds for ~~believing~~believing:

34 (1) ~~that~~That the driver has committed an implied-consent offense under
35 ~~G.S. 20-16.2.-G.S. 20-16.2;~~ and

36 (2) That the driver had consumed alcohol and that the driver had in his or
37 her blood previously consumed alcohol, but not to prove a particular
38 alcohol concentration. Negative ~~or low~~ results on the alcohol screening
39 test may be used in factually appropriate cases by the officer, a court,
40 or an administrative agency in determining whether a person's alleged
41 impairment is caused by an impairing substance other than alcohol.
42 ~~Except as provided in this subsection, the results of an alcohol~~
43 ~~screening test may not be admitted in evidence in any court or~~
44 ~~administrative proceeding."~~

PART VI. CLARIFICATION OF IMPAIRED DRIVING OFFENSES**SECTION 7. G.S. 20-4.01 reads as rewritten:****"§ 20-4.01. Definitions.**

Unless the context requires otherwise, the following definitions apply throughout this Chapter to the defined words and phrases and their cognates:

...

(32) **Public Vehicular Area.** – Any area within the State of North Carolina that meets one or more of the following requirements:

- a. The area is ~~generally open to and used by the public for vehicular traffic,~~ traffic at any time, including by way of illustration and not limitation any drive, driveway, road, roadway, street, alley, or parking lot upon the grounds and premises of any of the following:
 1. Any public or private hospital, college, university, school, orphanage, church, or any of the institutions, parks or other facilities maintained and supported by the State of North Carolina or any of its subdivisions.
 2. Any service station, drive-in theater, supermarket, store, restaurant, or office building, or any other business, residential, or municipal establishment providing parking space ~~for customers, patrons, or the public, whether the business or establishment is open or closed.~~
 3. Any property owned by the United States and subject to the jurisdiction of the State of North Carolina. (The inclusion of property owned by the United States in this definition shall not limit assimilation of North Carolina law when applicable under the provisions of Title 18, United States Code, section 13).
- b. The area is a beach area used ~~by the public~~ for vehicular traffic.
- c. The area is a road ~~opened to used by~~ vehicular traffic within or leading to a ~~subdivision for use by subdivision residents, their guests, and members of the public, subdivision,~~ subdivision, whether or not the subdivision roads have been offered for dedication to the public.
- d. The area is a portion of private property used ~~for~~ by vehicular traffic and designated by the private property owner as a public vehicular area in accordance with G.S. 20-219.4."

SECTION 8. G.S. 20-138.1 reads as rewritten:**"§ 20-138.1. Impaired driving.**

(a) **Offense.** – A person commits the offense of impaired driving if he drives any vehicle upon any highway, any street, or any public vehicular area within this State:

- (1) While under the influence of an impairing substance; or
- (2) After having consumed sufficient alcohol that he has, at any relevant time after the driving, an alcohol concentration of 0.08 or ~~more~~ more

1 or, at any relevant time after the driving, submits to a chemical
2 analysis and the result is 0.08 or more; or

3 (3) With any amount of a Schedule I or II controlled substance, as listed in
4 G.S. 90-89 or G.S. 90-90, or its metabolites in his blood or urine.

5 (b) Defense Precluded. – The fact that a person charged with violating this
6 section is or has been legally entitled to use alcohol or a drug is not a defense to a
7 charge under this section. However, it shall be an affirmative defense to a charge
8 pursuant to subdivision (a)(3) of this section for a Schedule II controlled substance if the
9 defendant can show that the Schedule II substance in the defendant's blood or urine was
10 lawfully obtained and taken in therapeutically appropriate amounts.

11 (b1) Defense Allowed. – Nothing in this section shall preclude a person from
12 asserting that a chemical analysis result is inadmissible pursuant to G.S. 20-139.1(b2).

13 (c) Pleading. – In any prosecution for impaired driving, the pleading is sufficient
14 if it states the time and place of the alleged offense in the usual form and charges that
15 the defendant drove a vehicle on a highway or public vehicular area while subject to an
16 impairing substance.

17 (d) Sentencing Hearing and Punishment. – Impaired driving as defined in this
18 section is a misdemeanor. Upon conviction of a defendant of impaired driving, the
19 presiding judge ~~must~~ shall hold a sentencing hearing and impose punishment in
20 accordance with G.S. 20-179.

21 (e) Exception. ~~Notwithstanding the definition of "vehicle" pursuant to~~
22 ~~G.S. 20-4.01(49), for purposes of this section the word "vehicle" does not include a~~
23 ~~horse, bicycle, or lawnmower."~~

24 SECTION 9. G.S. 20-138.2 reads as rewritten:

25 "**§ 20-138.2. Impaired driving in commercial vehicle.**

26 (a) Offense. – A person commits the offense of impaired driving in a commercial
27 motor vehicle if he drives a commercial motor vehicle upon any highway, any street, or
28 any public vehicular area within the State:

29 (1) While under the influence of an impairing substance; or

30 (2) After having consumed sufficient alcohol that he has, at any relevant
31 time after the driving, an alcohol concentration of 0.04 or ~~more~~ more
32 or, at any relevant time after the driving, submits to a chemical
33 analysis and the result is 0.04 or more; or

34 (3) With any amount of a Schedule I or II controlled substance, as listed in
35 G.S. 90-89 or G.S. 90-90, or its metabolites in his blood or urine.

36 (a1) In order to prove the gross vehicle-weight rating of a vehicle as defined in
37 G.S. 20-4.01(12b), the opinion of a person who observed the vehicle as to the weight,
38 testimony of the gross vehicle weight rating affixed to the vehicle, the registered or
39 declared weight shown on the Division's records pursuant to G.S. 20-26(b1), the gross
40 vehicle weight rating as determined from the vehicle identification number, the listed
41 gross weight publications from the manufacturer of the vehicle, or any other description
42 or evidence shall be admissible.

43 (b) Defense Precluded. – The fact that a person charged with violating this
44 section is or has been legally entitled to use alcohol or a drug is not a defense to a

1 charge under this section. However, it shall be an affirmative defense to a charge
2 pursuant to subdivision (a)(3) of this section for a Schedule II controlled substance if the
3 defendant can show that the Schedule II substance in the defendant's blood or urine was
4 lawfully obtained and taken in therapeutically appropriate amounts.

5 (b1) Defense Allowed. – Nothing in this section shall preclude a person from
6 asserting that a chemical analysis result is inadmissible pursuant to G.S. 20-139.1(b2).

7 (c) Pleading. – To charge a violation of this section, the pleading is sufficient if it
8 states the time and place of the alleged offense in the usual form and charges the
9 defendant drove a commercial motor vehicle on a highway, street, or public vehicular
10 area while subject to an impairing substance.

11 (d) Implied Consent Offense. – An offense under this section is an implied
12 consent offense subject to the provisions of G.S. 20-16.2. The provisions of
13 G.S. 20-139.1 shall apply to an offense committed under this section.

14 (e) Punishment. – The offense in this section is a misdemeanor and any
15 defendant convicted under this section shall be sentenced under G.S. 20-179. This
16 offense is not a lesser included offense of impaired driving under G.S. 20-138.1, and if a
17 person is convicted under this section and of an offense involving impaired driving
18 under G.S. 20-138.1 arising out of the same transaction, the aggregate punishment
19 imposed by the Court may not exceed the maximum punishment applicable to the
20 offense involving impaired driving under G.S. 20-138.1.

21 (f) Repealed by Session Laws 1991, c. 726, s. 19.

22 (g) Chemical Analysis Provisions. – The provisions of G.S. 20-139.1 shall apply
23 to the offense of impaired driving in a commercial motor vehicle."

24 **SECTION 10. G.S. 20-138.2A reads as rewritten:**

25 **"§ 20-138.2A. Operating a commercial vehicle after consuming alcohol.**

26 (a) Offense. – A person commits the offense of operating a commercial motor
27 vehicle after consuming alcohol if the person drives a commercial motor vehicle, as
28 defined in G.S. 20-4.01(3d)a. and b., upon any highway, any street, or any public
29 vehicular area within the State while consuming alcohol or while alcohol remains in the
30 person's body.

31 (a1) In order to prove the gross vehicle weight rating of a vehicle as defined in
32 G.S. 20-4.01(12b), the opinion of a person who observed the vehicle as to the weight,
33 testimony of the gross vehicle weight rating affixed to the vehicle, the registered or
34 declared weight shown on the Division's records pursuant to G.S. 20-26(b1), the gross
35 vehicle weight rating as determined from the vehicle identification number, the gross
36 weight listed in publications from the manufacturer of the vehicle, or any other
37 description or evidence shall be admissible.

38 (b) Implied-Consent Offense. – An offense under this section is an
39 implied-consent offense subject to the provisions of G.S. 20-16.2. The provisions of
40 G.S. 20-139.1 shall apply to an offense committed under this section.

41 (b1) Odor Insufficient. – The odor of an alcoholic beverage on the breath of the
42 driver is insufficient evidence by itself to prove beyond a reasonable doubt that alcohol
43 was remaining in the driver's body in violation of this section unless the driver was

1 offered an alcohol screening test or chemical analysis and refused to provide all
2 required samples of breath or blood for analysis.

3 (b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an
4 alcohol screening test may be administered to a driver suspected of violation of
5 subsection (a) of this section, and the results of an alcohol screening test or the driver's
6 refusal to submit may be used by a law enforcement officer, a court, or an
7 administrative agency in determining if alcohol was present in the driver's body. No
8 alcohol screening tests are valid under this section unless the device used is one
9 approved by the ~~Commission for Health Services, Department of Health and Human~~
10 Services, and the screening test is conducted in accordance with the applicable
11 regulations of the Commission as to its manner and use.

12 (c) Punishment. – Except as otherwise provided in this subsection, a violation of
13 the offense described in subsection (a) of this section is a Class 3 misdemeanor and,
14 notwithstanding G.S. 15A-1340.23, is punishable by a penalty of one hundred dollars
15 (\$100.00). A second or subsequent violation of this section is a misdemeanor punishable
16 under G.S. 20-179. This offense is a lesser included offense of impaired driving of a
17 commercial vehicle under G.S. 20-138.2.

18 (d) Second or Subsequent Conviction Defined. – A conviction for violating this
19 offense is a second or subsequent conviction if at the time of the current offense the
20 person has a previous conviction under this section, and the previous conviction
21 occurred in the seven years immediately preceding the date of the current offense. This
22 definition of second or subsequent conviction also applies to G.S. 20-17(a)(13) and
23 G.S. 20-17.4(a)(6)."

24 **SECTION 11.** G.S. 20-138.2B(b2) reads as rewritten:

25 "(b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an
26 alcohol screening test may be administered to a driver suspected of violation of
27 subsection (a) of this section, and the results of an alcohol screening test or the driver's
28 refusal to submit may be used by a law enforcement officer, a court, or an
29 administrative agency in determining if alcohol was present in the driver's body. No
30 alcohol screening tests are valid under this section unless the device used is one
31 approved by the ~~Commission for Health Services, Department of Health and Human~~
32 Services, and the screening test is conducted in accordance with the applicable
33 regulations of the ~~Commission Department~~ as to its manner and use."

34 **SECTION 12.** G.S. 20-138.3 reads as rewritten:

35 **"§ 20-138.3. Driving by person less than 21 years old after consuming alcohol or**
36 **drugs.**

37 (a) Offense. – It is unlawful for a person less than 21 years old to drive a motor
38 vehicle on a highway or public vehicular area while consuming alcohol or at any time
39 while he has remaining in his body any alcohol or controlled substance previously
40 consumed, but a person less than 21 years old does not violate this section if he drives
41 with a controlled substance in his body which was lawfully obtained and taken in
42 therapeutically appropriate amounts.

1 (b) Subject to Implied-Consent Law. – An offense under this section is an
2 alcohol-related offense subject to the implied-consent provisions of G.S. 20-16.2. The
3 provisions of G.S. 20-139.1 shall apply to an offense committed under this section.

4 (b1) Odor Insufficient. – The odor of an alcoholic beverage on the breath of the
5 driver is insufficient evidence by itself to prove beyond a reasonable doubt that alcohol
6 was remaining in the driver's body in violation of this section unless the driver was
7 offered an alcohol screening test or chemical analysis and refused to provide all
8 required samples of breath or blood for analysis.

9 (b2) Alcohol Screening Test. – Notwithstanding any other provision of law, an
10 alcohol screening test may be administered to a driver suspected of violation of
11 subsection (a) of this section, and the results of an alcohol screening test or the driver's
12 refusal to submit may be used by a law enforcement officer, a court, or an
13 administrative agency in determining if alcohol was present in the driver's body. No
14 alcohol screening tests are valid under this section unless the device used is one
15 approved by the ~~Commission for Health Services~~, Department of Health and Human
16 Services, and the screening test is conducted in accordance with the applicable
17 regulations of the ~~Commission~~ Department as to its manner and use.

18 (c) Punishment; Effect When Impaired Driving Offense Also Charged. – The
19 offense in this section is ~~a Class 2 misdemeanor.~~ shall be punished pursuant to
20 G.S. 20-179. It is not, in any circumstances, a lesser included offense of impaired
21 driving under G.S. 20-138.1, but if a person is convicted under this section and of an
22 offense involving impaired driving arising out of the same transaction, the aggregate
23 punishment imposed by the court may not exceed the maximum applicable to the
24 offense involving impaired driving, and any minimum punishment applicable shall be
25 imposed.

26 Notwithstanding any other provision of law, whenever any person who does not
27 have any pending charges for violating Chapters 18B, 20, or 90 of the General Statutes
28 and has not previously been convicted of violating this section, an offense involving
29 impaired driving under any statute of the United States or any state relating to those
30 substances included in Article 5 or 5A of Chapter 90 of the General Statutes or to that
31 paraphernalia included in Article 5B of Chapter 90 or a violation of Chapter 18B, pleads
32 guilty to or is found guilty of a violation of this section, the court may, without entering
33 a judgment of guilt and with the consent of such person, defer further proceedings and
34 place him on probation for a minimum of one year upon such reasonable terms and
35 conditions as it may require. Notwithstanding the provisions of G.S. 15A-1342(c) or
36 any other statute or law, to fulfill the terms and conditions of probation the court shall
37 impose, at a minimum, all of the following conditions. The person shall:

- 38 (1) Obtain a substance abuse assessment within 30 days and comply with
39 education or treatment requirements recommended by the assessment.
- 40 (2) Not operate a motor vehicle for at least 90 days.
- 41 (3) Perform 50 hours of community service and pay the community
42 service fee.
- 43 (4) Submit at reasonable times to warrantless searches by a probation
44 officer of his or her person, vehicle, and premises including drug and

1 alcohol screening and testing and pay the costs of such screening and
2 tests.

3 (5) Not possess or consume any alcoholic beverage or controlled
4 substance unless the controlled substance is lawfully prescribed to the
5 person.

6 (6) Pay court costs and all fees.

7 (7) Not violate any law of this or any other state or the federal
8 government.

9 (8) Remain gainfully employed or in school as a full-time student as
10 determined by the probation officer.

11 (9) Not violate any other reasonable condition of probation.

12 Upon violation of a term or condition, the court may enter an adjudication of guilt and
13 proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court
14 shall discharge the person and dismiss the proceedings against him. Discharge and
15 dismissal under this section shall be without court adjudication of guilt and shall not be
16 deemed a conviction for purposes of this section or for purposes of disqualifications or
17 disabilities imposed by law upon conviction of a crime including the additional
18 penalties imposed for second or subsequent convictions. Prior to entering a discharge
19 and dismissal, the court shall determine if the person has been charged with or
20 convicted of any other offense, including infractions. The discharge and dismissal shall
21 not be entered unless the court finds that the person does not have any pending charges
22 for violating any law of this State and has not during the period of probation violated a
23 law of this State or been convicted of violating a provision of Chapter 18B, 20, 14, or 90
24 of the General Statutes of this State or a substantially similar provision of any other
25 state or the federal government.

26 (d) Limited Driving Privilege. – A person who is convicted of violating
27 subsection (a) of this section and whose drivers license is revoked solely based on that
28 conviction may apply for a limited driving privilege as provided in G.S. 20 179.3. This
29 subsection shall apply only if the person meets both of the following requirements:

30 (1) Is 18, 19, or 20 years old on the date of the offense.

31 (2) Has not previously been convicted of a violation of this section.

32 The judge may issue the limited driving privilege only if the person meets the eligibility
33 requirements of G.S. 20 179.3, other than the requirement in G.S. 20 179.3(b)(1)c.
34 G.S. 20 179.3(e) shall not apply. All other terms, conditions, and restrictions provided
35 for in G.S. 20 179.3 shall apply. G.S. 20 179.3, rather than this subsection, governs the
36 issuance of a limited driving privilege to a person who is convicted of violating
37 subsection (a) of this section and of driving while impaired as a result of the same
38 transaction."

39 **SECTION 13.** G.S. 20-138.5(a) reads as rewritten:

40 "(a) A person commits the offense of habitual impaired driving if he drives while
41 impaired as defined in G.S. 20-138.1 and has been convicted of three or more offenses
42 involving impaired driving as defined in G.S. 20-4.01(24a) within ~~seven~~ten years of the
43 date of this offense."

44 **SECTION 14.** G.S. 20-138.5(c) reads as rewritten:

"(c) An offense under this section is an implied consent offense subject to the provisions of G.S. 20-16.2. The provisions of G.S. 20-139.1 shall apply to an offense committed under this section."

PART VII. FELONY DEATH BY VEHICLE AND INJURY BY VEHICLE

SECTION 15. G.S. 20-141.4 reads as rewritten:

"§ 20-141.4. Felony and misdemeanor death by ~~vehicle~~; serious injury by vehicle.

(a) Repealed by Session Laws 1983, c. 435, s. 27.

(a1) **Felony Death by Vehicle.** – A person commits the offense of felony death by vehicle if he unintentionally causes the death of another person while engaged in the offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2 and commission of that offense is the proximate cause of the death.

(a2) **Misdemeanor Death by Vehicle.** – A person commits the offense of misdemeanor death by vehicle if he unintentionally causes the death of another person while engaged in the violation of any State law or local ordinance applying to the operation or use of a vehicle or to the regulation of traffic, other than impaired driving under G.S. 20-138.1, and commission of that violation is the proximate cause of the death.

(a3) **Felony Serious Injury by Vehicle.** – A person commits the offense of serious injury by vehicle if he unintentionally causes serious injury to another person while engaged in the offense of impaired driving under G.S. 20-138.1 or G.S. 20-138.2, and the commission of the offense is the proximate cause of the serious injury.

(b) **Punishments.** – Felony death by vehicle is a Class ~~G-D~~ felony. Felony serious injury by vehicle is a Class E felony. Misdemeanor death by vehicle is a Class 1 misdemeanor.

(c) **No Double Prosecutions.** – No person who has been placed in jeopardy upon a charge of death by vehicle may be prosecuted for the offense of manslaughter arising out of the same death; and no person who has been placed in jeopardy upon a charge of manslaughter may be prosecuted for death by vehicle arising out of the same death."

PART VIII. CLARIFYING AND SIMPLIFYING THE IMPLIED CONSENT LAW

SECTION 16. G.S. 20-16.2 reads as rewritten:

"§ 20-16.2. Implied consent to chemical analysis; mandatory revocation of license in event of refusal; right of driver to request analysis.

(a) **Basis for Charging Officer to Require Chemical Analysis; Notification of Rights.** – Any person who drives a vehicle on a highway or public vehicular area thereby gives consent to a chemical analysis if charged with an implied-consent offense. ~~The charging officer shall designate the type of chemical analysis to be administered, and it may be administered when the officer~~ Any law enforcement officer who has reasonable grounds to believe that the person charged has committed the implied-consent offense may obtain a chemical analysis of the person.

~~Except as provided in this subsection or subsection (b), before~~ Before any type of chemical analysis is administered the person charged shall be taken before a chemical analyst authorized to administer a test of a person's breath or a law enforcement officer

1 who is authorized to administer chemical analysis of the breath, who shall inform the
2 person orally and also give the person a notice in writing that:

3 (1) ~~The person has a right to refuse to be tested. You have been charged~~
4 ~~with an implied-consent offense. Under the implied-consent law, you~~
5 ~~can refuse any test, but your drivers license will be revoked for one~~
6 ~~year and could be revoked for a longer period of time under certain~~
7 ~~circumstances, and an officer can compel you to be tested under other~~
8 ~~laws.~~

9 (2) ~~Refusal to take any required test or tests will result in an immediate~~
10 ~~revocation of the person's driving privilege for at least 30 days and an~~
11 ~~additional 12 month revocation by the Division of Motor Vehicles.~~

12 (3)(2) ~~The test results, or the fact of the person's your refusal, will be~~
13 ~~admissible in evidence at trial on the offense charged. trial.~~

14 (4)(3) ~~The person's Your driving privilege will be revoked immediately for at~~
15 ~~least 30 days if: if you refuse any test or the test result is 0.08 or more,~~
16 ~~0.04 if you were driving a commercial vehicle, or 0.01 if you are under~~
17 ~~the age of 21.~~

18 a. ~~The test reveals an alcohol concentration of 0.08 or more;~~

19 b. ~~The person was driving a commercial motor vehicle and the test~~
20 ~~reveals an alcohol concentration of 0.04 or more; or~~

21 c. ~~The person is under 21 years of age and the test reveals any~~
22 ~~alcohol concentration.~~

23 (5)(4) ~~The person may choose a qualified person to administer a chemical~~
24 ~~test or tests in addition to any test administered at the direction of the~~
25 ~~charging officer. After you are released, you may seek your own test in~~
26 ~~addition to this test.~~

27 (6)(5) ~~The person has the right to You may call an attorney for advice and~~
28 ~~select a witness to view for him or her the testing procedures;~~
29 ~~procedures remaining after the witness arrives, but the testing may not~~
30 ~~be delayed for these purposes longer than 30 minutes from the time~~
31 ~~when the person is notified of his or her of these rights. You must take~~
32 ~~the test at the end of 30 minutes even if you have not contacted an~~
33 ~~attorney or your witness has not arrived.~~

34 ~~If the charging officer or an arresting officer is authorized to administer a chemical~~
35 ~~analysis of a person's breath, the charging officer or the arresting officer may give the~~
36 ~~person charged the oral and written notice of rights required by this subsection. This~~
37 ~~authority applies regardless of the type of chemical analysis designated.~~

38 (a1) Meaning of Terms. – Under this section, an "implied-consent offense" is an
39 offense involving impaired driving or an alcohol-related offense made subject to the
40 procedures of this section. A person is "charged" with an offense if the person is
41 arrested for it or if criminal process for the offense has been issued. A "charging officer"
42 ~~is a law enforcement officer who arrests the person charged, lodges the charge, or~~
43 ~~assists the officer who arrested the person or lodged the charge by assuming custody of~~

1 ~~the person to make the request required by subsection (c) and, if necessary, to present~~
2 ~~the person to a judicial official for an initial appearance.~~

3 (b) Unconscious Person May Be Tested. – If a ~~charging law enforcement officer~~
4 has reasonable grounds to believe that a person has committed an implied-consent
5 offense, and the person is unconscious or otherwise in a condition that makes the person
6 incapable of refusal, the ~~charging law enforcement officer~~ may direct the taking of a
7 blood sample ~~by a person qualified under G.S. 20-139.1~~ or may direct the
8 administration of any other chemical analysis that may be effectively performed. In this
9 instance the notification of rights set out in subsection (a) and the request required by
10 subsection (c) are not necessary.

11 (c) Request to Submit to Chemical Analysis. – ~~The charging A law enforcement~~
12 ~~officer, officer or chemical analyst, in the presence of the chemical analyst who has~~
13 ~~notified the person of his or her rights under subsection (a), must shall designate the~~
14 ~~type of test or tests to be given and either may request the person charged to submit to~~
15 ~~the type of chemical analysis designated. If the person charged willfully refuses to~~
16 ~~submit to that chemical analysis, none may be given under the provisions of this section,~~
17 ~~but the refusal does not preclude testing under other applicable procedures of law.~~

18 (c1) Procedure for Reporting Results and Refusal to Division. – Whenever a
19 person refuses to submit to a chemical ~~analysis~~ analysis, a person has an alcohol
20 concentration of 0.16 or more, or a person's drivers license has an alcohol concentration
21 restriction and the results of the chemical analysis establish a violation of the restriction,
22 the charging officer and the chemical analyst ~~must shall~~ without unnecessary delay go
23 before an official authorized to administer oaths and execute an affidavit(s) stating that:

- 24 (1) The person was charged with an implied-consent offense or had an
25 alcohol concentration restriction on the drivers license;
- 26 (2) ~~The charging officer~~ A law enforcement officer had reasonable
27 grounds to believe that the person had committed an implied-consent
28 offense or violated the alcohol concentration restriction on the drivers
29 license;
- 30 (3) Whether the implied-consent offense charged involved death or critical
31 injury to another person, if the person willfully refused to submit to
32 chemical analysis;
- 33 (4) The person was notified of the rights in subsection (a); and
- 34 (5) The results of any tests given or that the person willfully refused to
35 submit to a chemical ~~analysis upon the request of the charging~~
36 ~~officer analysis.~~

37 If the person's drivers license has an alcohol concentration restriction, pursuant to
38 G.S. 20-19(c3), and an officer has reasonable grounds to believe the person has violated
39 a provision of that restriction other than violation of the alcohol concentration level, the
40 ~~charging officer~~ and chemical analyst shall complete the applicable sections of the
41 affidavit and indicate the restriction which was violated. The ~~charging officer must shall~~
42 immediately mail the affidavit(s) to the Division. If the ~~charging officer~~ is also the
43 chemical analyst who has notified the person of the rights under subsection (a), the
44 ~~charging officer~~ may perform alone the duties of this subsection.

(d) Consequences of Refusal; Right to Hearing before Division; Issues. – Upon receipt of a properly executed affidavit required by subsection (c1), the Division ~~must~~ shall expeditiously notify the person charged that the person's license to drive is revoked for 12 months, effective on the tenth calendar day after the mailing of the revocation order unless, before the effective date of the order, the person requests in writing a hearing before the Division. Except for the time referred to in G.S. 20-16.5, if the person shows to the satisfaction of the Division that his or her license was surrendered to the court, and remained in the court's possession, then the Division shall credit the amount of time for which the license was in the possession of the court against the 12-month revocation period required by this subsection. If the person properly requests a hearing, the person retains his or her license, unless it is revoked under some other provision of law, until the hearing is held, the person withdraws the request, or the person fails to appear at a scheduled hearing. The hearing officer may subpoena any witnesses or documents that the hearing officer deems necessary. The person may request the hearing officer to subpoena the charging officer, the chemical analyst, or both to appear at the hearing if the person makes the request in writing at least three days before the hearing. The person may subpoena any other witness whom the person deems necessary, and the provisions of G.S. 1A-1, Rule 45, apply to the issuance and service of all subpoenas issued under the authority of this section. The hearing officer is authorized to administer oaths to witnesses appearing at the hearing. The hearing ~~must~~ shall be conducted in the county where the charge was brought, and ~~must-shall~~ be limited to consideration of whether:

- (1) The person was charged with an implied-consent offense or the driver had an alcohol concentration restriction on the drivers license pursuant to G.S. 20-19;
- (2) ~~The charging~~ A law enforcement officer had reasonable grounds to believe that the person had committed an implied-consent offense or violated the alcohol concentration restriction on the drivers license;
- (3) The implied-consent offense charged involved death or critical injury to another person, if this allegation is in the affidavit;
- (4) The person was notified of the person's rights as required by subsection (a); and
- (5) The person willfully refused to submit to a chemical ~~analysis upon the request of the charging officer analysis.~~

If the Division finds that the conditions specified in this subsection are met, it ~~must-shall~~ order the revocation sustained. If the Division finds that any of the conditions (1), (2), (4), or (5) is not met, it ~~must-shall~~ rescind the revocation. If it finds that condition (3) is alleged in the affidavit but is not met, it ~~must-shall~~ order the revocation sustained if that is the only condition that is not met; in this instance subsection (d1) does not apply to that revocation. If the revocation is sustained, the person ~~must-shall~~ surrender his or her license immediately upon notification by the Division.

(d1) Consequences of Refusal in Case Involving Death or Critical Injury. – If the refusal occurred in a case involving death or critical injury to another person, no limited driving privilege may be issued. The 12-month revocation begins only after all other

1 periods of revocation have terminated unless the person's license is revoked under
2 G.S. 20-28, 20-28.1, 20-19(d), or 20-19(e). If the revocation is based on those sections,
3 the revocation under this subsection begins at the time and in the manner specified in
4 subsection (d) for revocations under this section. However, the person's eligibility for a
5 hearing to determine if the revocation under those sections should be rescinded is
6 postponed for one year from the date on which the person would otherwise have been
7 eligible for ~~such a~~ the hearing. If the person's driver's license is again revoked while the
8 12-month revocation under this subsection is in effect, that revocation, whether imposed
9 by a court or by the Division, may only take effect after the period of revocation under
10 this subsection has terminated.

11 (e) Right to Hearing in Superior Court. – If the revocation for a willful refusal is
12 sustained after the hearing, the person whose license has been revoked has the right to
13 file a petition in the superior court for a hearing ~~de novo upon the issues listed in~~
14 ~~subsection (d), in the same manner and under the same conditions as provided in~~
15 ~~G.S. 20-25 except that the de novo hearing is conducted in the superior court district or~~
16 ~~set of districts as defined in G.S. 7A-41.1 where the charge was made on the record. The~~
17 superior court review shall be limited to whether there is sufficient evidence in the
18 record to support the Commissioner's findings of fact and whether the conclusions of
19 law are supported by the findings of fact and whether the Commissioner committed an
20 error of law in revoking the license.

21 (e1) Limited Driving Privilege after Six Months in Certain Instances. – A person
22 whose driver's license has been revoked under this section may apply for and a judge
23 authorized to do so by this subsection may issue a limited driving privilege if:

- 24 (1) At the time of the refusal the person held either a valid drivers license
25 or a license that had been expired for less than one year;
- 26 (2) At the time of the refusal, the person had not within the preceding
27 seven years been convicted of an offense involving impaired driving;
- 28 (3) At the time of the refusal, the person had not in the preceding seven
29 years willfully refused to submit to a chemical analysis under this
30 section;
- 31 (4) The implied consent offense charged did not involve death or critical
32 injury to another person;
- 33 (5) The underlying charge for which the defendant was requested to
34 submit to a chemical analysis has been finally disposed of:
 - 35 a. Other than by conviction; or
 - 36 b. By a conviction of impaired driving under G.S. 20-138.1, at a
37 punishment level authorizing issuance of a limited driving
38 privilege under G.S. 20-179.3(b), and the defendant has
39 complied with at least one of the mandatory conditions of
40 probation listed for the punishment level under which the
41 defendant was sentenced;
- 42 (6) Subsequent to the refusal the person has had no unresolved pending
43 charges for or additional convictions of an offense involving impaired
44 driving;

- (7) The person's license has been revoked for at least six months for the refusal; and
- (8) The person has obtained a substance abuse assessment from a mental health facility and successfully completed any recommended training or treatment program.

Except as modified in this subsection, the provisions of G.S. 20 179.3 relating to the procedure for application and conduct of the hearing and the restrictions required or authorized to be included in the limited driving privilege apply to applications under this subsection. If the case was finally disposed of in the district court, the hearing shall be conducted in the district court district as defined in G.S. 7A 133 in which the refusal occurred by a district court judge. If the case was finally disposed of in the superior court, the hearing shall be conducted in the superior court district or set of districts as defined in G.S. 7A 41.1 in which the refusal occurred by a superior court judge. A limited driving privilege issued under this section authorizes a person to drive if the person's license is revoked solely under this section or solely under this section and G.S. 20 17(2). If the person's license is revoked for any other reason, the limited driving privilege is invalid.

(f) Notice to Other States as to Nonresidents. – When it has been finally determined under the procedures of this section that a nonresident's privilege to drive a motor vehicle in this State has been revoked, the Division ~~must~~shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(g) Repealed by Session Laws 1973, c. 914.

(h) Repealed by Session Laws 1979, c. 423, s. 2.

(i) Right to Chemical Analysis before Arrest or Charge. – A person stopped or questioned by a law enforcement officer who is investigating whether the person may have committed an implied consent offense may request the administration of a chemical analysis before any arrest or other charge is made for the offense. Upon this request, the officer shall afford the person the opportunity to have a chemical analysis of his or her breath, if available, in accordance with the procedures required by G.S. 20 139.1(b). The request constitutes the person's consent to be transported by the law enforcement officer to the place where the chemical analysis is to be administered. Before the chemical analysis is made, the person shall confirm the request in writing and shall be notified:

(1) That the test results will be admissible in evidence and may be used against ~~the person~~you in any implied consent offense that may arise;

(2) ~~That the person's license will be revoked for at least 30 days if:~~

a. ~~The test reveals an alcohol concentration of 0.08 or more; or~~

b. ~~The person was driving a commercial motor vehicle and the test results reveal an alcohol concentration of 0.04 or more; or~~

c. ~~The person is under 21 years of age and the test reveals any alcohol concentration.~~

Your driving privilege will be revoked immediately for at least 30 days

1 if the test result is 0.08 or more, 0.04 if you were driving a commercial
2 vehicle, or 0.01 if you are under the age of 21.

- 3 (3) That if ~~the person fails~~you fail to comply fully with the test
4 procedures, the officer may charge ~~the person~~you with any offense for
5 which the officer has probable cause, and if ~~the person is~~you are
6 charged with an implied consent offense, ~~the person's~~your refusal to
7 submit to the testing required as a result of that charge would result in
8 revocation of ~~the person's driver's license~~your driving privilege. The
9 results of the chemical analysis are admissible in evidence in any
10 proceeding in which they are relevant."

11 PART IX. ADMISSIBILITY OF CHEMICAL ANALYSES

12 SECTION 17. G.S. 20-139.1 reads as rewritten:

13 "§ 20-139.1. Procedures governing chemical analyses; admissibility; evidentiary 14 provisions; controlled-drinking programs.

15 (a) Chemical Analysis Admissible. – In any implied-consent offense under
16 G.S. 20-16.2, a person's alcohol concentration or the presence of any other impairing
17 substance in the person's body as shown by a chemical analysis is admissible in
18 evidence. This section does not limit the introduction of other competent evidence as to
19 a person's alcohol concentration or results of other tests showing the presence of an
20 impairing substance, including other chemical tests.

21 (b) Approval of Valid Test Methods; Licensing Chemical Analysts. – ~~A~~The
22 ~~results of a chemical analysis, to be valid, shall be~~analysis shall be deemed sufficient
23 evidence to prove a person's alcohol concentration. A chemical analysis of the breath
24 administered pursuant to the implied-consent law is admissible in any court or
25 administrative hearing or proceeding if it meets both of the following requirements:

26 (1) ~~It is performed in accordance with the provisions of this section. The~~
27 ~~chemical analysis shall be performed according to methods approved~~
28 ~~by the Commission for Health Services by an individual possessing~~
29 ~~rules of the Department of Health and Human Services.~~

30 (2) ~~The person performing the analysis had, at the time of the analysis, a~~
31 ~~current permit issued by the Department of Health and Human~~
32 ~~Services authorizing the person to perform a test of the breath using~~
33 ~~the type of instrument employed. for that type of chemical analysis.~~

34 For purposes of establishing compliance with subdivision (b)(1) of this section, the
35 court or administrative agency shall take notice of the rules of the Department of Health
36 and Human Services. For purposes of establishing compliance with subdivision (b)(2)
37 of this section, the court or administrative agency shall take judicial notice of the list of
38 permits issued to the person performing the analysis, the type of instrument on which
39 the person is authorized to perform tests of the breath, and the date the permit was
40 issued. The Commission for Health Services may adopt rules approving satisfactory
41 methods or techniques for performing chemical analyses, and the Department of Health
42 and Human Services may ascertain the qualifications and competence of individuals to
43 conduct particular chemical analyses. ~~analyses and the methods for conducting chemical~~
44 ~~analyses.~~ The Department may issue permits to conduct chemical analyses to

1 individuals it finds qualified subject to periodic renewal, termination, and revocation of
2 the permit in the Department's discretion.

3 (b1) ~~When Officer May Perform Chemical Analysis. – Except as provided in this~~
4 ~~subsection, a chemical analysis is not valid in any case in which it is performed by an~~
5 ~~arresting officer or by a charging officer under the terms of G.S. 20-16.2. A chemical~~
6 ~~analysis of the breath may be performed by an arresting officer or by a charging officer~~
7 ~~when both of the following apply:~~

8 (1) ~~The officer possesses a current permit issued by the Department of~~
9 ~~Health and Human Services for the type of chemical analysis.~~

10 (2) ~~The officer performs the chemical analysis by using an automated~~
11 ~~instrument that prints the results of the analysis.~~

12 Any person possessing a current permit authorizing the person to perform chemical
13 analysis may perform a chemical analysis.

14 (b2) ~~Breath Analysis Results Inadmissible if Preventive Maintenance Not~~
15 ~~Performed. Maintenance. – The Department of Health and Human Services shall~~
16 ~~perform preventive maintenance on breath-testing instruments used for chemical~~
17 ~~analysis. A court or administrative agency shall take judicial notice of the preventive~~
18 ~~maintenance records of the Department. Notwithstanding the provisions of subsection~~
19 ~~(b), the results of a chemical analysis of a person's breath performed in accordance with~~
20 ~~this section are not admissible in evidence if:~~

21 (1) ~~The defendant objects to the introduction into evidence of the results~~
22 ~~of the chemical analysis of the defendant's breath; and~~

23 (2) ~~The defendant demonstrates that, with respect to the instrument used to~~
24 ~~analyze the defendant's breath, preventive maintenance procedures~~
25 ~~required by the regulations of the Commission for Health Services~~
26 ~~Department of Health and Human Services had not been performed~~
27 ~~within the time limits prescribed by those regulations.~~

28 (b3) ~~Sequential Breath Tests Required. – By January 1, 1985, the regulations of~~
29 ~~the Commission for Health Services. The methods governing the administration of~~
30 ~~chemical analyses of the breath shall require the testing of at least duplicate sequential~~
31 ~~breath samples. The results of the chemical analysis of all breath samples are admissible~~
32 ~~if the test results from any two consecutively collected breath samples do not differ~~
33 ~~from each other by an alcohol concentration greater than 0.02. Only the lower of the~~
34 ~~two test results of the consecutively administered tests can be used to prove a particular~~
35 ~~alcohol concentration. Those regulations must provide:~~

36 (1) ~~A specification as to the minimum observation period before collection~~
37 ~~of the first breath sample and the time requirements as to collection of~~
38 ~~second and subsequent samples.~~

39 (2) ~~That the test results may only be used to prove a person's particular~~
40 ~~alcohol concentration if:~~

41 a. ~~The pair of readings employed are from consecutively~~
42 ~~administered tests; and~~

43 b. ~~The readings do not differ from each other by an alcohol~~
44 ~~concentration greater than 0.02.~~

(3) ~~That when a pair of analyses meets the requirements of subdivision (2), only the lower of the two readings may be used by the State as proof of a person's alcohol concentration in any court or administrative proceeding.~~

A person's refusal to give the sequential breath samples necessary to constitute a valid chemical analysis is a refusal under G.S. 20-16.2(c).

A person's refusal to give the second or subsequent breath sample shall make the result of the first breath sample, or the result of the sample providing the lowest alcohol concentration if more than one breath sample is provided, admissible in any judicial or administrative hearing for any relevant purpose, including the establishment that a person had a particular alcohol concentration for conviction of an offense involving impaired driving.

~~(b4) Introducing Routine Records Kept as Part of Breath Testing Program. — In civil and criminal proceedings, any party may introduce, without further authentication, simulator logs and logs for other devices used to verify a breath testing instrument, certificates and other records concerning the check of ampoules and of simulator stock solution and the stock solution used in any other equilibration device, preventive maintenance records, and other records that are routinely kept concerning the maintenance and operation of breath testing instruments. In a criminal case, however, this subsection does not authorize the State to introduce records to prove the results of a chemical analysis of the defendant or of any validation test of the instrument that is conducted during that chemical analysis.~~

(b5) Subsequent Tests Allowed. — A person may be requested, pursuant to G.S. 20-16.2, to submit to a chemical analysis of the person's blood or other bodily fluid or substance in addition to or in lieu of a chemical analysis of the breath, in the discretion of the charging a law enforcement officer. If a subsequent chemical analysis is requested pursuant to this subsection, the person shall again be advised of the implied consent rights in accordance with G.S. 20-16.2(a). A person's willful refusal to submit to a chemical analysis of the blood or other bodily fluid or substance is a willful refusal under G.S. 20-16.2.

(b6) The Department of Health and Human Services shall post on a Web page and file with the clerk of superior court in each county a list of all persons who have a permit authorizing them to perform chemical analyses, the type of analyses that they can perform, the instruments that each person is authorized to operate, and the effective dates of the permits, and records of preventive maintenance. A court shall take judicial notice of whether, at the time of the chemical analysis, the chemical analyst possessed a permit authorizing the chemical analyst to perform the chemical analysis administered and whether preventive maintenance had been performed on the breath-testing instrument in accordance with the Department's rules.

(c) ~~Withdrawal of Blood and Urine for Chemical Analysis. — Notwithstanding any other provision of law, When when a blood or urine test is specified as the type of chemical analysis by the charging a law enforcement officer, only a physician, registered nurse, emergency medical technician, or other qualified person may shall withdraw the blood sample. sample and obtain the urine sample, and no further~~

1 authorization or approval is required. If the person withdrawing the blood or collecting
2 the urine requests written confirmation of the charging officer's request for the
3 withdrawal of blood, blood or collecting the urine, the officer shall furnish it before
4 blood is withdrawn, withdrawn or urine collected. When blood is withdrawn or urine
5 collected pursuant to a charging-law enforcement officer's request, neither the person
6 withdrawing the blood nor any hospital, laboratory, or other institution, person, firm, or
7 corporation employing that person, or contracting for the service of withdrawing blood,
8 may be held criminally or civilly liable by reason of withdrawing that blood, except that
9 there is no immunity from liability for negligent acts or omissions.

10 ~~The chemical analyst who analyzes the blood shall complete an affidavit stating the~~
11 ~~results of the analysis on a form developed by the Department of Health and Human~~
12 ~~Services and provide the affidavit to the charging officer and the clerk of superior court~~
13 ~~in the county in which the criminal charges are pending.~~

14 ~~Evidence regarding the qualifications of the person who withdrew the blood sample~~
15 ~~may be provided at trial by testimony of the charging officer or by an affidavit of the~~
16 ~~person who withdrew the blood sample and shall be sufficient to constitute prima facie~~
17 ~~evidence regarding the person's qualifications.~~

18 (c1) Whenever blood or urine is submitted to the North Carolina State Bureau of
19 Investigation Laboratory, the Charlotte, North Carolina, Police Department Laboratory,
20 or any other laboratory approved for chemical analysis by the Department of Health and
21 Human Services to determine if the blood or urine contains alcohol or a controlled
22 substance or its metabolites or any other impairing substance, the report of that analysis
23 certified to upon a form approved by the Attorney General by the person performing the
24 analysis shall be admissible without further authentication in all administrative hearings
25 and proceedings in the district court and superior court divisions of the General Court of
26 Justice as evidence that the blood or urine contained alcohol, a controlled substance or
27 its metabolites, or any other impairing substance as well as the quantity of the alcohol,
28 controlled substance, metabolite of a controlled substance, or other impairing substance.
29 However, if the defendant notifies the State, at least five days before trial in the superior
30 court division or an adjudicatory hearing in juvenile court, that the defendant objects to
31 the introduction of the report into evidence, the admissibility of the report shall be
32 determined and governed by the appropriate rules of evidence.

33 The report containing the results of any blood or urine test may be transmitted
34 electronically or via facsimile. A copy of the affidavit sent electronically or via
35 facsimile shall be admissible in any court or administrative hearing without further
36 authentication. A copy of the report shall be sent to the charging officer, the clerk of
37 superior court in the county in which the criminal charges are pending, the Division of
38 Motor Vehicles, and the Department of Health and Human Services.

39 Nothing in this subsection precludes the right of any party to call any witness or to
40 introduce any evidence supporting or contradicting the evidence contained in the report.

41 (c2) A chemical analysis of blood or urine, to be admissible under this section,
42 shall be performed in accordance with rules or procedures adopted by the State Bureau
43 of Investigation, or by another laboratory certified by the American Society of Crime

1 Laboratory Directors (ASCLD), for the submission, identification, analysis, and storage
2 of forensic analyses.

3 (c3) Procedure for Establishing Chain of Custody Without Calling Unnecessary
4 Witnesses. –

5 (1) For the purpose of establishing the chain of physical custody or control
6 of blood or urine tested or analyzed to determine whether it contains
7 alcohol, a controlled substance or its metabolite, or any impairing
8 substance, a statement signed by each successive person in the chain of
9 custody that the person delivered it to the other person indicated on or
10 about the date stated is prima facie evidence that the person had
11 custody and made the delivery as stated, without the necessity of a
12 personal appearance in court by the person signing the statement.

13 (2) The statement shall contain a sufficient description of the material or
14 its container so as to distinguish it as the particular item in question
15 and shall state that the material was delivered in essentially the same
16 condition as received. The statement may be placed on the same
17 document as the report provided for in subsection (c1) of this section.

18 (3) The provisions of this subsection may be utilized in any administrative
19 hearing and by the State in district court but can only be utilized in a
20 case originally tried in superior court or an adjudicatory hearing in
21 juvenile court, if the defendant fails to notify the State at least five
22 days before trial that the defendant objects to the introduction of the
23 statement into evidence.

24 (4) Nothing in this subsection precludes the right of any party to call any
25 witness or to introduce any evidence supporting or contradicting the
26 evidence contained in the statement.

27 (c4) The results of a blood or urine test are admissible to prove a person's alcohol
28 concentration or the presence of controlled substances or metabolites or any other
29 impairing substance if:

30 (1) A law enforcement officer or chemical analyst requested a blood
31 and/or urine sample from the person charged; and

32 (2) A chemical analysis of the person's blood was performed by a
33 chemical analyst possessing a permit issued by the Department of
34 Health and Human Services authorizing the chemical analyst to
35 analyze blood or urine for alcohol or controlled substances,
36 metabolites of a controlled substance, or any other impairing
37 substance.

38 For purposes of establishing compliance with subdivision (2) of this subsection, the
39 court or administrative agency shall take judicial notice of the list of persons possessing
40 permits, the type of instrument on which each person is authorized to perform tests of
41 the blood and/or urine, and the date the permit was issued and the date it expires.

42 (d) Right to Additional Test. – A person who submits to a chemical analysis may
43 have a qualified person of his own choosing administer an additional chemical test or
44 tests, or have a qualified person withdraw a blood sample for later chemical testing by a

1 ~~qualified person of his own choosing. Any law enforcement officer having in his charge~~
2 ~~any person who has submitted to a chemical analysis shall assist the person in~~
3 ~~contacting someone to administer the additional testing or to withdraw blood, and shall~~
4 ~~allow access to the person for that purpose. Nothing in this section shall be construed to~~
5 ~~prohibit a person from obtaining or attempting to obtain an additional chemical analysis.~~
6 If the person is not released from custody after the initial appearance, the agency having
7 custody of the person shall allow the person access to a telephone to attempt to arrange
8 for any additional test and allow access to the person in accordance with the agreed
9 procedure in G.S. 20-38.4. The failure or inability of the person who submitted to a
10 chemical analysis to obtain any additional test or to withdraw blood does not preclude
11 the admission of evidence relating to the chemical analysis.

12 (d1) Right to Require Additional Tests. – If a person refuses to submit to any test
13 or tests pursuant to this section, any law enforcement officer with probable cause may,
14 with or without a court order, compel the person to provide blood and/or urine samples
15 for analysis. Notwithstanding any other provision of law, when a blood or urine sample
16 is requested under this subsection by a law enforcement officer, a physician, registered
17 nurse, emergency medical technician, or other qualified person shall withdraw the blood
18 and obtain the urine sample, and no further authorization or approval is required. If the
19 person withdrawing the blood or collecting the urine requests written confirmation of
20 the charging officer's request for the withdrawal of blood or obtaining urine, the officer
21 shall furnish it before blood is withdrawn or urine obtained. When blood is withdrawn
22 or urine collected pursuant to a law enforcement officer's request, neither the person
23 withdrawing the blood nor any hospital, laboratory, or other institution, person, firm, or
24 corporation employing that person, or contracting for the service of withdrawing blood,
25 may be held criminally or civilly liable by reason of withdrawing that blood, except that
26 there is no immunity from liability for negligent acts or omissions. The results of the
27 analysis of blood or urine under this subsection shall be admissible if performed by the
28 State Bureau of Investigation Laboratory or any other hospital or qualified laboratory.

29 (e) Recording Results of Chemical Analysis of Breath. – The chemical analyst
30 who administers a test of a person's breath shall record the following information after
31 making any chemical analysis:

32 (1) The alcohol concentration or concentrations revealed by the chemical
33 analysis.

34 (2) The time of the collection of the breath sample or samples used in the
35 chemical analysis.

36 A copy of the record of this information shall be furnished to the person submitting to
37 the chemical analysis, or to his attorney, before any trial or proceeding in which the
38 results of the chemical analysis may be used. A person charged with an implied-consent
39 offense who has not received, prior to a trial, a copy of the chemical analysis results the
40 State intends to offer into evidence may request in writing a copy of the results. The
41 failure to provide a copy prior to any trial shall be grounds for a continuance of the case
42 but shall not be grounds to suppress the results of the chemical analysis or to dismiss the
43 criminal charges.

(e1) Use of Chemical Analyst's Affidavit in District Court. – An affidavit by a chemical analyst sworn to and properly executed before an official authorized to administer oaths is admissible in evidence without further authentication in any hearing or trial in the District Court Division of the General Court of Justice with respect to the following matters:

- (1) The alcohol concentration or concentrations or the presence or absence of an impairing substance of a person given a chemical analysis and who is involved in the hearing or trial.
- (2) The time of the collection of the blood, breath, or other bodily fluid or substance sample or samples for the chemical analysis.
- (3) The type of chemical analysis administered and the procedures followed.
- (4) The type and status of any permit issued by the Department of Health and Human Services that the analyst held on the date the analyst performed the chemical analysis in question.
- (5) If the chemical analysis is performed on a breath-testing instrument for which regulations adopted pursuant to subsection (b) require preventive maintenance, the date the most recent preventive maintenance procedures were performed on the breath-testing instrument used, as shown on the maintenance records for that instrument.

The Department of Health and Human Services shall develop a form for use by chemical analysts in making this affidavit. If any person who submitted to a chemical analysis desires that a chemical analyst personally testify in the hearing or trial in the District Court Division, the person may subpoena the chemical analyst and examine him as if he were an adverse witness. A subpoena for a chemical analyst shall not be issued unless the person files in writing with the court and serves a copy on the district attorney at least five days prior to trial an affidavit specifying the factual grounds on which the person believes the chemical analysis was not properly administered and the facts that the chemical analyst will testify about and stating that the presence of the analyst is necessary for the proper defense of the case. The district court shall determine if there are grounds to believe that the presence of the analyst requested is necessary for the proper defense. If so, the case shall be continued until the analyst can be present. The criminal case shall not be dismissed due to the failure of the analyst to appear, unless the analyst willfully fails to appear after being ordered to appear by the court.

(f) Evidence of Refusal Admissible. – If any person charged with an implied-consent offense refuses to submit to a chemical analysis, analysis or to perform field sobriety tests at the request of an officer, evidence of that refusal is admissible in any ~~eriminal-criminal, civil, or administrative~~ action against him ~~for an implied-consent offense under G.S. 20-16.2 the person.~~

(g) Controlled-Drinking Programs. – The Department of Health and Human Services may adopt rules concerning the ingestion of controlled amounts of alcohol by individuals submitting to chemical testing as a part of scientific, experimental, educational, or demonstration programs. These regulations shall prescribe procedures

1 consistent with controlling federal law governing the acquisition, transportation,
2 possession, storage, administration, and disposition of alcohol intended for use in the
3 programs. Any person in charge of a controlled-drinking program who acquires alcohol
4 under these regulations must keep records accounting for the disposition of all alcohol
5 acquired, and the records must at all reasonable times be available for inspection upon
6 the request of any federal, State, or local law-enforcement officer with jurisdiction over
7 the laws relating to control of alcohol. A controlled-drinking program exclusively using
8 lawfully purchased alcoholic beverages in places in which they may be lawfully
9 possessed, however, need not comply with the record-keeping requirements of the
10 regulations authorized by this subsection. All acts pursuant to the regulations reasonably
11 done in furtherance of bona fide objectives of a controlled-drinking program authorized
12 by the regulations are lawful notwithstanding the provisions of any other general or
13 local statute, regulation, or ordinance controlling alcohol."

14 **PART X. IMPROVED ACCESS TO MEDICAL RECORDS IN IMPAIRED**
15 **DRIVING CASES**

16 **SECTION 18.** Chapter 90 of the General Statutes is amended by adding a
17 new section to read:

18 **"§ 90-21.20B. Access to medical information for law enforcement purposes.**

19 (a) Notwithstanding any other provision of law, if a person is involved in a
20 vehicle crash:

21 (1) Any health care provider who is providing medical treatment to the
22 person shall, upon request, disclose to any law enforcement officer
23 investigating the crash the following information about the person:
24 name, current location, and whether the person appears to be impaired
25 by alcohol, drugs, or another substance.

26 (2) Law enforcement officers shall be provided access to visit and
27 interview the person upon request, except when the health care
28 provider requests temporary privacy for medical reasons.

29 (3) A health care provider shall disclose a certified copy of all identifiable
30 health information related to that person as specified in a search
31 warrant or an order issued by a judicial official.

32 (b) A prosecutor or law enforcement officer receiving identifiable health
33 information under this section shall not disclose this information to others except as
34 necessary to the investigation or otherwise allowed by law.

35 (c) A certified copy of identifiable health information, if relevant, shall be
36 admissible in any hearing or trial without further authentication.

37 (d) As used in this section, "health care provider" has the same meaning as in
38 G.S. 90-21.11."

39 **PART XI. PROSECUTOR REPORTING WHEN IMPLIED-CONSENT CASE IS**
40 **DISMISSED**

41 **SECTION 19.** G.S. 20-138.4 reads as rewritten:

42 **"§ 20-138.4. Requirement that prosecutor explain reduction or dismissal of charge**
43 **involving impaired driving.**

1 (a) Any prosecutor ~~must~~ shall enter detailed facts in the record of any case
2 ~~involving impaired driving subject to the implied consent law or involving driving while~~
3 ~~license revoked for impaired driving as defined in G.S. 20-28.2 explaining orally in~~
4 ~~open court and in writing the reasons for his action if he:~~

- 5 (1) Enters a voluntary dismissal; or
- 6 (2) Accepts a plea of guilty or no contest to a lesser included offense; or
- 7 (3) Substitutes another charge, by statement of charges or otherwise, if the
- 8 substitute charge carries a lesser mandatory minimum punishment or is
- 9 not an offense involving impaired driving; or
- 10 (4) Otherwise takes a discretionary action that effectively dismisses or
- 11 reduces the original charge in the case involving impaired driving.

12 (b) The written explanation shall be signed by the prosecutor taking the action on
13 a form approved by the Administrative Office of the Courts and shall contain, at a
14 minimum, the alcohol concentration or the fact that the driver refused, a list of all prior
15 convictions of implied-consent offenses or driving while license revoked, whether the
16 driver had a valid drivers license or privilege to drive in this State as indicated by the
17 Division's records, a statement that a check of the database of the Administrative Office
18 of the Courts revealed whether there are any other pending charges against the
19 defendant pending in this State, those elements that the prosecutor believes in good faith
20 can be proved, and a list of those elements that the prosecutor cannot prove and why,
21 the name and agency of the charging officer and whether the officer is available, and
22 any other reason why the charges are dismissed. General explanations such as "interests
23 of justice" or "insufficient evidence" are not sufficiently detailed to meet the
24 requirements of this section.

25 (c) A copy of this form shall be sent to the head of the law enforcement agency
26 that employed the charging officer, to the district attorney who employs the prosecutor,
27 and filed in the court file. The Administrative Office of the Courts shall electronically
28 record this data in its database and make it available upon request."

29 **PART XII. DRIVING WHILE LICENSE REVOKED AFTER FAILURE TO**
30 **APPEAR IN DRIVING WHILE IMPAIRED**

31 **SECTION 20. G.S. 20-48 reads as rewritten:**

32 **"§ 20-48. Giving of notice.**

33 (a) Whenever the Division is authorized or required to give any notice under this
34 Chapter or other law regulating the operation of vehicles, unless a different method of
35 giving such notice is otherwise expressly prescribed, such notice shall be given either by
36 personal delivery thereof to the person to be so notified or by deposit in the United
37 States mail of such notice in an envelope with postage prepaid, addressed to such person
38 at his address as shown by the records of the Division. The giving of notice by mail is
39 complete upon the expiration of four days after such deposit of such notice. Proof of the
40 giving of notice in either such manner may be made by ~~the certificate of any officer or~~
41 ~~employee of the Division or affidavit of any person over 18 years of age, naming the~~
42 ~~person to whom such notice was given and specifying the time, place, and manner of~~
43 ~~the giving thereof.~~ a notation in the records of the Division that the notice was sent to a
44 particular address and the purpose of the notices. A certified copy of the Division's

records may be sent by the Police Information Network, facsimile, or other electronic means. A copy of the Division's records sent under the authority of this section is admissible as evidence in any court or administrative agency and is sufficient evidence to discharge the burden of the person presenting the record that notice was sent to the person named in the record, at the address indicated in the record, and for the purpose indicated in the record. There is no requirement that the actual notice or letter be produced.

(b) Notwithstanding any other provision of this Chapter at any time notice is now required by registered mail with return receipt requested, certified mail with return receipt requested may be used in lieu thereof and shall constitute valid notice to the same extent and degree as notice by registered mail with return receipt requested.

(c) The Commissioner shall appoint such agents of the Division as may be needed to serve revocation notices required by this Chapter. The fee for service of a notice shall be fifty dollars (\$50.00)."

SECTION 21. G.S. 20-28 reads as rewritten:

"§ 20-28. Unlawful to drive while license ~~revoked~~ revoked, after notification, or while disqualified.

(a) Driving While License Revoked. – Except as provided in subsection (a1) of this section, any person whose drivers license has been revoked who drives any motor vehicle upon the highways of the State while the license is revoked is guilty of a Class 1 misdemeanor. Upon conviction, the person's license shall be revoked for an additional period of one year for the first offense, two years for the second offense, and permanently for a third or subsequent offense.

The restorer of a revoked drivers license who operates a motor vehicle upon the highways of the State without maintaining financial responsibility as provided by law shall be punished as for driving without a license.

(a1) Driving Without Reclaiming License. – A person convicted under subsection (a) shall be punished as if the person had been convicted of driving without a license under G.S. 20-35 if the person demonstrates to the court that either subdivisions (1) and (2), or subdivision (3) of this subsection is true:

(1) At the time of the offense, the person's license was revoked solely under G.S. 20-16.5; and

(2) a. The offense occurred more than 45 days after the effective date of a revocation order issued under G.S. 20-16.5(f) and the period of revocation was 45 days as provided under subdivision (3) of that subsection; or

b. The offense occurred more than 30 days after the effective date of the revocation order issued under any other provision of G.S. 20-16.5; or

(3) At the time of the offense the person had met the requirements of G.S. 50-13.12, or G.S. 110-142.2 and was eligible for reinstatement of the person's drivers license privilege as provided therein.

In addition, a person punished under this subsection shall be treated for drivers license and insurance rating purposes as if the person had been convicted of driving

without a license under G.S. 20-35, and the conviction report sent to the Division must indicate that the person is to be so treated.

(a2) Driving After Notification or Failure to Appear. – A person shall be guilty of a Class 1 misdemeanor if:

(1) The person drives upon a highway while that person's license is revoked for an impaired drivers license revocation after the Division has sent notification in accordance with G.S. 20-48; or

(2) The person fails to appear for two years from the date of the charge after being charged with an implied consent offense.

Upon conviction, the person's drivers license shall be revoked for an additional period of one year for the first offense, two years for the second offense, and permanently for a third or subsequent offense. The restoree of a revoked drivers license who operates a motor vehicle upon the highways of the State without maintaining financial responsibility as provided by law shall be punished as for driving without a license.

(b) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 761, s. 3.

(c) When Person May Apply for License. – A person whose license has been revoked may apply for a license as follows:

(1) If revoked under subsection (a) of this section for one year-year, the person may apply for a license after 90 days.

(2) If punished under subsection (a1) of this section and the original revocation was pursuant to G.S. 20-16.5, in order to obtain reinstatement of a drivers license, the person must obtain a substance abuse assessment and show proof of financial responsibility to the Division. If the assessment recommends education or treatment, the person must complete the education or treatment within the time limits specified by the Division.

(3) If revoked under subsection (a2) of this section for one year, the person may apply for a license after one year.

(4) If revoked under this section for two years, the person may apply for a license after 12 months.

(5) If revoked under this section permanently, the person may apply for a license after three years.~~A person whose license has been revoked under this section for two years may apply for a license after 12 months. A person whose license has been revoked under this section permanently may apply for a license after three years.~~

(c1) Upon the filing of an application the Division may, with or without a hearing, issue a new license upon satisfactory proof that the former licensee has not been convicted of a moving violation under this Chapter or the laws of another state, a violation of any provision of the alcoholic beverage laws of this State or another state, or a violation of any provisions of the drug laws of this State or another state when any of these violations occurred during the revocation period.

(c2) The Division may impose any restrictions or conditions on the new license that the Division considers appropriate for the balance of the revocation period. When

1 the revocation period is permanent, the restrictions and conditions imposed by the
2 Division may not exceed three years.

3 (c3) The Division may only conditionally restore the license in accordance with
4 this section if:

5 (1) The person drove while the person's license was revoked, and the
6 revocation was an impaired drivers license revocation as defined in
7 G.S. 20-28.2; or

8 (2) The revocation was for violating subsection (a2) of this section and the
9 revocation was for more than one year.

10 (c4) For a conditional restoration under subsection (c3) of this section, the
11 Division shall require at a minimum that the driver obtain a substance abuse assessment
12 prior to issuance of a license and show proof of financial responsibility. If the substance
13 abuse assessment recommends education or treatment, the person must complete the
14 education or treatment within the time limits specified. If the assessment determines that
15 the person abuses alcohol, the Division shall require the person to install and use an
16 ignition interlock system on any vehicles that are to be driven by that person for the
17 period of time set forth in G.S. 20-17.8(c).

18 (c5) The Division shall cancel a conditionally restored license and impose the
19 remaining revocation period if any of the following occur:

20 (1) The person violates any condition of the restoration;

21 (2) The person is convicted of any moving violation in this or another
22 state;

23 (3) The person is convicted for a violation of the alcoholic beverage or
24 controlled substance laws of this or any other state.

25 (d) Driving While Disqualified. – A person who was convicted of a violation that
26 disqualified the person and required the person's drivers license to be revoked who
27 drives a motor vehicle during the revocation period is punishable as provided in the
28 other subsections of this section. A person who has been disqualified who drives a
29 commercial motor vehicle during the disqualification period is guilty of a Class 1
30 misdemeanor and is disqualified for an additional period as follows:

31 (1) For a first offense of driving while disqualified, a person is
32 disqualified for a period equal to the period for which the person was
33 disqualified when the offense occurred.

34 (2) For a second offense of driving while disqualified, a person is
35 disqualified for a period equal to two times the period for which the
36 person was disqualified when the offense occurred.

37 (3) For a third offense of driving while disqualified, a person is
38 disqualified for life.

39 The Division may reduce a disqualification for life under this subsection to 10 years in
40 accordance with the guidelines adopted under G.S. 20-17.4(b). A person who drives a
41 commercial motor vehicle while the person is disqualified and the person's drivers
42 license is revoked is punishable for both driving while the person's license was revoked
43 and driving while disqualified."

44 PART XIII. MODIFYING CURRENT PUNISHMENTS

SECTION 22. G.S. 20-179 reads as rewritten:

"§ 20-179. Sentencing hearing after conviction for impaired driving; determination of grossly aggravating and aggravating and mitigating factors; punishments.

(a) Sentencing Hearing Required. – After a conviction for impaired driving under G.S. 20-138.1, G.S. 20-138.2, a second or subsequent conviction under G.S. 20-138.2A, or a second or subsequent conviction under G.S. 20-138.2B, G.S. 20-138.3, or when any of those offenses are remanded back to district court after an appeal to superior court, the judge ~~must~~shall hold a sentencing hearing to determine whether there are aggravating or mitigating factors that affect the sentence to be imposed.

(1) The court shall consider evidence of aggravating or mitigating factors present in the offense that make an aggravated or mitigated sentence appropriate. The State bears the burden of proving beyond a reasonable doubt that an aggravating factor exists, and the offender bears the burden of proving by a preponderance of the evidence that a mitigating factor exists.

(2) Before the hearing the prosecutor ~~must~~shall make all feasible efforts to secure the defendant's full record of traffic convictions, and ~~must~~shall present to the judge that record for consideration in the hearing. Upon request of the defendant, the prosecutor ~~must~~shall furnish the defendant or his attorney a copy of the defendant's record of traffic convictions at a reasonable time prior to the introduction of the record into evidence. In addition, the prosecutor ~~must~~shall present all other appropriate grossly aggravating and aggravating factors of which he is aware, and the defendant or his attorney may present all appropriate mitigating factors. In every instance in which a valid chemical analysis is made of the defendant, the prosecutor ~~must~~shall present evidence of the resulting alcohol concentration.

(a1) Jury Trial in Superior Court; Jury Procedure if Trial Bifurcated. –

(1) Notice. – If the defendant appeals to superior court, and the State intends to use one or more aggravating factors under subsections (c) or (d) of this section, the State must provide the defendant with notice of its intent. The notice shall be provided no later than 10 days prior to trial and shall contain a plain and concise factual statement indicating the factor or factors it intends to use under the authority of the subsections (c) and (d) of this section. The notice must list all the aggravating factors that the State seeks to establish.

(2) The defendant may admit to the existence of an aggravating factor, and the factor so admitted shall be treated as though it were found by a jury pursuant to the procedures in this section. If the defendant does not so admit, only a jury may determine if an aggravating factor is present. The jury impaneled for the trial may, in the same trial, also determine if one or more aggravating factors is present, unless the court determines that the interests of justice require that a separate

sentencing proceeding be used to make that determination. If the court determines that a separate proceeding is required, the proceeding shall be conducted by the trial judge before the trial jury as soon as practicable after the guilty verdict is returned. The State bears the burden of proving beyond a reasonable doubt that an aggravating factor exists, and the offender bears the burden of proving by a preponderance of the evidence that a mitigating factor exists.

(3) If prior to the time that the trial jury begins its deliberations on the issue of whether one or more aggravating factors exist, any juror dies, becomes incapacitated or disqualified, or is discharged for any reason, an alternate juror shall become a part of the jury and serve in all respects as those selected on the regular trial panel. An alternate juror shall become a part of the jury in the order in which the juror was selected. If the trial jury is unable to reconvene for a hearing on the issue of whether one or more aggravating factors exist after having determined the guilt of the accused, the trial judge shall impanel a new jury to determine the issue.

(4) A jury selected to determine whether one or more aggravating factors exist shall be selected in the same manner as juries are selected for the trial of criminal cases.

(a2) Defendant Admits Aggravating Factor Only. – If the defendant admits that an aggravating factor exists, but pleads not guilty to the underlying charge, a jury shall be impaneled to dispose of the charge only. In that case, evidence that relates solely to the establishment of an aggravating factor shall not be admitted in the trial.

(a3) Defendant Pleads Guilty to the Charge Only. – If the defendant pleads guilty to the charge, but contests the existence of one or more aggravating factors, a jury shall be impaneled to determine if the aggravating factor or factors exist.

(b) Repealed by Session Laws 1983, c. 435, s. 29.

(c) Determining Existence of Grossly Aggravating Factors. – At the sentencing hearing, based upon the evidence presented at trial and in the hearing, the judge, or the jury in superior court, must shall first determine whether there are any grossly aggravating factors in the case. Whether a prior conviction exists under subdivision (1) of this subsection shall be a matter to be determined by the judge, and not the jury, in district or superior court. If the sentencing hearing is for a case remanded back to district court from superior court, the judge shall determine whether the defendant has been convicted of any offense that was not considered at the initial sentencing hearing and impose the appropriate sentence under this section. The judge must shall impose the Level One punishment under subsection (g) of this section if the judge determines it is determined that two or more grossly aggravating factors apply. The judge must shall impose the Level Two punishment under subsection (h) of this section if the judge determines it is determined that only one of the grossly aggravating factors applies. The grossly aggravating factors are:

(1) A prior conviction for an offense involving impaired driving if:

- a. The conviction occurred within seven years before the date of the offense for which the defendant is being sentenced; or
- b. The conviction occurs after the date of the offense for which the defendant is presently being sentenced, but prior to or contemporaneously with the present sentencing.

Each prior conviction is a separate grossly aggravating factor.

- (2) Driving by the defendant at the time of the offense while his driver's license was revoked under G.S. 20-28, and the revocation was an impaired driving revocation under G.S. 20-28.2(a).
- (3) Serious injury to another person caused by the defendant's impaired driving at the time of the offense.
- (4) Driving by the defendant while a child under the age of 16 years was in the vehicle at the time of the offense.

In imposing a Level One or Two punishment, the judge may consider the aggravating and mitigating factors in subsections (d) and (e) in determining the appropriate sentence. If there are no grossly aggravating factors in the case, the judge ~~must~~ shall weigh all aggravating and mitigating factors and impose punishment as required by subsection (f).

(c1) Written Findings. – The court shall make findings of the aggravating and mitigating factors present in the offense. If the jury finds factors in aggravation, the court shall ensure that those findings are entered in the court's determination of sentencing factors form or any comparable document used to record the findings of sentencing factors. Findings shall be in writing.

(d) Aggravating Factors to Be Weighed. – The ~~judge~~ judge, or the jury in superior court, ~~must~~ shall determine before sentencing under subsection (f) whether any of the aggravating factors listed below apply to the defendant. The judge ~~must~~ shall weigh the seriousness of each aggravating factor in the light of the particular circumstances of the case. The factors are:

- (1) Gross impairment of the defendant's faculties while driving or an alcohol concentration of 0.16 or more within a relevant time after the driving.
- (2) Especially reckless or dangerous driving.
- (3) Negligent driving that led to a reportable accident.
- (4) Driving by the defendant while his driver's license was revoked.
- (5) Two or more prior convictions of a motor vehicle offense not involving impaired driving for which at least three points are assigned under G.S. 20-16 or for which the convicted person's license is subject to revocation, if the convictions occurred within five years of the date of the offense for which the defendant is being sentenced, or one or more prior convictions of an offense involving impaired driving that occurred more than seven years before the date of the offense for which the defendant is being sentenced.
- (6) Conviction under G.S. 20-141.5 of speeding by the defendant while fleeing or attempting to elude apprehension.

(7) Conviction under G.S. 20-141 of speeding by the defendant by at least 30 miles per hour over the legal limit.

(8) Passing a stopped school bus in violation of G.S. 20-217.

(9) Any other factor that aggravates the seriousness of the offense.

Except for the factor in subdivision (5) the conduct constituting the aggravating factor ~~must~~shall occur during the same transaction or occurrence as the impaired driving offense.

(e) Mitigating Factors to Be Weighed. – The judge ~~must~~shall also determine before sentencing under subsection (f) whether any of the mitigating factors listed below apply to the defendant. The judge ~~must~~shall weigh the degree of mitigation of each factor in light of the particular circumstances of the case. The factors are:

(1) Slight impairment of the defendant's faculties resulting solely from alcohol, and an alcohol concentration that did not exceed 0.09 at any relevant time after the driving.

(2) Slight impairment of the defendant's faculties, resulting solely from alcohol, with no chemical analysis having been available to the defendant.

(3) Driving at the time of the offense that was safe and lawful except for the impairment of the defendant's faculties.

(4) A safe driving record, with the defendant's having no conviction for any motor vehicle offense for which at least four points are assigned under G.S. 20-16 or for which the person's license is subject to revocation within five years of the date of the offense for which the defendant is being sentenced.

(5) Impairment of the defendant's faculties caused primarily by a lawfully prescribed drug for an existing medical condition, and the amount of the drug taken was within the prescribed dosage.

(6) The defendant's voluntary submission to a mental health facility for assessment after he was charged with the impaired driving offense for which he is being sentenced, and, if recommended by the facility, his voluntary participation in the recommended treatment.

(7) Any other factor that mitigates the seriousness of the offense.

Except for the factors in subdivisions (4), (6) and (7), the conduct constituting the mitigating factor ~~must~~shall occur during the same transaction or occurrence as the impaired driving offense.

(f) Weighing the Aggravating and Mitigating Factors. – If the judge or the jury in the sentencing hearing determines that there are no grossly aggravating factors, ~~he~~the judge ~~must~~shall weigh all aggravating and mitigating factors listed in subsections (d) and (e). If the judge determines that:

(1) The aggravating factors substantially outweigh any mitigating factors, he ~~must~~shall note in the judgment the factors found and his finding that the defendant is subject to the Level Three punishment and impose a punishment within the limits defined in subsection (i).

(2) There are no aggravating and mitigating factors, or that aggravating factors are substantially counterbalanced by mitigating factors, he ~~must~~ shall note in the judgment any factors found and his finding that the defendant is subject to the Level Four punishment and impose a punishment within the limits defined in subsection (j).

(3) The mitigating factors substantially outweigh any aggravating factors, he ~~must~~ shall note in the judgment the factors found and his finding that the defendant is subject to the Level Five punishment and impose a punishment within the limits defined in subsection (k).

It is not a mitigating factor that the driver of the vehicle was suffering from alcoholism, drug addiction, diminished capacity, or mental disease or defect. Evidence of these matters may be received in the sentencing hearing, however, for use by the judge in formulating terms and conditions of sentence after determining which punishment level ~~must~~ shall be imposed.

(f1) Aider and Abettor Punishment. – Notwithstanding any other provisions of this section, a person convicted of impaired driving under G.S. 20-138.1 under the common law concept of aiding and abetting is subject to Level Five punishment. The judge need not make any findings of grossly aggravating, aggravating, or mitigating factors in such cases.

(f2) Limit on Consolidation of Judgments. – Except as provided in subsection (f1), in each charge of impaired driving for which there is a conviction the judge ~~must~~ shall determine if the sentencing factors described in subsections (c), (d) and (e) are applicable unless the impaired driving charge is consolidated with a charge carrying a greater punishment. Two or more impaired driving charges may not be consolidated for judgment.

(g) Level One Punishment. – A defendant subject to Level One punishment may be fined up to four thousand dollars (\$4,000) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than 30 days and a maximum term of not more than 24 months. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 30 days. If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

(h) Level Two Punishment. – A defendant subject to Level Two punishment may be fined up to two thousand dollars (\$2,000) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than seven days and a maximum term of not more than 12 months. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least seven days. If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers

1 license and as a condition of probation. The judge may impose any other lawful
2 condition of probation.

3 (i) Level Three Punishment. – A defendant subject to Level Three punishment
4 may be fined up to one thousand dollars (\$1,000) and shall be sentenced to a term of
5 imprisonment that includes a minimum term of not less than 72 hours and a maximum
6 term of not more than six months. The term of imprisonment may be suspended.
7 However, the suspended sentence shall include the condition that the defendant:

8 (1) Be imprisoned for a term of at least 72 hours as a condition of special
9 probation; or

10 (2) Perform community service for a term of at least 72 hours; or

11 ~~(3) Not operate a motor vehicle for a term of at least 90 days; or~~

12 ~~(4)~~(3) Any combination of these conditions.

13 If the defendant is placed on probation, the judge shall impose a requirement that the
14 defendant obtain a substance abuse assessment and the education or treatment required
15 by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation.
16 The judge may impose any other lawful condition of probation.

17 (j) Level Four Punishment. – A defendant subject to Level Four punishment may
18 be fined up to five hundred dollars (\$500.00) and shall be sentenced to a term of
19 imprisonment that includes a minimum term of not less than 48 hours and a maximum
20 term of not more than 120 days. The term of imprisonment may be suspended.
21 However, the suspended sentence shall include the condition that the defendant:

22 (1) Be imprisoned for a term of 48 hours as a condition of special
23 probation; or

24 (2) Perform community service for a term of 48 hours; or

25 ~~(3) Not operate a motor vehicle for a term of 60 days; or~~

26 ~~(4)~~(3) Any combination of these conditions.

27 If the defendant is placed on probation, the judge shall impose a requirement that the
28 defendant obtain a substance abuse assessment and the education or treatment required
29 by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation.
30 The judge may impose any other lawful condition of probation.

31 (k) Level Five Punishment. – A defendant subject to Level Five punishment may
32 be fined up to two hundred dollars (\$200.00) and shall be sentenced to a term of
33 imprisonment that includes a minimum term of not less than 24 hours and a maximum
34 term of not more than 60 days. The term of imprisonment may be suspended. However,
35 the suspended sentence shall include the condition that the defendant:

36 (1) Be imprisoned for a term of 24 hours as a condition of special
37 probation; or

38 (2) Perform community service for a term of 24 hours; or

39 ~~(3) Not operate a motor vehicle for a term of 30 days; or~~

40 ~~(4)~~(3) Any combination of these conditions.

41 If the defendant is placed on probation, the judge shall impose a requirement that the
42 defendant obtain a substance abuse assessment and the education or treatment required
43 by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation.
44 The judge may impose any other lawful condition of probation.

(k1) Credit for Inpatient Treatment. – Pursuant to G.S. 15A-1351(a), the judge may order that a term of imprisonment imposed as a condition of special probation under any level of punishment be served as an inpatient in a facility operated or licensed by the State for the treatment of alcoholism or substance abuse where the defendant has been accepted for admission or commitment as an inpatient. The defendant shall bear the expense of any treatment unless the trial judge orders that the costs be absorbed by the State. The judge may impose restrictions on the defendant's ability to leave the premises of the treatment facility and require that the defendant follow the rules of the treatment facility. The judge may credit against the active sentence imposed on a defendant the time the defendant was an inpatient at the treatment facility, provided such treatment occurred after the commission of the offense for which the defendant is being sentenced. This section shall not be construed to limit the authority of the judge in sentencing under any other provisions of law.

(l) Repealed by Session Laws 1989, c. 691.

(m) Repealed by Session Laws 1995, c. 496, s. 2.

(n) Time Limits for Performance of Community Service. – If the judgment requires the defendant to perform a specified number of hours of community service as provided in subsections (i), (j), or (k), the community service ~~must~~shall be completed:

- (1) Within 90 days, if the amount of community service required is 72 hours or more; or
- (2) Within 60 days, if the amount of community service required is 48 hours; or
- (3) Within 30 days, if the amount of community service required is 24 hours.

The court may extend these time limits upon motion of the defendant if it finds that the defendant has made a good faith effort to comply with the time limits specified in this subsection.

(o) Evidentiary Standards; Proof of Prior Convictions. – In the sentencing hearing, the State ~~must~~shall prove any grossly aggravating or aggravating factor by the greater weight of the evidence, and the defendant ~~must~~shall prove any mitigating factor by the greater weight of the evidence. Evidence adduced by either party at trial may be utilized in the sentencing hearing. Except as modified by this section, the procedure in G.S. 15A-1334(b) governs. The judge may accept any evidence as to the presence or absence of previous convictions that he finds reliable but he ~~must~~shall give prima facie effect to convictions recorded by the Division or any other agency of the State of North Carolina. A copy of such conviction records transmitted by the police information network in general accordance with the procedure authorized by G.S. 20-26(b) is admissible in evidence without further authentication. If the judge decides to impose an active sentence of imprisonment that would not have been imposed but for a prior conviction of an offense, the judge ~~must~~shall afford the defendant an opportunity to introduce evidence that the prior conviction had been obtained in a case in which he was indigent, had no counsel, and had not waived his right to counsel. If the defendant proves by the preponderance of the evidence all three above facts concerning the prior case, the conviction may not be used as a grossly aggravating or aggravating factor.

(p) Limit on Amelioration of Punishment. – For active terms of imprisonment imposed under this section:

- (1) The judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial.
- (2) The defendant shall serve the mandatory minimum period of imprisonment and good or gain time credit may not be used to reduce that mandatory minimum period.
- (3) The defendant may not be released on parole unless he is otherwise eligible, has served the mandatory minimum period of imprisonment, and has obtained a substance abuse assessment and completed any recommended treatment or training program or is paroled into a residential treatment program.

With respect to the minimum or specific term of imprisonment imposed as a condition of special probation under this section, the judge may not give credit to the defendant for the first 24 hours of time spent in incarceration pending trial.

(q) Repealed by Session Laws 1991, c. 726, s. 20.

(r) Supervised Probation Terminated. – Unless a judge in his discretion determines that supervised probation is necessary, and includes in the record that he has received evidence and finds as a fact that supervised probation is necessary, and states in his judgment that supervised probation is necessary, a defendant convicted of an offense of impaired driving shall be placed on unsupervised probation if he meets three conditions. These conditions are that he has not been convicted of an offense of impaired driving within the seven years preceding the date of this offense for which he is sentenced, that the defendant is sentenced under subsections (i), (j), and (k) of this section, and has obtained any necessary substance abuse assessment and completed any recommended treatment or training program.

When a judge determines in accordance with the above procedures that a defendant should be placed on supervised probation, the judge shall authorize the probation officer to modify the defendant's probation by placing the defendant on unsupervised probation upon the completion by the defendant of the following conditions of his suspended sentence:

- (1) Community service; or
- (2) Repealed by Session Laws 1995 c. 496, s. 2.
- (3) Payment of any fines, court costs, and fees; or
- (4) Any combination of these conditions.

(s) Method of Serving Sentence. – The judge in his discretion may order a term of imprisonment ~~or community service~~ to be served on weekends, even if the sentence cannot be served in consecutive sequence. However, if the defendant is ordered to a term of 48 hours or more or has 48 hours or more remaining on a term of imprisonment, the defendant shall be required to serve 48 continuous hours of imprisonment to be given credit for time served. Credit for any jail time shall only be given hour for hour for time actually served. If the defendant appears at the jail and has remaining in his body any alcohol, as shown by an alcohol screening device, or controlled substance previously consumed, unless lawfully obtained and taken in therapeutically appropriate

1 amounts, the defendant shall be refused entrance and this shall be reported back to
2 court. If after a hearing, the court determines that when the defendant reported to jail,
3 the defendant had remaining in his body any alcohol previously consumed, as shown by
4 an alcohol screening device, or controlled substance previously consumed, unless
5 lawfully obtained and taken in therapeutically appropriate amounts, the defendant shall
6 be ordered to serve his jail time immediately and shall not be eligible to serve jail time
7 on weekends.

8 (t) Repealed by Session Laws 1995, c. 496, s. 2."

9 **SECTION 23.** Chapter 7A of the General Statutes is amended by adding a
10 new section to read:

11 **"§ 7A-109.4. Records of offenses involving impaired driving.**

12 The clerk of superior court shall maintain all records relating to an offense involving
13 impaired driving as defined in G.S. 20-4.01(24a) for a minimum of 10 years from the
14 date of conviction. Prior to destroying the record, the clerk shall record the name of the
15 defendant, the judge, the prosecutor, and the attorney or whether there was a waiver of
16 attorney, the alcohol concentration or the fact of refusal, the sentence imposed, and
17 whether the case was appealed to superior court and its disposition."

18 **SECTION 24.** G.S. 20-17.2 is repealed.

19 **PART XIV. MAKING IT ILLEGAL FOR A PERSON UNDER 21 YEARS OF**
20 **AGE TO CONSUME AS WELL AS POSSESS ALCOHOL AND TO ALLOW**
21 **ALCOHOL SCREENING DEVICES TO BE USED TO PROVE A PERSON HAS**
22 **CONSUMED ALCOHOL**

23 **SECTION 25.** G.S. 18B-302(b) reads as rewritten:

24 "(b) ~~Purchase or Possession.~~ Purchase, Possession, or Consumption. – It shall be
25 unlawful for:

- 26 (1) A person less than 21 years old to purchase, to attempt to purchase, or
27 to possess malt beverages or unfortified wine; or
- 28 (2) A person less than 21 years old to purchase, to attempt to purchase, or
29 to possess fortified wine, spirituous liquor, or mixed beverages.
- 30 (3) A person less than 21 years old to consume any malt beverage,
31 unfortified wine, fortified wine, spirituous liquor, or mixed beverage."

32 **SECTION 26.** G.S. 18B-302 is amended by adding the following new
33 subsections to read:

34 "(j) Notwithstanding the provisions of this section, it shall not be unlawful for a
35 person less than 21 years old to consume unfortified wine or fortified wine during
36 participation in an exempted activity under G.S. 18B-103(4), (8), or (11).

37 (k) Notwithstanding any other provisions of law, a law enforcement officer may
38 require any person the officer has probable cause to believe is under the age of 21 and
39 who has consumed an alcoholic beverage to submit to an alcohol screening test using a
40 device approved by the Department of Health and Human Services. The results of any
41 screening device administered in accordance with the rules of the Department of Health
42 and Human Services shall be admissible in any court or administrative hearing or
43 proceeding to prove that a person possessed or consumed an alcoholic beverage."

PART XV. REQUIRING THAT CERTAIN DWI DEFENDANTS WHO ARE RELEASED FROM PRISON EARLY ARE TO BE ASSIGNED COMMUNITY SERVICE PAROLE OR HOUSE ARREST

SECTION 27. G.S. 15A-1374 reads as rewritten:

"§ 15A-1374. Conditions of parole.

(a) In General. – The Post-Release Supervision and Parole Commission may in its discretion impose conditions of parole it believes reasonably necessary to insure that the parolee will lead a law-abiding life or to assist him to do so. The Commission must provide as an express condition of every parole that the parolee not commit another crime during the period for which the parole remains subject to revocation. When the Commission releases a person on parole, it must give him a written statement of the conditions on which he is being released.

(a1) Required Conditions for Certain Offenders. – A person serving a term of imprisonment for an impaired driving offense sentenced pursuant to G.S. 20-179 that:

(1) Has completed any recommended treatment or training program required by G.S. 20-179(p)(3); and

(2) Is not being paroled to a residential treatment program;

shall, as a condition of parole, receive community service parole pursuant to G.S. 15A-1371(h), or be required to comply with subdivision (b)(8a) of this section.

(b) Appropriate Conditions. – As conditions of parole, the Commission may require that the parolee comply with one or more of the following conditions:

(1) Work faithfully at suitable employment or faithfully pursue a course of study or vocational training that will equip him for suitable employment.

(2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.

(3) Attend or reside in a facility providing rehabilitation, instruction, recreation, or residence for persons on parole.

(4) Support his dependents and meet other family responsibilities.

(5) Refrain from possessing a firearm, destructive device, or other dangerous weapon unless granted written permission by the Commission or the parole officer.

(6) Report to a parole officer at reasonable times and in a reasonable manner, as directed by the Commission or the parole officer.

(7) Permit the parole officer to visit him at reasonable times at his home or elsewhere.

(8) Remain within the geographic limits fixed by the Commission unless granted written permission to leave by the Commission or the parole officer.

(8a) Remain in one or more specified places for a specified period or periods each day and wear a device that permits the defendant's compliance with the condition to be monitored electronically.

- 1 (9) Answer all reasonable inquiries by the parole officer and obtain prior
2 approval from the parole officer for any change in address or
3 employment.
- 4 (10) Promptly notify the parole officer of any change in address or
5 employment.
- 6 (11) Submit at reasonable times to searches of his person by a parole officer
7 for purposes reasonably related to his parole supervision. The
8 Commission may not require as a condition of parole that the parolee
9 submit to any other searches that would otherwise be unlawful.
10 Whenever the search consists of testing for the presence of illegal
11 drugs, the parolee may also be required to reimburse the Department
12 of Correction for the actual cost of drug testing and drug screening, if
13 the results are positive.
- 14 (11a) Make restitution or reparation to an aggrieved party as provided in
15 G.S. 148-57.1.
- 16 (11b) Comply with an order from a court of competent jurisdiction regarding
17 the payment of an obligation of the parolee in connection with any
18 judgment rendered by the court.
- 19 (11c) In the case of a parolee who was attending a basic skills program
20 during incarceration, continue attending a basic skills program in
21 pursuit of a General Education Development Degree or adult high
22 school diploma.
- 23 (12) Satisfy other conditions reasonably related to his rehabilitation.
- 24 (c) Supervision Fee. – The Commission must require as a condition of parole that
25 the parolee pay a supervision fee of thirty dollars (\$30.00) per month. The Commission
26 may exempt a parolee from this condition of parole only if it finds that requiring him to
27 pay the fee will constitute an undue economic burden. The fee must be paid to the clerk
28 of superior court of the county in which the parolee was convicted. The clerk must
29 transmit any money collected pursuant to this subsection to the State to be deposited in
30 the general fund of the State. In no event shall a person released on parole be required to
31 pay more than one supervision fee per month."

32 **PART XVI. EFFECTIVE DATE**

33 **SECTION 28.** The requirement that the Administrative Office of the Courts
34 electronically record certain data contained in subsection (c) of G.S. 20-138.4, as
35 amended by Section 19 of this act, becomes effective after the next rewrite of the
36 superior court clerks system by the Administrative Office of the Courts. The remainder
37 of this act becomes effective December 1, 2005, and applies to offenses committed on
38 or after that date.



HOUSE BILL 1048: Governor's DWI Task Force Recommendations

BILL ANALYSIS

Committee: House Appropriations
Introduced by: Rep. Hackney
Version: Second Edition

Date: July 19, 2005
Summary by: Susan Sitze
Staff Attorney

SUMMARY: *House Bill 1048 implements some of the recommendations of the Governor's Task Force on Driving While Impaired.*

BILL ANALYSIS:

PART I. REGULATING MALT BEVERAGE KEGS

This part requires a purchase-transportation permit be obtained to purchase a keg of malt-beverage for off-premises consumption. The retailers of keg malt beverages are authorized to issue purchase-transportation permits.

PART II. MODIFYING THE STATUTES ON CHECKING STATIONS AND ROADBLOCKS

Currently, the criteria for impaired driving checkpoints are statutory, but the criteria for drivers license checks have been established by case law. This part would make the criteria for both types of checkpoints the same. Law enforcement agencies must operate checkpoints under established policy.

PART III. PROVIDING FOR IMPLIED CONSENT PRETRIAL AND COURT PROCEEDINGS

This part establishes pretrial processes for implied consent offenses.

20-38.1 authorizes law enforcement investigating an implied consent offense or vehicle crash to investigate the driver's impairment wherever the driver is located.

20-38.2 requires the officer to inform the person why they're being arrested, allows the officer to take the person for a chemical analysis, allows the officer to take the person to be identified or complete a crash report, allows the officer to take photographs and fingerprints in accordance with law, and requires the officer to take the person before a judicial official for an initial appearance after the completion of all other procedures.

20-38.3 governs the initial appearance before a magistrate.

20-38.4 requires the Chief District Court Judge, the Department of Health and Human Services (DHHS), the District Attorney and the Sheriff to establish written procedures for attorneys and witnesses to have access to the chemical analysis room, and approve a procedure to allow a person who is denied pretrial release to have access to outside chemical analysis. The procedures must be posted explaining to the public how to get access to the chemical analysis room.

20-38.5 requires that defendant's motion to suppress evidence or dismiss the charges be made prior to trial, in writing, and served upon the State at least 7 days prior to hearing.

20-38.6 allows the State to appeal a pretrial suppression of evidence or dismissal of charges to superior court for a de novo hearing. The defendant may appeal denial of a pretrial motion upon conviction. This section also requires that any conviction in district court, that is appealed to superior court by the defendant, not be remanded back to district court unless the prosecutor and superior court consent. Upon remand to the district court, the court shall hold a new sentencing hearing taking into account any new convictions and delaying sentencing if there are any pending charges.

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PART IV. ALLOWING THE ADMISSIBILITY OF DRUG RECOGNITION EXPERTS, HGN TESTIMONY, AND OPINION AS TO SPEED BY AN ACCIDENT RECONSTRUCTION EXPERT

This part would allow the admission of the results of a horizontal gaze nystagmus (HGN) test when the test was administered by a person trained in HGN testing. The HGN test is the "follow my finger" test.

This part would also allow the admission of testimony of a Drug Recognition Expert (DRE), certified by DHHS, that the person is under the influence of one or more substances and the opinion as to the type of substance.

This part also allows an expert in accident reconstruction to give an opinion as to the speed of a vehicle, even if the person did not observe the vehicle moving.

PART V. ALCOHOL SCREENING DEVICES

This part would allow the fact that a driver showed a positive or negative result on an alcohol screening test or a driver's refusal to submit to alcohol screening tests to be admitted for the purpose of showing that the driver had consumed alcohol and that the driver had in their blood previously consumed alcohol, but not to prove a particular alcohol concentration.

PART VI. CLARIFICATION OF IMPAIRED DRIVING OFFENSES

Section 7 amends the definition of "Public Vehicular Area" (PVA) to clarify that an area open to public traffic at any time is a PVA.

Sections 8 and 9 clarify the per se offenses to make it clear that if a person registers 0.08 or greater on a chemical analysis, that is sufficient to prove the offense. They also state that the presence of any amount of Schedule I or II controlled substance (Heroin, LSD, Cocaine, Opium, etc) is sufficient to prove the offense. An affirmative defense is provided for Schedule II substances if the defendant can show that it was lawfully obtained and taken in therapeutically appropriate amounts.

Sections 9 and 10 clarify the admissibility of various methods of determining the gross vehicle weight rating of a vehicle.

Section 11 makes a technical change.

Section 12 creates a deferred prosecution option for persons charged with driving under the age of 21 after having consumed any amount of alcohol. This allows the person to obtain a dismissal after completing an assessment and treatment or education, a period of non-operation, and doing community service, as well as meeting some additional conditions.

Section 13 amends the Habitual DWI statute to apply to any person who has 4 DWIs within a 10 year period. Currently, the law applies to anyone who has 4 DWIs within a 7 year period.

Section 14 makes a technical change.

PART VII. FELONY DEATH BY VEHICLE AND INJURY BY VEHICLE

This part raises the punishment for Felony Death by Vehicle from a Class G Felony to a Class D Felony. It also creates a new offense of Felony Serious Injury by Vehicle, which would be a Class E Felony.

PART VIII. CLARIFYING AND SIMPLIFYING THE IMPLIED CONSENT LAW

This part rewrites 20-16.2 mostly to make the language clearer. The part allows any law enforcement officer to perform the chemical analysis (not just the arresting officer). Additionally, this part changes the standard of review by the superior court when a license revocation for refusal to submit to chemical analysis is appealed. Currently, the review is a de novo review, meaning the superior court hears all the

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evidence again. This part would change the review to limit it to whether there is sufficient evidence in the record to support the Commissioner's findings of fact and whether the conclusions of law are supported by the findings of fact and whether the Commissioner committed an error of law in revoking the license.

PART IX. ADMISSIBILITY OF CHEMICAL ANALYSES

This part amends the statute governing admissibility of chemical analyses to allow the court to take notice of the DHHS rules and persons authorized to administer the analyses. DHHS is required to post on a webpage and file in each county a list of all persons who have a permit authorizing them to perform chemical analyses. This part also authorizes the admission of tests on blood or urine if submitted on a form approved by the Attorney General without further authentication. This part restricts the issuance of a subpoena for the chemical analyst unless the subpoena is found to be necessary by the court.

This part also clarifies a law enforcement officers ability to obtain a blood or urine sample from a person who has refused a test.

PART X. IMPROVED ACCESS TO MEDICAL RECORDS IN IMPAIRED DRIVING CASES

This part allows an officer investigating a crash to find out from a health care provider the name and location of a person and whether or not the person appears to be impaired. Additionally, officers shall be provided access to visit and interview the person upon request, and may obtain a certified copy of medical records if they obtain a search warrant or an order specifying the records.

PART XI. PROSECUTOR REPORTING WHEN IMPLIED CONSENT CASE IS DISMISSED

This part states specifically the information a prosecutor must document when dismissing an implied consent offense and requires that documentation to be provided to the charging law enforcement agency, the elected District Attorney and filed in the court file.

PART XII. DRIVING WHILE LICENSE REVOKED AFTER FAILURE TO APPEAR

This part creates a Class 1 misdemeanor for driving while license revoked when the license has been revoked for an implied consent offense or for failure to appear for more than 2 years for an implied consent offense. Conviction of this offense results in an additional 1 year, 2 year, or permanent revocation of the license. A person convicted of this offense, who has their license revoked for more than one year, may not reobtain their license without obtaining a substance abuse assessment and complying with any treatment or education recommended. This part also allows DMV to require an ignition interlock on the persons vehicle in certain circumstances.

PART XIII. MODIFYING CURRENT PUNISHMENTS

Section 22 of this part conforms the sentencing statute for impaired driving offenses to comply with a recent U.S. Supreme Court decision, Blakely v. Washington, regarding the finding of aggravating factors in sentencing. Subsection (s) of this section makes a change in the DWI sentencing law to provide that anyone given an active sentence of 48 hours or more, shall be required to serve 48 continuous hours to receive credit for time served and to provide that jail time shall be credited on an hour for hour basis.

Section 23 of this part requires the clerk of superior court to maintain all impaired driving records for at least 10 years from the date of conviction and to record certain information on the case before destroying the record.

PART XIV. MAKING IT ILLEGAL FOR A PERSON UNDER 21 YEARS OF AGE TO CONSUME AS WELL AS POSSESS ALCOHOL AND TO ALLOW ALCOHOL SCREENING DEVICES TO BE USED TO PROVE A PERSON HAS CONSUMED ALCOHOL

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This part makes it illegal for anyone under 21 to consume alcohol. Currently it is illegal for those persons to purchase or possess alcohol, but consumption itself is not illegal. An exemption is provided for substance abuse treatment, religious services and culinary school lessons. This part also specifies that alcohol screening tests are admissible to prove the possession or consumption of an alcoholic beverage.

PART XV. REQUIRING THAT DEFENDANT WHO ARE RELEASED FROM PRISON EARLY ARE TO BE ASSIGNED COMMUNITY SERVICE PAROLE, WHICH MAY INCLUDE HOUSE ARREST

This part requires that any impaired driving offender that is paroled be placed on community service parole, and allows them to also be placed on house arrest.

EFFECTIVE DATE: The requirement that the Administrative Office of the Courts electronically record certain data contained in subsection (c) of G.S. 20-138.4, as amended by Section 19 of this act, becomes effective after the next rewrite of the superior court clerks system by the Administrative Office of the Courts. The remainder of this act becomes effective December 1, 2005, and applies to offenses committed on or after that date.

H1048e1-SMSA-CSSA-8 v9

H1048e2-SMSA

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note
(G.S. 120-36.7)

BILL NUMBER: House Bill 1048 (Second Edition)

SHORT TITLE: Governor's DWI Task Force Recommendations.

SPONSOR(S): Representative Hackney

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
GENERAL FUND					
Judicial Branch	\$1,137,367	\$1,869,834	\$1,963,325	\$2,061,491	\$2,164,565
Dept. of Correction	\$0	\$432,799	\$1,255,931	\$2,072,553	\$3,065,809
Health and Human Services	\$9,000	-	-	-	-
Subtotal	\$1,146,367	\$2,302,633	\$3,219,256	\$4,134,044	\$5,230,374
HIGHWAY FUND					
Dept. of Transportation	\$362,580	-	-	-	-
LOCAL GOVERNMENTS Exact amount cannot be determined					
TOTAL EXPENDITURES:	\$1,508,947	\$2,302,633	\$3,219,256	\$4,134,044	\$5,230,374
ADDITIONAL PRISON BEDS*					
(Felony Death by Vehicle)	0	12	41	70	102
POSITIONS (cumulative)					
Judicial Branch	19	19	19	19	19
Correction	0	5	16	28	41
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Judicial Branch; Local Governments; Department of Correction; Department of Transportation; Department of Health and Human Services					
EFFECTIVE DATE: December 1, 2005 (except G.S. 20-138.4(c) – effective upon next rewrite of clerk's system).					
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

SUMMARY OF HOUSE BILL 1048

Bill Summary

House Bill 1048 implements some of the recommendations of the Governor's Task Force on Driving While Impaired (DWI). More detailed summaries are provided in the text of the fiscal note. Major changes are:

- ❑ Section 1 and 2: Authorizing retailers and local ABC stores to issue purchase transportation permits to purchase a keg of malt beverage for off-premises consumption and makes it a Class I misdemeanor if a permit is not obtained
- ❑ Section 3: Modifying the statutes on motor vehicle checking stations and roadblocks to standardize procedures by law enforcement.
- ❑ Section 4: Establishing pre-trial processes for implied consent cases.
- ❑ Section 5: Allowing the admissibility of various expert opinions and testing for drug and alcohol use while driving.
- ❑ Section 6: Changing procedures to allow results from alcohol screening devices to be used to prove alcohol consumption
- ❑ Section 7-11: Clarifying the statutes on what is an impaired driving offense.
- ❑ Section 12: Changing criminal penalties from Class 2 misdemeanor to coverage under DWI statutes for individuals under age 21 who are convicted of driving while impaired; also allows for deferred prosecution.
- ❑ Section 13: Amending the habitual DWI statute to apply to any person with four DWI convictions in a ten-year period (now seven-year period).
- ❑ Section 14: Technical change.
- ❑ Section 15: Increasing the penalty for Felony Death by Vehicle from a Class G to Class D felony and creating a new offense of Felony Serious Injury by Vehicle (Class E).
- ❑ Section 16: Rewriting the implied consent law to clarify and simplify procedures for performing chemical analyses and changing the standard of review by superior court when a license revocation for refusal to submit to chemical analysis is appealed.
- ❑ Section 17: Amending statute governing admissibility of chemical analysis in court and standardizing procedures and forms.
- ❑ Section 18: Providing law enforcement officers with improved access to medical records when investigating a crash.
- ❑ Section 19: Specifying information that a prosecutor must document and distribute when dismissing an implied consent case.
- ❑ Sections 20 and 21: Revising statutes on revocation and restoration of license for driving while impaired including increasing criminal penalty for driving without reclaiming a license for impaired driving and failure to appear for more than two years on these charges to a Class 1 misdemeanor.
- ❑ Section 22: Modifying DWI sentencing statutes to conform to Blakely vs. Washington decision regarding the findings of aggravating factors in sentencing.

- ❑ Section 23: Requiring clerks to maintain all records related to impaired driving convictions for at least ten years, and maintain certain summary data on each case beyond ten years.
- ❑ Section 24: Repealed.
- ❑ Sections 25 and 26: Creating a new Class 1 misdemeanor for consuming alcohol while under the age of 21 and allowing use of alcohol monitoring devices to determine consumption.
- ❑ Section 27: Requiring that DWI defendants released early from prison to be assigned community service.
- ❑ Section 28: Effective date (see below)

Fiscal Note Summary

H.B. 1048 makes substantive changes to certain DWI statutes to ensure consistency in enforcement of DWI laws, clarity in the legal determination of who is “driving while impaired,” greater penalties for those who are convicted of DWI and availability of deferred prosecution options for certain DWI offenders. Overall, HB 1048 could lead to a substantial increase in DWI charges, convictions, and jail or prison time for DWI offenders. However, in some instances, Fiscal Research and the agencies affected by H.B. 1048 were unable to develop reliable cost estimates.

While there is good statistical information on DWI offenses generally, the nature of DWI laws makes it difficult to project the impact of H.B. 1048 for two primary reasons:

- 1) Most DWI cases are not part of the Structured Sentencing Act so the Sentencing and Policy Advisory Commission does not maintain a historical database for DWI offenses.
- 2) Because DWI laws provide significant judicial discretion and a wide range of possible sentences (Levels 1-5; sentences of 1-24 months, possible parole) it is not possible in many cases to project the impact on prison and jails in most cases as is done under the Structured Sentencing system, nor on the court system.

Costs could be estimated for certain sections of HB 1048. These costs are summarized in the box on page one of this note and in this Summary section. Details on the fiscal impact are provided in the text of the note.

Judicial Branch:

FY 05-06: \$1,137,367 (19 positions) (December 1, 2005)

FY 06-07 \$1,869,834

	<u>Superior Court Judges</u>	<u>District Court Judges</u>	<u>Assistant District Attorneys</u>	<u>Clerks</u>	<u>Court Reporters</u>	<u>Total</u>
§12 Deferred Prosecution/Underage DWI		2	4	2		8
§13 Habitual DWI			1			1
§19 Prosecutor Reporting			4			4
§22 Blakely v. Washington	1		3	1	1	6
Total Positions (rounded)	1	2	12	3	1	19

For most bills that change criminal penalties or revise judicial procedure and practice, the Administrative Office of the Courts provides Fiscal Research with their analysis of the fiscal impact of the specific bill. FRD reviews these analyses and makes the final determination of potential costs for the fiscal note.

For bills with fiscal impact on the court system, it is assumed that court time will increase as a result of a substantive change and that there will be a corresponding increase in the hours of work for judges, clerks and prosecutors. For example, it is often assumed that when a criminal penalty is increased, a defendant is more likely to contest the case and thus increase time in court for court personnel and defense attorneys. The estimated time added to a case is multiplied by the number of cases to determine system-wide impact on judicial man-hours. One position is estimated for every 1800 man hours added. Increased court time is also expected to result in greater expenditures for jury fees if applicable to a particular change and to indigent defense costs.

For H.B. 1048, FRD believes the most substantial impact on court time will be for the following

- ❑ Section 12: DWI Under Age 21: Revising the criminal penalty for driving after consuming alcohol if under age 21 from a Class 1 Misdemeanor to coverage under DWI Statutes makes the criminal penalties potentially more wide ranging and longer. There is also a potentially large pool of offenders (6,998 in 2004).
- ❑ Section 13: Habitual Impaired Driving: Additional court time is likely since the number of cases will increase (HB 1048 amends statute to apply to anyone with four convictions for DWI in 10 years instead of seven) and some offenders would now be tried as Class F felons.
- ❑ Section 19: Prosecutor Reporting for Implied Consent Cases: HB 1048 details a number of new reporting requirements for dismissing implied consent cases or accepting a plea to lesser offenses. Information must be entered into a record of the case, explained orally in court and stated in writing on an AOC form. These requirements will increase workload for assistant district attorneys.
- ❑ Section 22: Conformance to Blakely vs. Washington: As a result of Blakely, a judge may only impose an aggravated sentence based on facts found by jury, admitted by defendant or prior convictions. The additional court time is likely to occur as a result of more complex cases, new jury trials and/or longer jury trials in Superior Court to consider aggravating factors.

There is also potentially significant impact on court time for Sections 25 and 26 which make it a Class 1 misdemeanor to consume alcohol if under age 21, but there is no reliable method to gauge the level of enforcement and resulting impact on the courts.

Department of Correction: For the DOC, the cost estimate shown on the fiscal note table on page 1 is for the cost of prison beds 102 prison beds by FY 2009-10 due to increasing the current Felony Death by Vehicle from a Class G to Class D felony. This offense is part of the Structured Sentencing system and the Sentencing Commission can project prison beds based on past practice for Class G and D felonies.

Other changes in criminal penalties or in clarifying DWI laws in H.B. 1048 may impact the prison system but bed impact cannot be projected. Costs to the prison system entail not only the potential impact on prison beds, but increased payments to the counties for certain offenders. Offenders with active sentences of less than ninety days are housed in county jails; DOC must reimburse counties for housing offenders sentenced to more than thirty days at a rate of \$18 per day per offender.

Counties/Local Jails: H.B. 1048 is most likely to have fiscal impact on local confinement facilities because of revised or new DWI misdemeanors, such as the creation of a new Class 1 misdemeanor for consuming alcohol while under the age of 21, clarification of what constitutes an impaired driving offense, and increasing misdemeanor penalties from Class 2 to Class 1 for certain offenses related to driving while license revoked and failure to appear. For new offenses, there is no historical data to use to estimate the impact on local jails.

Department of Transportation/Division of Motor Vehicles: Several sections of the bill will require substantive changes to the DMV management information system totaling \$362,580. Most of the cost relates to changes in laws regarding driving while license revoked in Section 21.

Bill Effective Date

The primary changes in DWI laws under H.B. 1048 are effective December 1, 2005. Therefore, costs estimated for this note for FY 2005-06 are for seven months only unless otherwise noted. Costs for 2006-07 are the total annual costs plus inflation over 2005-06

Format/Focus of Fiscal Note

The text of the fiscal note does not include summary statements of fiscal impact for all sections of HB 1048. Sections that were clearly technical changes or had little arguable fiscal impact were excluded.

DETAILED FISCAL IMPACT

	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>	<u>2008-09</u>	<u>2009-10</u>
Judicial Branch (General Fund)					
§3 Checking Stations	Exact amount cannot be determined; no substantial impact anticipated.				
§4 Pre-trial Procedures	Exact amount cannot be determined; no substantial impact anticipated.				
§8, 9 Clarification of DWI Offenses	Exact amount cannot be determined.				
§12 Deferred Prosecution/Underage DWI	\$452,159	\$735,363	\$772,131	\$810,738	\$851,275
§13 Habitual DWI	\$70,619	\$119,736	\$125,723	\$132,009	\$138,609
§15 Felony Death / Serious Injury	\$13,559	\$24,406	\$25,626	\$26,907	\$28,252
§16 Clarification of Implied Consent Law	Exact amount cannot be determined; no substantial impact anticipated				
§18 Improved Access to Medical Records	No estimate available.				
§19 Prosecutor Reporting	\$198,755	\$328,247	\$344,659	\$361,892	\$379,987
§21 Failure to Appear	\$25,618	\$41,928	\$44,024	\$46,225	\$48,536
§21 Driving While License Revoked	Exact amount cannot be determined; no substantial impact anticipated.				
§22 Blakely v. Washington	\$376,657	\$620,154	\$651,162	\$683,720	\$717,906
§25 Underage Consumption	Exact amount cannot be determined				
Subtotal	\$1,137,367	\$1,869,834	\$1,963,325	\$2,061,491	\$2,164,565
Positions (cumulative)	19	19	19	19	19
Department of Correction (General Fund)					
§8, 9 Clarification of DWI Offenses	Exact amount cannot be determined.				
§12 Deferred Prosecution/Underage DWI	Exact amount cannot be determined.				
§13 Habitual DWI	Exact amount cannot be determined.				
§15 Felony Death / Serious Injury	\$0	\$432,799	\$1,255,931	\$2,072,553	\$3,065,809
§21 Failure to Appear	Exact amount cannot be determined; no substantial impact anticipated.				
§20, 21 Driving While License Revoked	Exact amount cannot be determined; no substantial impact anticipated.				
§25 Underage Consumption	Exact amount cannot be determined				
§27 Community Service Parole	Exact amount cannot be determined				
Subtotal	\$0	\$432,799	\$1,255,931	\$2,072,553	\$3,065,809
Positions (cumulative)	0	5	16	28	41
Department of Transportation (Highway Fund)					
§21 Driving While License Revoked.	\$344,192	-	-	-	-
§15 Felony Death / Serious Injury	\$18,388	-	-	-	-
Subtotal	\$362,580	-	-	-	-
Positions (cumulative)	0	0	0	0	0
Department of Health and Human Services (General Fund)					
§17 Web Site Listing Chemical Analysts	\$9,000	-	-	-	-
Subtotal	\$9,000	-	-	-	-
Positions (cumulative)	0	0	0	0	0
Local Governments					
Jails	The general clarification of DWI regulations, new misdemeanor offenses, and increase in certain criminal penalties would impact local confinement facilities, but the exact amount cannot be determined.				
ABC Boards	Some impact to regulate sale of malt beverage kegs under Sections 1 and 2.				
Total Expenditures	\$1,508,947	\$2,302,633	\$3,219,256	\$4,134,044	\$5,230,374
Total Positions	19	24	35	47	60

ASSUMPTIONS AND METHODOLOGY:

Part I, Sections 1 and 2, "Regulating Malt Beverage Kegs"

Summary

Authorizes retailers and local ABC stores to issue purchase transportation permits to purchase a keg of malt beverage for off-premises consumption and makes it a Class 1 misdemeanor if a permit is not obtained.

Potential Fiscal Impact

Local ABC Boards: Currently local ABC boards do not sell kegs or otherwise regulate the sale of kegs. While it is assumed that the primary seller of kegs and issuers of this new permit would be retailers, there could be some fiscal impact on local boards/stores because of the time required to sell and issue permits.

Department of Correction/Local Jails: As the offense would be new, the Sentencing Commission has no historical data from which to estimate the impact on local jails and prison population.

- In FY 2003-04, 19 percent of Class 1 misdemeanor convictions resulted in active sentences and the average estimated time served was 31 days.
- Offenders with active sentences of less than ninety days are housed in county jails, and DOC reimburses counties for housing offenders sentenced to between thirty and ninety days at a rate of \$18 per day per offender.
- The remaining 81 percent of Class 1 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (DCC) would incur costs of \$.187 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

Part II, Section 3, "Modifying the Statutes on Checking Stations and Roadblocks"

Summary

Current G.S. 20-16.3A, establishes criteria for conducting "impaired driving checks" for the purpose of detecting impaired drivers. Section 3 amends G.S. 20-16.3A, changing "impaired driving checks" to "checking stations and roadblocks" and standardizes criteria for all types of motor vehicle checkpoints. This section requires law enforcement agencies conducting the checkpoint to develop a plan for stopping vehicles and requesting information from drivers. Law enforcement officers would also be required to have at least one vehicle with its blue lights flashing to indicate that a checkpoint is in progress. This section also provides specific procedures for detecting and testing impaired drivers.

This section additionally requires the Attorney General to develop a model policy or policies that law enforcement agencies could use when conducting checkpoints and would prohibit law enforcement agencies from repeatedly setting up checking stations in close proximity to certain businesses that sell alcohol for on-premises consumption.

Potential Fiscal Impact

No significant fiscal impact anticipated.

The primary purpose of this section is to standardize methods of conducting checkpoints for all motor vehicle violations. While such standardization could increase the number of individuals charged with and convicted of DWI, there is no way to estimate this potential impact.

Judicial Branch: AOC estimated an additional cost of \$468,863 in court time and workload for this section. AOC used 2004 data on charges made at checkpoints (34,000) and assumed 5,000 new charges were possible (10 more at each of the 500 checkpoints). While FRD agrees that some fiscal impact could result, there is not a strong basis for assuming a 10 percent increase in charges. In particular, it is noted that 2004 was the year of a major “Booze It and Lose It” campaign, so the number of charges in 2004 may have been inflated. Additionally, the intent was to standardize and not increase the number of checkpoints. Therefore it is assumed fiscal impact will not be significant.

Department of Justice: The Attorney General’s Office does not anticipate any fiscal impact for developing a model “checkpoint” policy for use by law enforcement agencies.

Part III, Section 4, “Providing for Implied Consent Pretrial and Court Proceedings”

Section 4, G.S. 20-38.3, “Initial Appearance”

Summary

Establishes procedures for magistrates to use when processing defendants for impaired driving and authorizes magistrates to hold initial hearings in locations other than courthouse to expedite the process.

Potential Fiscal Impact

No estimate available.

Judicial: Requires additional paperwork for magistrates and defines certain duties to be performed upon the initial appearance in a DWI charge. AOC expects that many of the duties are already performed, but that there could be some cost for additional time and paperwork required for magistrates to determine probable cause and pretrial release. The magnitude of this potential cost cannot be determined. AOC notes that any increase in workload at the beginning of the case may be offset by timesavings later in the case.

In the long-term, there could be a need for new computer equipment if magistrates were to hold regular hearings outside of the courthouse. However, the language requiring this activity is permissive.

Section 4, G.S. 20-38.4, "Chemical Analysis/Facilities"

Summary

Requires the Chief District Court Judge, Sheriff, Department of Health and Human Services, and District Attorney in each district to develop written procedures for attorneys and witnesses to have access to the chemical analysis room and to allow a person who is denied pretrial release to have access to outside chemical analysis. Notices explaining how to get access to analysis room must be posted.

Potential Fiscal Impact

No substantial fiscal impact for DOT, DHHS, or the Judicial Branch.

Department of Transportation: The bill requires posting of notices and states that this will be done by DOT at no cost.

Department of Health and Human Services: The bill requires written agency procedures for chemical analysis and posting of notices of rights. No cost is anticipated.

Judicial Branch: AOC anticipates additional work for court personnel but no substantial impact.

Section 4, G.S. 20-38.5, "Motions/District Court Procedures"

Summary

Requires a defendant's motion to suppress evidence or dismiss charges to be made prior to trial and in writing at least seven days prior to a hearing. Under current law, motions to suppress in district court are brought during the trial.

Potential Fiscal Impact

Judicial: None anticipated. May shift workload to pretrial phase, which could be more efficient than the current practice of considering such motions during trial.

Section 4, G.S. 20-38.6, "Appeals to Superior Court"

Summary

New G.S. 20-38.6 would allow the State to appeal district court orders dismissing a case or suppressing evidence to superior court and specifies that defendants can only appeal upon conviction as provided by law. Currently under G.S. 15A-1432, the State can only appeal from district court to superior court after a final judgment is entered dismissing one or more counts of criminal charges or when motions are granted for a new trial on the ground of newly discovered evidence only on the questions of law.

Potential Fiscal Impact

Fiscal impact but cannot estimate amount.

Judicial: AOC data for fiscal year 2003-04 show 4,767 impaired driving appeals to superior court. Data for calendar year 2004 show 3,162 impaired driving cases remanded to district court. Under current law (G.S. 15A-1431), defendants who appeal their conviction to superior court may, at any time prior to trial in superior court, withdraw their appeal and have their case remanded back to district court. Under current practice a district court judge may hold a new hearing or simply enter prior judgment.

New G.S. 20-38.6(b) specifies that implied consent cases appealed to superior court can only be remanded back to district court with the consent of the superior court judge and the district attorney. Any cases remanded must have a new sentencing hearing in district court. *Overall, the impact of this new section is hard to predict for both AOC and Fiscal Research. Giving the court and district attorney the final say on remanded cases could reduce both appeals to superior court and the number of remanded cases. On the other hand, more work could result from keeping cases in superior court.*

Part VI, Sections 8 & 9, "Clarification of Impaired Driving Offenses"

Summary

Sections 8 and 9 clarify the per se offenses to make it clear that if a person registers 0.08 or greater on a chemical analysis, that is sufficient to prove the offense. These sections also state that the presence of any amount of Schedule I or II controlled substance (heroin, LSD, cocaine, opium, etc.) is sufficient to prove the offense. An affirmative defense is provided for Schedule II substances if the defendant can show that it was lawfully obtained and taken in therapeutically appropriate amounts. Section 8 applies to non-commercial drivers and Section 9 to commercial drivers.

Potential Fiscal Impact

These sections of HB 1048 will have a fiscal impact on the court system, jails, and prisons, but the extent of the impact cannot be determined.

Section 8 allows the State to prove the offense of impaired driving if a person registers .08 or greater on a chemical analysis. The intent is to reduce the number of charges dismissed at the .08 level, thus, it is likely that there will be fewer cases dismissed and more convictions. The addition of a subsection that clarifies that use of Schedule I and II controlled substances while driving is illegal could also increase convictions.

Judicial Branch: AOC expects some impact on court workload but there is no data to determine the extent of the additional workload and potential cost.

Department of Correction/Local Jails: Neither the Sentencing Commission nor AOC can determine the number of new cases and convictions likely under this section. The Commission does not maintain statistical information on impaired driving since these offenses are not part of Structured Sentencing. *Also, because DWI laws include a wide range of possible sentences (1 month to 24 months) and the option of parole, it is not possible to determine the impact on prisons and jails.*

Section 9 is analogous to Section 8 except that it affects commercial drivers. The pool of commercial drivers convicted of DWI at .04 is relatively small, thus, the impact of this change on the Courts, prisons, or jails will be less than the change for non-commercial drivers.

Part VI, Section 12, "Driving by Person Less Than 21 Years Old After Consuming Alcohol or Drugs"

Summary

Section 12 provides that a person under age 21 who drives after consuming alcohol or controlled substances would be punished under the DWI statute (G.S. 20-179). This section also creates a deferred prosecution option for persons charged with driving under the age of 21 after having consumed any amount of alcohol. This allows the person to obtain a dismissal after completing an assessment and treatment or education, a period of non-operation, and doing community service, as well as meeting some additional conditions.

Potential Fiscal Impact

	<u>FY 05-06</u>	<u>FY 06-07</u>	<u>FY 07-08</u>	<u>FY 08-09</u>	<u>FY 09-10</u>
JUDICIAL BRANCH (R)	\$408,535	\$735,363	\$772,131	\$810,738	\$851,275
(NR)	\$43,624				
TOTAL	\$452,159	\$735,363	\$772,131	\$810,738	\$851,275
POSITIONS	8	8	8	8	8

Judicial Branch: Under current law (G.S. 20-138.3), a person less than 21 who drives after consuming alcohol or drugs is guilty of a Class 2 misdemeanor and is sentenced under Structured Sentencing. Under this section a person less than 21 would be sentenced under specific punishment levels of the DWI statute. AOC analysis assumes that a shift from a Class 2 misdemeanor to the DWI criminal penalties would increase the stigma of a conviction and lead to greater potential punishment under DWI statutes. In combination, these factors are likely to lead to an increase in litigation strategies with more time and cost for the court, prosecution, and defense.

AOC data for calendar year 2004 show 6,998 defendants charged with driving under 21 after having consumed alcohol. If more rigorous litigation were to require an overall average of just an additional one-half hour of court time per case and an additional one-half hour of preparation time per case for prosecutors and the defense, the costs would exceed \$700,000 in the first full year. This also includes the anticipated increase in court time to consider the use of the deferred prosecution provision in HB 1048. Cost estimates are based on system-wide costs for two district court judges, four assistant district attorneys, and two deputy clerks; an additional \$68,250 for indigent defense (assuming a 15 percent indigency rate); and an inflation factor of five percent per year.

Department of Correction/Local Jails: The Sentencing Commission does not maintain statistical information on impaired driving since these offenses are not part of Structured Sentencing. Also, because DWI laws include a wide range of possible sentences (1 month to 24 months) and the option of parole, it is not possible to determine the impact on prisons and jails.

Part VI, Section 13, "Habitual Impaired Driving"

Summary

Section 13 amends the habitual DWI statute to apply to any person who has four DWI's within a ten-year period. Currently, the law applies to anyone who has four DWI's within a seven-year period.

Potential Fiscal Impact

		<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
JUDICIAL BRANCH	(R)	\$66,520	\$119,736	\$125,722	\$132,009	\$138,609
	(NR)	\$4,099	-	-	-	-
TOTAL		\$70,619	\$119,736	\$125,722	\$132,009	\$138,609
POSITIONS		1	1	1	1	1

Judicial Branch: AOC expects an increase in workload due to this provision, as some offenders currently being sentenced within the regular DWI structure (Levels 1-5) would now be tried in superior court as Class F felons. Furthermore, since the consequences of a Class F conviction are more serious than a DWI conviction, AOC expects an increase in the trial rate. There were 357 charges of Habitual Impaired Driving in 2004. If this number were to increase by 43 percent due to the addition of three years (43% more time) to the period of tracking, up to 511, then the cost of this section would be \$82,062 system-wide in the first full year for a new assistant district attorney plus \$37,674 in first full year for indigent defense for a total of \$119,736.

Department of Correction: In FY 2003-04, there were 195 convictions for habitual impaired driving. About 95% (or 186) received an active sentence with an average estimated time served of 18 months. This change would increase the eligible pool of offenders for Habitual Impaired Driving. However, the Sentencing Commission indicates there is no data available to estimate how many additional convictions would occur as a result of the proposed amendment.

Assuming some new convictions will occur, if there were two additional Class F convictions per year as a result of this Section, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and three additional prison beds the second year. The cost for one additional prison bed in 2006-07 would be \$24,740 and three beds by 2007-08 would be \$76,447.

Part VII, Section 15, "Felony Death by Vehicle and Injury by Vehicle"

Summary

Raises the penalty for Felony Death by Vehicle from Class G to Class D and creates the new offense of Felony Serious Injury by Vehicle, punishable as a Class E felony. For a detailed analysis of the fiscal impact of this provision see Session 2005 Legislative Incarceration Fiscal Note for Senate Bill 61.¹

Potential Fiscal Impact

	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
DEPT. OF CORRECTION	\$0	\$432,799	\$1,255,931	\$2,072,553	\$3,065,809
JUDICIAL BRANCH	\$13,559	\$24,406	\$25,626	\$26,907	\$28,252
DEPT. OF TRANSPORTATION (Highway Fund)	\$18,388	\$0	\$0	\$0	\$0
TOTAL	\$31,947	\$457,205	\$1,281,557	\$2,099,460	\$3,094,061
POSITIONS (DOC)	0	5	16	28	41

Department of Correction: As a Class D felony, offenders sentenced for Felony Death by Vehicle under this bill would be required to receive an active sentence, whereas under existing law (Class G) offenders may receive an intermediate sanction (56% of all Class G convictions resulted in intermediate sanctions in FY 2003-04). Class D convictions also carry longer sentences than Class G: an average of 71 to 95 months as opposed to 15 to 19 months. As such, the Sentencing Commission projects that elevating the penalty for Felony Death by Vehicle from Class G to Class D would increase prison bed needs as follows:

	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
Net Prison Beds	0	12	41	70	102

The additional prison beds needed for each fiscal year represent a net increase in prison population due to anticipated increases in close and medium custody population and a decrease in minimum custody population. The recurring cost for these beds is shown under "Fiscal Impact" above and reflects this adjustment in bed distribution by custody level and an estimated FY 2005-06 base cost per bed of \$27,795 inflated at a rate of three percent annually.

Additional prison beds would be needed as a result of any new Class E convictions for Felony Serious Injury by Vehicle. As the offense would be new, the Sentencing Commission has no historical data from which to project the specific impact on prison population. If, for example, there were two convictions for this offense per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed in the first year and two additional beds in the second year.

¹ Legislative Incarceration Fiscal Note: Senate Bill 61, Felony Death/Serious Injury by Vehicle. Fiscal Research Division, March 29, 2005.

Judicial Branch: In 2004 there were 65 charges for Felony Death by Vehicle. AOC expects that elevating the penalty for this offense would result in additional superior court workload, as a more vigorous defense and prosecution in the associated cases would be expected due to the increased severity of punishment. Based on presumed increases in trial rates, trial length, attorney preparation time, and time to handle pleas, AOC projects that the increase in cost to process 65 charges for the offense as Class D rather than Class G felonies would be \$24,406 in the first full year.

There would be additional costs to process new Class E felony charges resulting from the offense of Felony Serious Injury by Vehicle. If, for example, approximately 120 (or 20 percent) of the 625 alcohol-related crashes that caused serious injury in 2003 were to result in a charge for this new offense, the total cost to dispose of the charges would be \$54,721 in the first full year. This cost is not included in the fiscal impact projection in the table on the previous page due to the lack of actual data on the number of charges.

Department of Transportation: The State Automated Driver License System would require several modifications to implement the new offense of Felony Serious Injury by Vehicle. The Department estimates that 206 hours of programming, testing, and implementation would be necessary at a cost of \$16,720 in addition to ITS charges of \$1,668.

Part VIII, Section 16, "Clarifying and Simplifying the Implied Consent Law"

Summary

Clarifies provisions relating to implied consent offenses: 1) allows any officer (not only the charging officer) to perform a chemical analysis; and, 2) alters the standard of review to eliminate the requirement that an appeal to superior court of a license revocation for failure to submit to a chemical analysis be heard de novo (under this bill the superior court would conduct a review on the record).

Potential Fiscal Impact

Some cost savings anticipated.

Judicial Branch: Under current law, when an individual's license is revoked for refusing to submit to a chemical analysis, the person may request a hearing by the Division of Motor Vehicles to appeal the revocation. If the revocation is sustained, the individual may appeal to superior court for a de novo hearing. Section 16 would eliminate the requirement that the hearing in superior court be a de novo review and stipulate instead that the hearing be only a review of the record. To the extent that a review on the record would be less time-consuming than a trial de novo, there would be some reduction in superior court workload due to this provision. However, as the number of such appeals to superior court is presently unknown, the specific reduction in workload and costs cannot be determined.

Part IX, Section 17, "Admissibility of Chemical Analysis"

Summary

This part amends the statute governing the admissibility of chemical analyses. It allows the results of a chemical analysis to be sufficient to prove an alcohol concentration as long as the analysis is performed in accordance with DHHS rules and requirements for administering chemical analyses. Also requires DHHS to perform preventative maintenance on instruments used for chemical analysis and to post on a Web page and file in each county a list of all persons who have a permit authorizing them to perform chemical analyses.

This part also authorizes the admission of tests on blood or urine if submitted on a form approved by the Attorney General without further authentication. This part restricts the issuance of a subpoena for the chemical analyst unless the subpoena is found to be necessary by the court.

This part also clarifies a law enforcement officer's ability to obtain a blood or urine sample from a person who has refused a test.

Potential Fiscal Impact

Minor fiscal impact for DHHS: \$9,000 non-recurring.

Department of Health and Human Services: DHHS estimates a one-time cost of \$9,000 for development and operation of the required Web site and for transferring existing data to AOC (list of certified chemical analysts and preventative maintenance files). This estimate assumes relatively low volume, regular but not daily site maintenance, and no special security measures. DHHS indicates that many of the other duties outlined in this section of HB 1048 are already performed and that a preventative maintenance program for machines is already in place.

Part X, Section 18, "Improved Access to Medical Records in Impaired Driving Cases"

Summary

Allows any officer investigating a vehicle crash to: 1) request from any health care provider the name, location, and status of impairment of any individual involved in the crash; 2) interview any individual involved in the crash; and, 3) obtain, with a search warrant or judicial order, a certified copy of the medical records of any individual involved in the crash.

Potential Fiscal Impact

No estimate available.

Judicial Branch / Local Jails: As a result of this provision, it is possible that some cases which would presently be dismissed would instead be prosecuted due to more complete information about the circumstances of the alcohol-related crash. However, the existence of additional incriminating information could lead some defendants who would otherwise contest the charge to plead guilty, reducing the court time necessary to dispose of the case. To the extent that any increase in court workload that may occur as a result of new DWI charges is offset by a greater number of guilty pleas in DWI cases, no substantial fiscal impact is expected from this provision.

Part XI, Section 19, "Prosecutor Reporting When Implied Consent Case is Dismissed"

Summary

Requires prosecutor to document specific reasons for dismissing an implied consent offense or accepting a plea to a lesser included offense. The information² must be entered into the record of the case and explained orally in open court and in writing on a form provided by AOC. Upon the next rewrite of the clerks automated system, AOC would be required to record this information in its electronic database and make it available upon request.

Potential Fiscal Impact

	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
JUDICIAL BRANCH (R)	\$182,359	\$328,247	\$344,659	\$361,892	\$379,987
(NR)	\$16,396	-	-	-	-
TOTAL	\$198,755	\$328,247	\$344,659	\$361,892	\$379,987
POSITIONS	4	4	4	4	4

Judicial Branch: AOC data for calendar year 2004 show 24,496 implied consent offenses that were voluntarily dismissed and 1,370 implied consent offenses that were plead to a lesser included offense. Data is not available regarding the number of charges for driving while license revoked-where the revocation was due to impaired driving - that were voluntarily dismissed or plead to a lesser included offense.

While the exact increase in workload cannot be determined, if prosecutors were to need fifteen minutes, on average, to provide an oral and written explanation in each of the 25,866 cases in which such documentation would be required, an additional 6,467 hours per year of work would be generated. This increase in workload equates to the need for approximately four additional assistant district attorneys at a recurring cost equal to \$328,247 in the first full year. In the first year, these four positions would necessitate additional non-recurring equipment costs of \$16,396.

In the long-term the requirement to electronically record certain data would have significant fiscal impact but HB 1048 has eliminated this impact for the short term. Section 28 of HB 1048 makes the requirement in Section 19 that AOC electronically record certain data effective after the next rewrite of the superior court clerk system. To update and convert the criminal information system to meet the demands of this requirement would entail a significant cost. Furthermore, when a capable electronic database comes online and entries into the system begin, clerk workload would also increase to record the information in the database.

² At minimum the prosecutor must document the alcohol concentration or that the driver refused analysis, a list of all prior convictions of implied consent offenses and driving while license revoked, whether the driver had a valid drivers license, a statement that the AOC database was checked for other pending charges, the elements that the prosecutor believes in good faith could be proved, those that cannot be proved and why, the name and agency of the charging officer and whether the officer was available, and any other reason why the charges will be dismissed.

Part XII, Section 21, "Driving While License Revoked After Failure to Appear in Driving While Impaired"

Summary

- Makes driving without reclaiming a license for impaired driving and failure to appear for more than two years on impaired driving charges a Class 1 misdemeanors (now Class 2).
- Provides that one-year revocations under new offense would now be for an entire year (nullifies hearing after 90 days).
- Requires that licenses may only be conditionally restored if revocation was for more than one year.
- Requires a person to get a substance abuse assessment prior to conditional restoration and then complete any treatment.
- Requires DMV to put ignition interlock device on a person's vehicle if the assessment finds the person abuses alcohol.

Potential Fiscal Impact

	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
JUDICIAL BRANCH	\$25,618	\$41,928	\$44,024	\$46,225	\$48,536
DEPT. OF TRANSPORTATION (Highway Fund)	\$344,192	\$0	\$0	\$0	\$0
TOTAL	\$369,810	\$41,928	\$44,024	\$46,225	\$48,536

Judicial Branch: AOC data indicates that 1,919 implied consent cases - where the file shows a failure to appear - are presently pending after two or more years from the date of the charge. For illustrative purposes, AOC estimated that, if half of the pending cases resulted in a Class 1 misdemeanor charge under this provision, the cost to dispose of the charges would be \$286,807. However, Fiscal Research expects that many of the pending cases will remain unresolved despite the new offense and has revised this estimate to reflect the cost if ten percent of these offenses (192) were to result in a Class 1 misdemeanor charge. Under this scenario, and assuming that one additional hour of time in court and one hour of attorney preparation would be needed on average for each case, the resource cost would equal \$41,928 in the first full year.

Under current law, driving with a revoked license is a Class 1 misdemeanor irrespective of whether the revocation was for an impaired driving or other motor vehicle offense. However, driving after the revocation has expired and without reclaiming one's license is a Class 2 misdemeanor (G.S. 20-35). Under this new provision, an individual whose license is automatically revoked under G.S. 20-16.5 (for refusing to submit to a breathalyzer or registering .08 or more) could be prosecuted for a Class 1 misdemeanor even after the 30-day revocation has expired if the impaired driving offense has not yet been resolved or license restored.

AOC data for 2004 indicates that no defendants were charged with a Class 2 misdemeanor under G.S. 20-35 for driving without a license. If the lack of charges under G.S. 20-35 is an indication that, at present, individuals are rarely prosecuted for driving without reclaiming one's license when the license has been revoked for an impaired driving offense, the impact of this new Class 1 misdemeanor is not likely to be substantial. The cost to settle any new Class 1 misdemeanor

charge via trial would be an estimated \$3,224. However, based on prior-year data, the majority of new charges that are not dismissed are likely to be settled by guilty plea at a cost of \$284 per plea.

Department of Transportation (Division of Motor Vehicles): DMV indicates their management information system is only programmed to capture part of the information required in this section to track and administer persons whose license has been revoked. DMV indicates it will need to reprogram its system to capture information on the new one-year revocation requirements, generate notices for failure to appear after two years, cancel registration when appropriate (requires an interface to the LITES system), and track and enter data on substance abuse assessment and education when required.

Programming, testing, and implementation is estimated at 3,856 hours at \$80 an hour plus a 15 percent Information Technology Services charge for a total of \$344,192 in one-time costs.

Department of Correction/Local Jails: As the offense would be new, the Sentencing Commission has no historical data from which to estimate the impact on local jails and prison population.

- In FY 2003-04, 19 percent of Class 1 misdemeanor convictions resulted in active sentences and the average estimated time served was 31 days.
- Offenders with active sentences of less than ninety days are housed in county jails, and DOC reimburses counties for housing offenders sentenced to between thirty and ninety days at a rate of \$18 per day per offender.
- The remaining 81 percent of Class 1 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (DCC) would incur costs of \$.187 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

Part XIII, Sections 22 & 23, "Modifying Current Punishments"

Summary

Section 22 of this part conforms the sentencing statute for impaired driving offenses to comply with a recent U.S. Supreme Court decision, *Blakely v. Washington*, regarding the finding of aggravating factors in sentencing. Subsection(s) of this section makes a change in the DWI sentencing law to provide that anyone given an active sentence of 48 hours or more shall be required to serve 48 continuous hours to receive credit for time served and to provide that jail time shall be credited on an hour-for-hour basis.

Section 23 of this part requires the clerk of superior court to maintain all impaired driving records for at least ten years from the date of conviction and to record certain information on the case before destroying the record.

Potential Fiscal Impact (Section 22)

		<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
JUDICIAL BRANCH	(R)	\$344,530	\$620,154	\$651,162	\$683,720	\$717,906
	(NR)	\$32,127				
TOTAL		\$376,657	\$620,154	\$651,162	\$683,720	\$717,906
POSITIONS		6	6	6	6	6

Section 22 would require that the evidentiary standard for finding aggravating factors meet a higher standard than under current law. Currently, the judge makes a determination based on the preponderance of evidence, but the Blakely decision requires the State to prove the factors beyond a reasonable doubt. The Blakely decision should have a minimal effect in district court, where DWI cases begin, as the judge would still determine the existence of aggravating factors. However, DWI defendants convicted in district court have a right to a new trial in superior court; this is where most impact from the Blakely decision will exist.

When a defendant appeals a DWI conviction to superior court, a new trial begins. In this trial, the same new evidentiary standards (beyond a reasonable doubt) apply. In cases where aggravating factors are alleged, AOC expects increased trial time and complexity to determine the existence of these factors. Prior criminal record as an aggravating factor, which is the primary aggravating factor in DWI sentencing, is specifically excepted from Blakely.

For each DWI punishment level, AOC has provided the estimated number of cases involving Blakely-eligible factors.

<u>Level</u>	<u>CY 2004 Convictions</u>	<u>Estimated Percent with Aggravating Factors Alleged</u>	<u>Estimated Number with Aggravating Factors Alleged</u>
Level I	3,359	100%	3,369
Level II	5,243	26%	1,363
Level III	3,475	46%	1,599
Level IV	5,213	41%	2,137
Level V	19,205	16%	3,073
Total	36,495	32%	11,541

Data for 2003-04 show 4,767 DWI appeals to superior court. If we assume that the same proportion of aggravating factors was alleged in these cases as in the overall DWI population of DWI convictions (32%), there would have been 1,525 trials in superior court on a DWI appeal. AOC used a higher rate (41%) for projections based on the assumption that appeals are more likely to involve aggravating factors on average, but this note assumes that the current rate will remain unchanged.

If each affected trial required an additional hour-and-a-half of preparation time and an additional hour-and-a-half of court time, this section would require one additional superior court judge, one new deputy clerk, and one new court reporter, as well as three assistant district attorneys, for a total cost of \$620,154 in the first full year. The rest of Section 22 produces no anticipated cost.

Section 23 requires clerks to maintain all records related to impaired driving convictions for at least ten years, and maintain certain summary data on each case beyond ten years. This would cause no impact on the court system.

Part XIV, Sections 25 and 26, "Making it Illegal for a Person Under 21 Years of Age to Consume as well as Possess Alcohol and to Allow Alcohol Screening Devices to be used to Prove a Person has Consumed Alcohol"

Summary

Creates a new Class 1 misdemeanor for consuming alcohol while under the age of 21. Under current law, it is unlawful for a person under the age of 21 to purchase or possess alcohol.

Potential Fiscal Impact

Fiscal impact could be significant depending on enforcement but a reliable estimate cannot be determined

Department of Correction/Local Jails: As the offense would be new, the Sentencing Commission has no historical data from which to estimate the impact on local jails and prison population.

- In FY 2003-04, 19 percent of Class 1 misdemeanor convictions resulted in active sentences and the average estimated time served was 31 days.
- Offenders with active sentences of less than ninety days are housed in county jails, and DOC reimburses counties for housing offenders sentenced to between thirty and ninety days at a rate of \$18 per day per offender.
- The remaining 81 percent of Class 1 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Corrections (DCC) would incur costs of \$.187 per offender per day. Offenders sentenced to community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

Judicial: While AOC notes that consuming alcohol while under the age of 21 is prevalent, no data is available to indicate the frequency with which such behavior would be prosecuted if unlawful. AOC data for 2004 indicates that 16,412 defendants were charged under existing G.S. 18B-302 for purchase or possession of alcohol by and sale of alcohol to individuals under the age of 21. Another 6,998 defendants were charged with a Class 2 misdemeanor for driving while under the age of 21 after having consumed alcohol (with a BAC of .08 or less).

AOC assumes that at least as many individuals could be expected to be charged for this new Class 1 misdemeanor as are presently charged with a Class 2 misdemeanor for driving after having consumed alcohol when under age 21. If roughly 7,000 individuals were charged for underage consumption under this bill, the cost in the first full year would equal \$700,346.

However, FRD believes this assumption may overstate the impact. To the extent that offenders are already being caught at the point of purchase or being prosecuted for possession while consuming alcohol when underage, new charges for consumption may number less than charges for the

existing offenses. As a specific number of charges cannot be projected, the total cost to the Courts cannot be determined. For each new Class 1 misdemeanor charge settled via trial, the cost would be an estimated \$3,224. However, based on prior-year data, the majority of new charges that are not dismissed are likely to be settled by guilty plea at a cost of \$284 per plea.

Part XV, Section 27, "Requiring that defendants who are released from prison early are to be assigned Community Service Parole, which may include House Arrest"

Summary

Requires that a paroled DWI offender who is not paroled into a substance abuse treatment program participate in community service or be placed on Electronic House Arrest.

Potential Fiscal Impact

Some increase anticipated. Amount cannot be determined.

Department of Correction: Parole decisions are made by the Post-Release Supervision and Parole Commission; parolees are supervised in the community by the Division of Community Corrections in the Department of Correction.

Most DWI parolees are paroled into the DART-Cherry residential substance abuse treatment program. In FY 2003-04, approximately 28 DWI parolees were not paroled into substance abuse treatment programs so the number of offenders likely to participate in community service is relatively small. The Commission reports that it has not required community service for DWI offenders, and may use Electronic House Arrest if a DWI offender violates the conditions of parole and the Commission feels that more restrictive supervision is warranted.

The Division of Community Corrections (DCC) maintains both the Community Service Work and Electronic House Arrest (EHA) programs. The cost of community service is \$0.67 per offender per day. Offenders pay a flat fee of \$200 to participate; this money is deposited in the General Fund. The cost for Electronic House Arrest is \$6.65 per offender per day.

The net cost to DCC depends on the type of supervision used for DWI offenders in the absence of this bill. If, for example, a DWI offender is not given any specific sanctions, the cost per day is \$1.87 for supervision. Adding community service would increase the cost to \$2.54 per day. Adding EHA instead would increase the cost to \$8.52 per day. Alternatively, if the offender is currently under intensive supervision, and would be moved to EHA under this bill, DCC would see a savings of \$2.42 per day.

Part XV, Section 28, "Effective Date"

Summary

This section sets the effective date for the bill. The requirement that the Administrative Office of the Courts electronically record certain data contained in subsection (c) of G.S. 20-138.4, as amended by Section 19 of this act, becomes effective after the next rewrite of the superior court clerks system by the Administrative Office of the Courts. The remainder of this act becomes effective December 1, 2005, and applies to offenses committed on or after that date.

Potential Fiscal Impact

The Administrative Office of the Courts is currently in the planning phases of a criminal information system rewrite. No money is available in this year's budget for such a massive project, nor is the agency prepared to launch a rewrite at this time. The AOC will likely submit an expansion budget request in the next two to three years to begin the redevelopment process on their criminal information system.

SOURCES OF DATA: Administrative Office of the Courts, North Carolina Sentencing and Policy Advisory Commission, Department of Correction, Department of Health and Human Services, Department of Transportation, ABC Commission

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jim Mills, Doug Holbrook, Aaron Paul, Chloe Gossage, Bob Weiss,
Susan Morgan, Carol Shaw

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

Official
Fiscal Research Division
Publication

DATE: July 18, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

Attach. No. 7

EDITION No. 2

H. B. No. 1048

DATE 7/19/05

S. B. No. _____

Amendment No. 1

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep. HAIR
Sen.)

1 moves to amend the bill on page 41, line 19-43

2 () WHICH CHANGES THE TITLE

3 by by deleting those lines.

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SIGNED [Signature]

ADOPTED _____ FAILED ✓ TABLED _____

VISITOR REGISTRATION SHEET

Approp.

Name of Committee

July 19, 2015

Date

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

<u>NAME</u>	<u>FIRM OR AGENCY</u>
Mark Flury	University
Mark Lanser	WNCW
Russ Dubisky	CCPS
ROBERT FRASER	UHC-OP.
Tim Moose	NCDOC
Mildred Spearman	NCDOC
Rob Nelson	UINC
Jay Davies	UNC
Paul Pully	NCATL
ASANDRA SKINNER	NCCLPS
Eddie Winstead	YATO
Michael Houser	NCAE
Jon Carr	Jordan Price
Scott Egan	NMRS
Stefanie Bailey	Gov Office
Mark [unclear]	Capitol [unclear]
Marvin Waters	CCPS
Palmer [unclear]	AOC
Ernie Seneca	Gov's office
Kevin [unclear]	Gov's office
Carole [unclear]	Col. 1/1065
Mark Tygh	NCATL

VISITOR REGISTRATION SHEET

Name of Committee

Approp

Date

July 19, 2005

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jewel Coleman	North Carolina behavioral health serv.
CURTIS WOODS	INTERIM FOR REP. SUTTON
TERREY VERAVICH	UNC
Johanna Reese	DENR
Cathy Matthews	DMV
Kennos Briggs	NCCCS
Karen Johnson	Smith Anderson
REBECCA REESE	CSOOI
John Rust	AKFPC
Katherine Joyce	NCASA
Joanne Stevens	nana / nursing

VISITOR REGISTRATION SHEET

Name of Committee

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

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Paul Hogman	Interline Inc.
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Rebecca	Conference of D.A.s
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John T. G.	THC
John C. G.	N.A.S.G.
Robert Walker	S.O.S.
Andy Ellen	NCRMA
Chad Essick	H.M.H.
Cynthia Ward	NC Council
Greg Schlegel	NC Council

Linda A. Johnson (Rep. Owens)

From: Linda Winstead (Rep. Jim Crawford)

Sent: Tuesday, August 09, 2005 2:09 PM

Cc: Evelyn Costello (Sen. Rand); Judy Tardiff (Sen. Rand); Charlotte Graham (Rep. Martin); Carole Walker (Sen. Allran)

Subject: Meeting Notice & Bill Sponsor Notice

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **APPROPRIATIONS** will meet as follows:

DAY & DATE: Wednesday, August 10, 2005

TIME: 9:00 a.m.

LOCATION: 643

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

H 1431 MILITARY CONSUMER PROTECTION SPECIALIST

S 486 RACHEL'S LAW

S 612 AMEND LOBBYING LAWS

Respectfully,

Representatives Clary, Crawford, Earle, Nye, Owens,
Sherrill
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **2:00 PM** on **August 9, 2005**.

____ Principal Clerk
____ Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

MINUTES
HOUSE COMMITTEE ON APPROPRIATIONS
AUGUST 10, 2005

The House Committee on Appropriations met on Wednesday, August 10, in Room 643 of the Legislative Office Building at 9:00 a.m. Fifty-five (55) members of the committee were present as well as staff to the committee, Phyllis Pickett and Sean Dail.

Representative Owens chaired the meeting. The purpose of the meeting was to consider bills per the attached agenda (ATTACHMENT I). Chairman Owens called the meeting to order and asked the pages to introduce themselves. A visitor registration list is attached and made a part of these minutes (ATTACHMENT II).

SB 486 RACHEL'S LAW

Representative Mark Hilton was recognized to present SB486, A BILL TO BE ENTITLED AN ACT TO INCREASE THE PENALTY FOR DISCHARGING CERTAIN WEAPONS INTO OCCUPIED PROPERTY IN CERTAIN CIRCUMSTANCES (ATTACHMENT III). Representative Sherrill stated she had reviewed the fiscal note and summary (ATTACHMENT IV) and made the motion to give the House Committee Substitute for SB 486 a favorable report. The motion passed.

SB 612 AMEND LOBBYING LAWS

Representative Hackney was recognized to present SB 612, A BILL TO BE ENTITLED AN ACT TO AMEND THE LOBBYING LAWS BY INCREASING THE INFORMATION REQUIRED TO BE REPORTED ON LOBBYING ACTIVITIES AND BY REQUIRING REGISTRATION AND REPORTING OF LOBBYING ACTIVITIES OF EXECUTIVE BRANCH OFFICERS, AND TO APPROPRIATE FUNDS TO IMPLEMENT THE ACT (ATTACHMENT V). Representative Hackney stated there was to be a Proposed House Committee Substitute (ATTACHMENT VI). Copies of the PCS along with a fiscal note (ATTACHMENT VII) and a summary (ATTACHMENT VIII) were passed out to committee members. Representative Hackney moved that the committee consider the PCS. This motion passed.

Representative Hackney explained the Proposed House Committee Substitute with assistance of research staff, Erika Churchill. Representative Stam offered an amendment (ATTACHMENT IX). After discussion of the amendment, Representative Stam withdrew the amendment stating he would present it on the House floor.

After further discussion of the Proposed House Committee Substitute for SB 612, Representative Hackney moved to give a favorable report for House committee substitute bill No. 3, which changes to title, unfavorable as to House committee substitute bill No. 2. The new title being, A BILL TO BE ENTITLED AN ACT TO AMEND THE LOBBYING LAWS BY INCREASING THE INFORMATION REQUIRED TO BE REPORTED ON LOBBYING ACTIVITIES WITHOUT LIMITING EXPENDITURES; BY REQUIRING MONTHLY REPORTING OF LEGISLATIVE LOBBYING DURING SESSIONS OF THE GENERAL ASSEMBLY AND QUARTERLY THEREAFTER; BY ESTABLISHING A WAITING PERIOD BEFORE CERTAIN STATE OFFICERS MAY LOBBY; BY BARRING LOBBYISTS FROM CERTAIN APPOINTMENTS AND OTHER ACTIVITIES; BY REQUIRING REGISTRATION AND QUARTERLY REPORTING OF LOBBYING ACTIVITIES OF EXECUTIVE BRANCH OFFICERS; AND BY CREATING A NO GIFTS REGISTRY. The motion passed.

HB 1431, MILITARY CONSUMER PROTECTION SPECIALIST

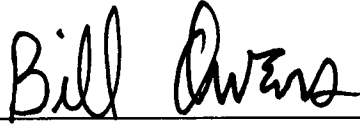
Representative Martin was recognized to present HB 1431, A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS FOR A CONSUMER PROTECTION SPECIALIST IN THE DEPARTMENT OF JUSTICE TO ASSIST MILITARY PERSONNEL AND THEIR FAMILIES (ATTACHMENT X). Gregg McLeod, Legislative Liaison, for the Attorney General's office was recognized to give the position of that department. Mr. McLeod stated that the Attorney General's office supported the bill wholeheartedly. Representative Stam moved for a favorable report. After the ayes and nays were taken, the Chair called for a division. The count was 26 ayes and 20 nays. The motion passed

HB 1112, CENTRAL LISTING/MH BEDS/INVOL. COMM.

House Bill 1112, A BILL TO BE ENTITLED AN ACT REQUIRING THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO DEVELOP A CENTRAL LISTING OF MENTAL HEALTH FACILITIES DESIGNATED TO ASSIST IN THE PLACEMENT OF INDIVIDUALS TO BE INVOLUNTARILY COMMITTED AND REQUIRE AREA AUTHORITIES TO MAINTAIN A CRISIS RESPONSE SERVICE, was added to the agenda for consideration by the committee. Representative Justus was recognized to present the bill. Copies of the bill (ATTACHMENT XI) and summary (ATTACHMENT XII) were distributed to the committee members. Representative Justice moved for a favorable report. The motion passed.

The meeting adjourned at 10:00 a.m.

Respectfully submitted:



Representative Bill Owens, Chair



Linda A. Johnson, Committee Assistant

Representative Debbie Clary
Representative Jim Crawford
Representative Beverly Earle
Representative Edd Nye
Representative Wilma Sherrill

STATE OF NORTH CAROLINA
NORTH CAROLINA GENERAL ASSEMBLY
RALEIGH, NORTH CAROLINA 27601



HOUSE APPROPRIATIONS COMMITTEE
AGENDA
Wednesday, August 10, 2005
9:00 A M.

Representative Bill Owens, Presiding

Chair's Comments

Bills

HB 1431, MILITARY CONSUMER PROTECTION SPECIALIST
Representatives Martin, Cleveland, Lucas, Underhill

SB 486, RACHEL'S LAW
Senator Allran

SB 612, AMEND LOBBYING LAWS
Senator Rand

Adjourn

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ House Committee Substitute for

SB 486 A BILL TO BE ENTITLED AN ACT TO INCREASE THE PENALTY FOR
DISCHARGING CERTAIN WEAPONS INTO OCCUPIED PROPERTY IN CERTAIN
CIRCUMSTANCES.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

3

SENATE BILL 486*
Judiciary II Committee Substitute Adopted 4/13/05
House Committee Substitute Favorable 7/20/05

Short Title: Rachel's Law.

(Public)

Sponsors:

Referred to:

March 15, 2005

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PENALTY FOR DISCHARGING CERTAIN
WEAPONS INTO OCCUPIED PROPERTY IN CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-34.1 reads as rewritten:

"§ 14-34.1. Discharging certain barreled weapons or a firearm into occupied
property.

(a) Any person who willfully or wantonly discharges or attempts to discharge:

(1) ~~Any discharge any firearm or~~ barreled weapon capable of discharging
shot, bullets, pellets, or other missiles at a muzzle velocity of at least
600 feet per second; ~~or~~

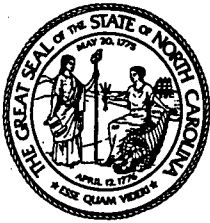
(2) ~~A firearm~~

~~second~~ into any building, structure, vehicle, aircraft, watercraft, or other conveyance,
device, equipment, erection, or enclosure while it is occupied is guilty of a Class E
~~felony-felony~~, unless a greater penalty applies.

(b) A person who willfully or wantonly discharges a weapon described in
subsection (a) of this section into an occupied dwelling or into any occupied vehicle,
aircraft, watercraft, or other conveyance that is being operated upon a public road,
highway, public vehicular area, railroad track, or waterway, or in any airspace is guilty
of a Class D felony.

(c) If a person violates subsection (a) or (b) of this section and the violation
results in serious bodily injury to any person, the person is guilty of a Class C felony."

SECTION 2. This act becomes effective December 1, 2005, and applies to
offenses committed on or after that date.



SENATE BILL 486: Rachel's Law

BILL ANALYSIS

Committee: House Appropriations
Introduced by: Sen. Allran
Version: Third Edition

Date: August 9, 2005
Summary by: Jeff Hudson
Committee Counsel

SUMMARY: *Senate Bill 486 would create two new criminal offenses. The first would be the offense of willfully or wantonly discharging a firearm or certain barreled weapons into an occupied dwelling or an occupied vehicle, aircraft, watercraft, or other conveyance that is being operated upon public roads, on railroad tracks, on waterways, or in any airspace. A violation of this offense would be a Class D felony. The second would be the offense of willfully or wantonly discharging or attempting to discharge a firearm or certain barreled weapons into any occupied building, structure, vehicle, watercraft, or aircraft that results in serious bodily injury to a person. A violation of this offense would be a Class C felony.*

CURRENT LAW: Under current G.S. 14-34.1, a person is guilty of the offense of discharging a firearm or certain barreled weapon into occupied property if:

- The person willfully or wantonly discharges or attempts to discharge a firearm or certain barreled weapon;
- Into property (building, structure, vehicle, aircraft, watercraft, or other conveyance, device, equipment, erection, or enclosure);
- While it is occupied.

Commission of this crime is a Class E felony. The Sentencing and Policy Advisory Commission classifies as Class E felonies those offenses that reasonably tend to result in or do result in serious personal injury. Assuming no prior convictions and in the absence of aggravating or mitigating factors, a Class E felony is punishable by a minimum of 20-25 months intermediate or active punishment.

BILL ANALYSIS: Senate Bill 486 would create two new offenses related to the discharge of a firearm or certain barreled weapon into occupied property.

The first new crime would occur if:

- The person willfully or wantonly discharges a firearm or certain barreled weapon;
- Into an occupied dwelling or occupied vehicle, aircraft, watercraft, or other conveyance that is being operated upon a public street, highway, public vehicular area, railroad track, waterway, or in any airspace.
- Commission of this crime is a Class D felony. The Sentencing and Policy Advisory Commission classifies as Class D felonies those offenses that reasonably tend to result in or do result in serious infringements on a property interest that also implicates physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling.

Senate Bill 486

Page 2

The second new crime would occur if:

- The person willfully or wantonly discharges or attempts to discharge a firearm or certain barreled weapon;
 - Into property (building, structure, vehicle, aircraft, watercraft, or other conveyance, device, equipment, erection, or enclosure);
 - While it is occupied; and
 - This results in serious bodily injury.
- Commission of this crime is a Class C felony. The Sentencing and Policy Advisory Commission classifies as Class C felonies those offenses that reasonably tend to result in or do result in serious long-term personal injury or serious long-term or widespread societal injury.

EFFECTIVE DATE: The act becomes effective December 1, 2005 and applies to offenses committed on or after that date.

Kory Goldsmith, counsel to Senate Judiciary II, substantially contributed to this summary.

S0486e3-SMSB

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Incarceration Fiscal Note

(G.S. 120-36.7)

BILL NUMBER: Senate Bill 486 (Third Edition)

SHORT TITLE: Rachel's Law.

SPONSOR(S): Senator Allran

FISCAL IMPACT

	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
GENERAL FUND					
Correction	Exact amount cannot be determined. Each conviction will cost \$24,740 in the first year and \$50,964 in the second year. Costs will begin in 06-07.				
Judicial	Exact amount cannot be determined (see pg. 2 for details).				
ADDITIONAL PRISON BEDS*	Exact amount cannot be determined. Each conviction will require one prison bed in the first year and two beds in the second year.				
POSITIONS: (cumulative)	Exact amount cannot be determined (see pg. 2 for details).				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch					
EFFECTIVE DATE: December 1, 2005					
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

BILL SUMMARY: Current G.S. 14-34.1 makes it a Class E felony to discharge a specified barreled weapon or firearm into occupied property. This bill would amend the statute to provide that if the property is (1) a dwelling or (2) a conveyance traveling on a public road, highway, vehicular area, railroad track, waterway, or in any airspace, then the offense would be a Class B2 felony if serious injury to any person results, and would otherwise be a Class C felony.

The third edition would reduce the offense classes of the proposed offenses by one class (to Class C and D, respectively) and would augment the legal standard of injury for the Class C offense to serious bodily injury.

Source: Adapted from Bill Digest S.B. 486 (03/14/2005).

ASSUMPTIONS AND METHODOLOGY:

Summary

Prison Bed and Fiscal Impact

Under current G.S. 14-31.1, the offenses created by this bill would be prosecuted as Class E felonies for discharging certain barreled weapons or firearms into occupied property. While there is data on the number of present charges and convictions for this offense, it is not known how many of the offenses involved an occupied dwelling or vehicle in operation or resulted in serious bodily injury and would, therefore, be elevated to Class D or C felonies due to this bill.

Any conviction elevated from felony Class E to Class D or C due to this bill would carry a longer sentence and carry a mandatory active sentence (whereas Class E convictions in Prior Record Levels I and II may result in intermediate sanctions). These enhanced penalties are expected to increase prison bed needs and therefore prison costs. In addition, increased court workload and costs are anticipated due to a more vigorous defense and prosecution.

Because no estimate of the number of offenses that would be elevated to Class D or C felonies is available, the specific cost associated with the bill cannot be determined. As the third edition of the bill reduces the punishment levels for the proposed offenses by one offense class, the prison bed impact and costs to the Courts and Department of Correction would be less than the second edition of the bill.

Supplemental Survey Data

Following the publication of the second edition fiscal note, the Administrative Office of the Courts provided additional data obtained from a survey of district attorneys on the frequency with which current offenses under G.S. 14-31.1 involve the elements of the proposed new offenses and would, therefore, be prosecuted under this bill as Class D or C felonies. The district attorneys that were surveyed estimated that, of the current offenses charged under G.S. 14-31.1:

- 63 percent involved an occupied dwelling or vehicle in operation
- 16 percent involved an occupied dwelling or vehicle in operation and resulted in serious injury

These figures suggest that a substantial proportion of charges under G.S. 14-31.1 could be elevated to at least a Class D felony under this bill. However, Fiscal Research has not projected the cost of this bill based on these estimates, as the figures do not reflect actual data collected on cases prosecuted under G.S. 14-31.1. Furthermore, the prison bed impact and resulting cost to the Department of Correction cannot be projected based on the survey data, as there is no indication of whether the distribution of offenses resulting in conviction would be similar to the estimated distribution of the offenses charged.

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.*

Because this bill creates two new criminal offenses (a Class D and Class C felony), the Sentencing Commission has no data from which to project the number of convictions that might result. Except in the event of extraordinary mitigation, all felony Class D and Class C offenders must receive active sentences. Due to the length of sentences imposed, the number of prison beds required for these offenders will build over time, as new offenders enter the system prior to the release of existing offenders. As a result, convictions under this bill would have a long-term prison impact. The average annual operating cost for one prison bed in FY 2006-07 will be an estimated \$24,740.

Felony Class D: During FY 2003-04, there were 89 convictions under current G.S. 14-34.1 for discharging certain barreled weapons or a firearm into occupied property, a Class E felony. It is unknown how many of these convictions involved a dwelling or vehicle in operation and would thus be elevated to Class D felonies under this legislation. If, for example, there were one conviction for this offense per year, the combination of active sentences and probation revocations would result in the need for one additional prison bed the first year and two additional prison beds the second year. The average time served for a Class D felony in FY 2003-04 was 78 months.

Felony Class C: It is also not known how many of the 89 convictions under G.S. 14-34.1 were for an offense inflicting serious bodily injury and would be elevated to Class C felonies under this bill. If, for example, there were one conviction for this offense per year, this bill would result in the need for one additional prison bed the first year and two additional prison beds the second year. The average time served for a Class C felony in FY 2003-04 was 95 months.

Non-Active Sentences: Some individuals convicted of Class E felonies under current G.S. 14-34.1 may receive intermediate sanctions and be supervised by the Division of Community Corrections (DCC). Because felony Class D and C offenders cannot receive intermediate sanctions, there would be short-term cost savings to DCC for any offenders who receive active rather than intermediate sanctions due to this bill. However, in the long term DCC would incur the cost of post-release supervision for Class C and D offenders upon their release from prison.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts (AOC) provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

AOC data for calendar year 2004 show 688 defendants charged with Class E felonies under current G.S. 14-34.1 for discharging a weapon into occupied property. AOC does not have data on how many of these violations involved shooting into an occupied dwelling or vehicle in operation. Under this bill these offenses would be charged as Class D felonies or Class C felonies if serious bodily injury resulted.

For any felony charge with an elevated offense classification due to this bill, there would be additional court and preparation time needed to process the charge, thus increasing superior court workload. As shown in Table 1 on the following page, the estimated increase in cost to dispose of a single charge that is elevated from felony Class E to Class D is \$969 per trial and \$39 per guilty plea.

Table 1: Estimated Per Charge Increase in Felony Class E to D Settlement Costs

Felony Class	Settled via Trial			Settled via Guilty Plea
	Court/Attorney Costs	Indigent Defense	Total	-
Class E	\$5,847	\$2,912	\$8,759	\$414
Class D	\$6,439	\$3,289	\$9,728	\$453
Increased Cost	\$592	\$377	\$969	\$39

As shown in Table 2 below, the estimated increase in cost to dispose of a single charge that is elevated from felony Class E to Class C is \$3,513 per trial and \$84 per guilty plea.

Table 2: Estimated Per Charge Increase in Felony Class E to C Settlement Costs

Felony Class	Settled via Trial			Settled via Guilty Plea
	Court/Attorney Costs	Indigent Defense	Total	-
Class E	\$5,847	\$2,912	\$8,759	\$414
Class C	\$7,179	\$3,653	\$10,832	\$498
Increased Cost	\$2,531	\$982	\$3,513	\$84

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

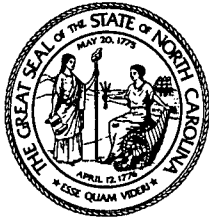
PREPARED BY: Aaron Paul and Jim Mills

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



DATE: August 5, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices



SENATE BILL 486: Rachel's Law

BILL ANALYSIS

Committee: House Appropriations
Introduced by: Sen. Allran
Version: Third Edition

Date: August 9, 2005
Summary by: Jeff Hudson
Committee Counsel

SUMMARY: *Senate Bill 486 would create two new criminal offenses. The first would be the offense of willfully or wantonly discharging a firearm or certain barreled weapons into an occupied dwelling or an occupied vehicle, aircraft, watercraft, or other conveyance that is being operated upon public roads, on railroad tracks, on waterways, or in any airspace. A violation of this offense would be a Class D felony. The second would be the offense of willfully or wantonly discharging or attempting to discharge a firearm or certain barreled weapons into any occupied building, structure, vehicle, watercraft, or aircraft that results in serious bodily injury to a person. A violation of this offense would be a Class C felony.*

CURRENT LAW: Under current G.S. 14-34.1, a person is guilty of the offense of discharging a firearm or certain barreled weapon into occupied property if:

- The person willfully or wantonly discharges or attempts to discharge a firearm or certain barreled weapon;
- Into property (building, structure, vehicle, aircraft, watercraft, or other conveyance, device, equipment, erection, or enclosure);
- While it is occupied.

Commission of this crime is a Class E felony. The Sentencing and Policy Advisory Commission classifies as Class E felonies those offenses that reasonably tend to result in or do result in serious personal injury. Assuming no prior convictions and in the absence of aggravating or mitigating factors, a Class E felony is punishable by a minimum of 20-25 months intermediate or active punishment.

BILL ANALYSIS: Senate Bill 486 would create two new offenses related to the discharge of a firearm or certain barreled weapon into occupied property.

The first new crime would occur if:

- The person willfully or wantonly discharges a firearm or certain barreled weapon;
- Into an occupied dwelling or occupied vehicle, aircraft, watercraft, or other conveyance that is being operated upon a public street, highway, public vehicular area, railroad track, waterway, or in any airspace.
- Commission of this crime is a Class D felony. The Sentencing and Policy Advisory Commission classifies as Class D felonies those offenses that reasonably tend to result in or do result in serious infringements on a property interest that also implicates physical safety concerns by use of a deadly weapon or an offense involving an occupied dwelling.

Senate Bill 486

Page 2

The second new crime would occur if:

- The person willfully or wantonly discharges or attempts to discharge a firearm or certain barreled weapon;
 - Into property (building, structure, vehicle, aircraft, watercraft, or other conveyance, device, equipment, erection, or enclosure);
 - While it is occupied; and
 - This results in serious bodily injury.
- Commission of this crime is a Class C felony. The Sentencing and Policy Advisory Commission classifies as Class C felonies those offenses that reasonably tend to result in or do result in serious long-term personal injury or serious long-term or widespread societal injury.

EFFECTIVE DATE: The act becomes effective December 1, 2005 and applies to offenses committed on or after that date.

Kory Goldsmith, counsel to Senate Judiciary II, substantially contributed to this summary.

S0486e3-SMSB

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ House Committee Substitute #2 for

SB 612 A BILL TO BE ENTITLED AN ACT TO AMEND THE LOBBYING LAWS
BY INCREASING THE INFORMATION REQUIRED TO BE REPORTED ON LOBBYING
ACTIVITIES AND BY REQUIRING REGISTRATION AND REPORTING OF LOBBYING
ACTIVITIES OF EXECUTIVE BRANCH OFFICERS, AND TO APPROPRIATE FUNDS TO
IMPLEMENT THE ACT.

☒ With a favorable report as to House committee substitute bill 3, which changes the title,
unfavorable as to House committee substitute bill 2.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution
(No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____)
is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the
Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute
Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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6

**SENATE BILL 612*
Judiciary I Committee Substitute Adopted 3/31/05
Finance Committee Substitute Adopted 4/11/05
Fourth Edition Engrossed 4/14/05
House Committee Substitute Favorable 7/20/05
House Committee Substitute #2 Favorable 7/27/05**

Short Title: Amend Lobbying Laws.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED
AN ACT TO AMEND THE LOBBYING LAWS BY INCREASING THE
INFORMATION REQUIRED TO BE REPORTED ON LOBBYING ACTIVITIES
AND BY REQUIRING REGISTRATION AND REPORTING OF LOBBYING
ACTIVITIES OF EXECUTIVE BRANCH OFFICERS, AND TO APPROPRIATE
FUNDS TO IMPLEMENT THE ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9A of Chapter 120 of the General Statutes reads as
rewritten:

"Article 9A.

"Legislative Branch Lobbying.

"§ 120-47.1. Definitions.

~~For the purposes of this Article, the following terms shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:~~ The following definitions shall apply in this Article:

(1) The term "covered person" means a legislator, the Governor, or the Lieutenant Governor.

(1)(1a) The terms "contribution," "compensation" and term "expenditure" mean means any advance, contribution, conveyance, deposit, distribution, payment, gift, retainer, fee, salary, honorarium, reimbursement, loan, pledge or anything thing of value greater than ten dollars (\$10.00), and anyor contracta contract, agreement, promise or other obligation whether or not legally enforceable, but those terms do not include prizes, awards, or compensation not exceeding one hundred dollars (\$100.00) in a calendar year that directly or indirectly

is made to, at the request of, for the benefit of, or on the behalf of a covered person, legislative employee, or that person's immediate family member.

(1b) The term "executive lobbyist" means a lobbyist registered pursuant to Article 4C of Chapter 147 of the General Statutes.

(2), (3) Repealed by Session Laws 1991, c. 740, s. 1.1.

(3a) The term "immediate family member" means spouse, descendant, or ascendant.

(4) The term "legislative action" means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the legislature or by a member or employee of the legislature acting or purporting to act in an official capacity. It also includes the consideration of any bill by the Governor for the Governor's approval or veto under Article II, Section 22(1) of the Constitution or for the Governor to allow the bill to become law under Article II, Section 22(7) of the Constitution.

(4a) The term "legislative employee" means employees and officers of the General Assembly.

(4b) The term "legislative liaison personnel" means any State officer or employee whose principal duties, in practice or as set forth in that person's job description, involve lobbying the General Assembly.

(4c) The term "legislative lobbyist" means any lobbyist for or against legislative action.

(4d) The term "legislator" means a member of the General Assembly or a person elected or appointed a member of the General Assembly prior to taking office.

(5) The term "lobbying" means any of the following:

a. Influencing or attempting to influence legislative action through direct oral or written communication or activities with a member of the General Assembly, or covered person, legislative employee, or that person's immediate family member.

b. Solicitation of others by legislative lobbyists or lobbyists' principals to influence legislative action.

c. Developing goodwill through communications or activities with a covered person, legislative employee, or that person's immediate family with the intention of influencing current or future legislative action, but does not include communications or activities with a covered person, legislative employee, or that person's immediate family member in a business, civic, religious, fraternal, or commercial relationship which is not connected to legislative action.

(6) The term "lobbyist" means an individual ~~who~~ who meets any of the following criteria:

- a. Is employed and receives compensation, or who contracts for economic consideration, for the purpose of ~~lobbying~~ or lobbying.
- b. Represents another person and receives compensation for the purpose of lobbying.
- c. Is legislative liaison personnel.

The term "lobbyist" shall not include those individuals who are specifically exempted from this Article by G.S. 120-47.8. For the purpose of determining whether an individual is a lobbyist under this subdivision, reimbursement of actual travel and subsistence expenses shall not be considered compensation; provided, however, that reimbursement in the ordinary course of business of these expenses shall be considered compensation if a significant part of the individual's duties involve lobbying before the General Assembly.

(7) The terms "lobbyist's principal" and "principal" mean the ~~entity in person on~~ entity in person on whose behalf the legislative lobbyist influences or attempts to influence legislative action. ~~lobbies. In the case where a lobbyist is compensated by a law firm, consulting firm, or other entity retained by a person for legislative lobbying, the principal is the person whose interests the lobbyist represents in lobbying.~~

(8) The term "person" means any individual, firm, partnership, committee, association, corporation, business entity, or any other organization or group of ~~persons~~ persons which has an independent legal existence.

(9) The General Assembly is in "regular session" from the date set by law or resolution that the General Assembly convenes until the General Assembly either:

- a. Adjourns sine die; or
- b. Recesses or adjourns for more than 10 days.

"§ 120-47.2. Registration procedure.

(a) A legislative lobbyist shall file a registration statement with the Secretary of State before engaging in any lobbying-lobbying in a manner prescribed by the Secretary of State. It shall be unlawful for a person to lobby without registering unless exempted by this Article. A separate registration statement is required for each lobbyist's principal. The registration shall indicate whether it is registration as a legislative lobbyist, executive lobbyist, or both, and a separate registration fee shall be paid for each separate type of registration.

(b) The form of the registration shall be prescribed by the Secretary of State and shall include the registrant's full name, firm, ~~and complete address;~~ address and telephone number; the registrant's place of business; the full ~~name and~~ name, complete address and telephone number of each person by whom the registrant is employed or retained; and a general description of the matters on which the registrant expects to act as a legislative lobbyist. The Secretary of State shall make available as soon as

1 practicable the registrations of the lobbyists and lobbyists' principals in an electronic,
2 searchable format.

3 (c) Each legislative lobbyist shall register again file an amended registration form
4 with the Secretary of State no later than 10 days after any change in the information
5 supplied in ~~his~~ the legislative lobbyist's last registration under subsection (b). Each
6 supplementary registration shall include a complete statement of the information that
7 has changed.

8 (d) Within 20 days after the convening of each session of the General Assembly,
9 the Secretary of State shall furnish each member of the General Assembly and the State
10 Legislative Library a list of all persons who have registered as executive or legislative
11 lobbyists and whom they represent. Within 20 days after the beginning of the term of a
12 Governor, the Secretary of State shall furnish the Governor, each other member of the
13 Council of State, the head of each principal department of the Executive Branch, and the
14 State Legislative Library a list of all persons who have registered as executive or
15 legislative lobbyists and whom they represent. A supplemental list of legislative
16 lobbyists shall be furnished periodically each 20 days thereafter as the session
17 progresses. A supplemental list of executive lobbyists shall be furnished periodically
18 each 60 days thereafter. All lists required by this section may be furnished
19 electronically.

20 (e) Each registration statement of a legislative lobbyist required under this
21 Article shall be effective from the date of filing until January 1 of the following
22 ~~odd-numbered~~ year. The legislative lobbyist shall file a new registration statement after
23 that date, and the applicable fee shall be due and payable.

24 **"§ 120-47.3. Registration fee.**

25 (a) Every lobbyist's principal shall pay to the Secretary of State a fee of ~~two~~
26 ~~hundred dollars (\$200.00)~~ one hundred dollars (\$100.00) that is due and payable by
27 either the legislative lobbyist or the lobbyist's principal at the time of registration. If the
28 legislative lobbyist is also registering as an executive lobbyist for that lobbyist's
29 principal, the fee shall be seventy-five dollars (\$75.00) to register as a legislative
30 lobbyist.

31 (b) A separate registration, together with a separate registration fee of ~~two~~
32 ~~hundred dollars (\$200.00)~~ one hundred dollars (\$100.00), is required for each lobbyist's
33 principal for which a person acts as a legislative lobbyist. No lobbyist's principal may be
34 charged a registration fee for legislative lobbyist more than one time per year.

35 (c) ~~Fees so collected shall be deposited in the General Fund of the State. All fees~~
36 shall be paid to the Department of the Secretary of State and deposited into the Lobbyist
37 Registration Fund to be used to pay the costs incurred in administering and enforcing
38 this Article.

39 (d) The Secretary of State may allow fees required under this section to be paid
40 electronically but may not require those fees to be paid electronically.

41 **"§ 120-47.4. Written authority from lobbyist's principal to be filed.**

42 Each legislative lobbyist shall file with the Secretary of State within 10 days after his
43 the legislative lobbyist's registration a written authorization to act as such, signed by the
44 lobbyist's principal.

1 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

2 (a) No person shall act as a legislative lobbyist for compensation that is
3 dependent upon the result or outcome of any legislative action. ~~which is dependent in~~
4 ~~any manner upon the passage or defeat of any proposed legislation or upon any other~~
5 ~~contingency connected with any action of the General Assembly, the House, the Senate~~
6 ~~or any committee thereof.~~

7 (b) No ~~person~~ legislative lobbyist or legislative lobbyist's principal shall attempt
8 to influence the action of any ~~member of the General Assembly~~ covered person by the
9 promise of financial support of the ~~member's~~ covered person's candidacy, or by threat of
10 financial ~~contribution~~ support in opposition to the ~~member's~~ covered person's candidacy
11 in any future election.

12 **"§ 120-47.5A. Exemptions and inclusions for reporting purposes.**

13 (a) For purposes of G.S. 120-47.6 and G.S. 120-47.7, the following expenditures
14 need not be reported:

15 (1) Gifts from an immediate family member or person who is the child,
16 stepchild, parent, sibling, mother-in-law, father-in-law, son-in-law,
17 daughter-in-law, grandparent, or grandchild of the covered person or
18 legislative employee.

19 (2) Lawful campaign contributions.

20 (b) For purposes of G.S. 120-47.6 and G.S. 120-47.7, all expenditures made for
21 the purpose of lobbying shall be reported, including the following:

22 (1) Expenditures benefiting or made on behalf of a covered person, a
23 legislative employee, or those persons' immediate family members, in
24 the regular course of that person's nonlegislative employment.

25 (2) Contractual arrangements or direct business relationships between a
26 legislative lobbyist or legislative lobbyist's principal and a covered
27 person, legislative employee, or that person's immediate family
28 member, in effect during the reporting period or the previous 12
29 months.

30 (3) Amounts reimbursed to a legislative lobbyist in the ordinary course of
31 business by the lobbyist's principal or other employer.

32 **"§ 120-47.6. Statements of legislative lobbyist's lobbying expenses ~~expenditures~~**
33 **required.**

34 (a) Each legislative lobbyist shall file an ~~expense report~~ with the Secretary of
35 State ~~with respect to each principal within 60 days after the last day of the regular~~
36 ~~session. This expense report shall include all expenditures made between January 1 and~~
37 ~~the last day of the regular session. The lobbyist shall file a supplemental report~~
38 ~~including all expenditures made after the last day of the regular session, but during the~~
39 ~~calendar year, by February 28 of the following year.~~ monthly expenditure reports under
40 oath with the Secretary of State, in a manner prescribed by the Secretary of State
41 including electronically, with respect to each lobbyist's principal, while the General
42 Assembly is in regular session, and quarterly thereafter. The expenditure report shall
43 include all expenditures during the reporting period and shall be due 10 business days

1 after the end of the reporting period. The legislative lobbyist shall file both expense
2 reports whether or not expenditures are made.

3 (b) ~~Each expense expenditure report shall set forth the date of each expenditure,~~
4 ~~to whom paid, the name of any legislator who benefitted from each expenditure, and the~~
5 ~~amount of each expenditure made during the previous reporting period in connection~~
6 ~~with lobbying, in each of the following categories: (1) transportation, (2) lodging, (3)~~
7 ~~entertainment, (4) food, (5) any item having a cash equivalent value of more than~~
8 ~~twenty five dollars (\$25.00) and (6) contributions made, paid, incurred or promised,~~
9 ~~directly or indirectly. It shall not be necessary to report expenditures of twenty five~~
10 ~~dollars (\$25.00) or less, nor shall it be necessary to report any expenditures made in~~
11 ~~connection with the attendance of a legislator at any fund raising function or event~~
12 ~~sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When more~~
13 ~~than 10 members of the General Assembly benefitted or were invited to benefit from an~~
14 ~~expenditure, the lobbyist shall not be required to report the name of any legislator, but~~
15 ~~shall be required to report the number of legislators or, with particularity, the basis for~~
16 ~~their selection.~~ amount, date, a description of the expenditure, name and address of the
17 payee, and name of any covered person, legislative employee, or that person's
18 immediate family member benefiting from the expenditure. Such expenditures shall be
19 reported using the following categories:

- 20 (1) Transportation and lodging.
- 21 (2) Entertainment, food, and beverages.
- 22 (3) Meetings and events.
- 23 (4) Gifts.
- 24 (5) Solicitation of others to lobby.
- 25 (6) Other expenditures.

26 (c) All reports shall be in the form prescribed by the Secretary of State and shall
27 be open to public ~~inspection.~~ inspection upon filing. When more than 15 covered persons
28 benefit from an expenditure, no names of individuals need be reported provided that the
29 report identifies the approximate number of covered persons benefiting and, with
30 particularity, the basis for their selection, including the name of the legislative body,
31 committee, caucus, or other group whose membership list is a matter of public record in
32 accordance with G.S. 132-1 or including a description of the group that clearly
33 distinguishes its purpose or composition from the general membership of the General
34 Assembly. The approximate number of legislative employees and immediate family
35 members of covered persons and legislative employees who benefited from the
36 expenditure shall be listed separately.

37 (d) When a legislative lobbyist fails to file a lobbying expensean expenditure
38 report as required herein, in this section, the Secretary of State shall send a certified or
39 registered letter advising the legislative lobbyist of the delinquency and the penalties
40 provided by law. Within 20 days of the receipt of the letter, the legislative lobbyist shall
41 deliver or post by United States mail to the Secretary of State the required report and an
42 additional late filing fee in an amount equal to the late filing fee under
43 G.S. 163-278.34(a)(2).

1 (e) Filing of the required report and payment of the additional fee within the time
2 extended shall constitute compliance with this section. Failure to file an expense
3 expenditure report in one of the manners prescribed ~~herein~~ in this section shall result in
4 revocation of any and all registrations of a legislative lobbyist under this Article. No
5 legislative lobbyist may register or reregister under this Article until ~~he~~ the legislative
6 lobbyist has fully complied with this section.

7 (f) Appeal of a decision by the Secretary of State under this section shall be in
8 accordance with Article 3 of Chapter 150B of the General Statutes.

9 (g) The Secretary of State may adopt rules to facilitate complete and timely
10 disclosure of expenditures, including the format of reports and additional categories of
11 information, and to protect the addresses of payees under protective order issued
12 pursuant to Chapter 50B of the General Statutes or participating in the Address
13 Confidentiality Program pursuant to Chapter 15C of the General Statutes.

14 "**§ 120-47.7. Statements of legislative lobbyist's principal lobbying expenses**
15 **expenditures required.**

16 (a) ~~Each legislative lobbyist's principal shall file an expense report with the~~
17 ~~Secretary of State within 60 days after the last day of the regular session. This expense~~
18 ~~report shall include all expenditures made between January 1 and the last day of the~~
19 ~~regular session. The principal shall file a supplemental expense report, including all~~
20 ~~expenditures made after the last day of the regular session, but during the calendar year,~~
21 ~~by February 28 of the following year. monthly expenditure reports under oath with the~~
22 ~~Secretary of State, in a manner prescribed by the Secretary of State including~~
23 ~~electronically, while the General Assembly is in regular session, and quarterly~~
24 ~~thereafter. The expenditure report shall include all expenditures during the reporting~~
25 ~~period, and shall be due 10 business days after the end of the reporting period. The~~
26 ~~lobbyist's principal shall file both expense the expenditure reports whether or not~~
27 ~~expenditures are made during a reporting period.~~

28 (b) ~~Each expense expenditure report shall set forth the name and address of each~~
29 ~~lobbyist employed, appointed, or retained by the lobbyist's principal, the date of each~~
30 ~~expenditure made, to whom paid, name of any legislator who benefitted from each~~
31 ~~expenditure, and amount of each expenditure made during the previous reporting period~~
32 ~~in connection with lobbying, in each of the following categories: (1) transportation, (2)~~
33 ~~lodging, (3) entertainment, (4) food, (5) any item having a cash equivalent value of~~
34 ~~more than twenty-five dollars (\$25.00), (6) contributions made, paid, incurred or~~
35 ~~promised, directly or indirectly, and (7) compensation to lobbyists in connection with~~
36 ~~their lobbying activities. It shall not be necessary to report expenditures of twenty-five~~
37 ~~dollars (\$25.00) or less, nor shall it be necessary to report any expenditures made in~~
38 ~~connection with the attendance of a legislator at any fund-raising function or event~~
39 ~~sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When more~~
40 ~~than 10 members of the General Assembly benefitted or were invited to benefit from an~~
41 ~~expenditure, the principal shall not be required to report the name of any legislator, but~~
42 ~~shall be required to report the number of legislators or the basis for their selection. In~~
43 ~~the category of compensation to lobbyists the principal shall estimate and report the~~
44 ~~compensation paid or promised directly or indirectly, to all lobbyists based on the~~

1 ~~estimated time, effort and expense in connection with lobbying activities on behalf of~~
2 ~~the principal. If a lobbyist is a full-time employee of the principal, or is compensated by~~
3 ~~means of an annual fee or retainer, the principal shall estimate and report the portion of~~
4 ~~all such lobbyists' salaries or retainers that compensate the lobbyists for lobbying.~~
5 amount, date, a description of the expenditure, name and address of the payee, and name
6 of any covered person, legislative employee, or that person's immediate family member
7 affected by the expenditure. Such expenditures shall be reported using the following
8 categories:

9 (1) Transportation and lodging.

10 (2) Entertainment, food, and beverages.

11 (3) Meetings and events.

12 (4) Gifts.

13 (5) Solicitation of others to lobby.

14 (6) The compensation paid or agreed to be paid to all legislative lobbyists.
15 If a legislative lobbyist is a full-time employee of the lobbyist's
16 principal, or is compensated by means of an annual fee or retainer, the
17 lobbyist's principal shall estimate and report the portion of the salary,
18 fee, or retainer that compensates for lobbying. The lobbyist's
19 principal's expenditure report shall include an itemized description of
20 all expenditures reimbursed or paid to legislative lobbyists for
21 lobbying that are not reported on the legislative lobbyists' reports. For
22 purposes of this subsection, amounts reimbursed in the ordinary course
23 of business shall be considered compensation if a significant part of
24 the individual's duties involves legislative lobbying, whether
25 reimbursed by the principal or another source.

26 (7) Other expenditures.

27 (c) All reports shall be in the form prescribed by the Secretary of State and open
28 to public inspection.~~inspection~~ upon filing. When more than 15 covered persons benefit
29 from an expenditure, no names of individuals need be reported provided that the report
30 identifies the approximate number of covered persons benefiting and, with particularity,
31 the basis for their selection, including the name of the legislative body, committee,
32 caucus, or other group whose membership list is a matter of public record in accordance
33 with G.S. 132-1 or including a description of the group that clearly distinguishes its
34 purpose or composition from the general membership of the General Assembly. The
35 approximate number of legislative employees and immediate family members of
36 covered persons and legislative employees who benefited from the expenditure shall be
37 listed separately.

38 (d) When a lobbyist's principal fails to file a~~lobbying expense~~ an expenditure
39 report as required ~~herein~~ in this section, the Secretary of State shall send a certified or
40 registered letter advising the lobbyist's principal of the delinquency and the penalties
41 provided by law. Within 20 days of the receipt of the letter, the lobbyist's principal shall
42 deliver or post by United States mail to the Secretary of State the required report and a
43 late filing fee in an amount equal to the late filing fee under G.S. 163-278.34(a)(2).

1 (e) Filing of the required report and payment of the late fee within the time
2 extended shall constitute compliance with this section. Failure to file an expenditure
3 report in one of the manners prescribed in this section shall result in revocation of any
4 and all registrations of a lobbyist's principal under this Article. No lobbyist's principal
5 may register or reregister under this Article until the lobbyist's principal has fully
6 complied with this section.

7 (f) Appeal of a decision by the Secretary of State under this section shall be in
8 accordance with Article 3 of Chapter 150B of the General Statutes.

9 (g) The Secretary of State may adopt rules to facilitate complete and timely
10 disclosure of expenditures, including the format of reports and additional categories of
11 information, and to protect the addresses of payees under protective order issued
12 pursuant to Chapter 50B of the General Statutes or participating in the Address
13 Confidentiality Program pursuant to Chapter 15C of the General Statutes.

14 **"§ 120-47.7B. Powers and duties of the Secretary of State.**

15 (a) The Secretary of State shall perform systematic reviews of reports required to
16 be filed under G.S. 120-47.6 and G.S. 120-47.7 on a regular basis to assure complete
17 and timely disclosure of expenditures.

18 (b) The Secretary of State may petition the Superior Court of Wake County for
19 the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct
20 investigations of violations of this Article. The court shall authorize subpoenas under
21 this subsection when the court determines they are necessary for the enforcement of this
22 Article. Subpoenas issued pursuant to this subsection shall be enforceable by the court
23 through contempt powers.

24 (c) Complaints of violations of this Article and all other records accumulated in
25 conjunction with the investigation of these complaints shall be considered records of
26 criminal investigations under G.S. 132-1.4.

27 **"§ 120-47.7C. Prohibitions.**

28 (a) No member or former member of the General Assembly may be employed as
29 an executive or legislative lobbyist by a lobbyist's principal to lobby as defined in this
30 Article or Article 4C of Chapter 147 of the General Statutes within one year after the
31 expiration of the term for which the member was elected or appointed to serve.

32 (b) No person serving as Governor, as a member of the Council of State, or as a
33 head of a principal State department listed in G.S. 143B-6 may be employed as an
34 executive or legislative lobbyist by a lobbyist's principal to lobby as defined in this
35 Article or Article 4C of Chapter 147 of the General Statutes within one year after
36 separation from employment or leaving office, whichever is later.

37 (c) No individual registered as a legislative lobbyist shall serve as a campaign
38 manager or a campaign treasurer under Chapter 163 of the General Statutes for a
39 campaign for election as a member of the General Assembly.

40 (d) A legislative or executive lobbyist shall not be eligible for appointment to any
41 body created under the laws of this State that has regulatory authority over the activities
42 of a person that the lobbyist represented within one year after the expiration of the
43 lobbyist's registration representing that person.

(e) No legislative or executive lobbyist or another acting on the lobbyist's behalf shall permit a covered person, legislative employee, executive branch officer, or that person's immediate family member, to use the cash or credit of the lobbyist for the purpose of lobbying unless the lobbyist is in attendance at the time of the expenditure.

"§ 120-47.8. Persons exempted from provisions of Article.

~~The~~ Except as otherwise provided in this Article, the provisions of this Article shall not be construed to apply to any of the following:

- (1) ~~An individual, not acting as a lobbyist,~~ individual solely engaged in expressing a personal opinion or stating facts or recommendations on legislative matters to ~~his own legislative delegation or other members of the General Assembly~~ Assembly and not acting as a legislative lobbyist.
- (2) A person appearing before a legislative committee at the invitation or request of the committee or a member thereof and who engages in no further activities as a legislative lobbyist in connection with that or any other legislative matter. lobbyist.
- (3)
 - a. A duly elected or appointed official or employee of the State, the United States, a county, municipality, school district or other governmental agency, when appearing solely in connection with matters pertaining to ~~his~~ the office and public duties.
 - b. Notwithstanding the persons exempted in this Article, the Governor, Council of State, and all appointed heads of State departments, agencies and institutions, shall designate all authorized official legislative liaison personnel and shall file and maintain current lists of designated legislative liaison personnel with the Secretary of State ~~and shall likewise file with the Secretary of State a full and accurate accounting of all money expended on lobbying, other than the salaries of regular full-time employees, at the same times lobbyists are required to file expense reports under G.S. 120-47.6.~~ State.
- (4) A person performing professional services in drafting bills or in advising and rendering opinions to clients, or to ~~legislators~~ covered persons on behalf of clients, as to the construction and effect of proposed or pending legislation where the professional services are not ~~otherwise, directly or indirectly,~~ otherwise connected with legislative action.
- (5) A person who owns, publishes or is employed by any news medium while engaged in the acquisition or dissemination of news on behalf of the news ~~medium.~~ medium as defined in G.S. 8-53.11.
- (6) Repealed by Session Laws 1991, c. 740, s. 1.1.
- (7) ~~Members of the General Assembly.~~ Covered persons and legislative employees.

(8) A person responding to inquiries from a member of the General Assembly or a legislative employee, and who engages in no further activities as a legislative lobbyist in connection with that or any other legislative matter.

(9) ~~An individual giving facts or recommendations pertaining to legislative matters to his own legislative delegation only.~~ An employee who represents the employer's interests in legislative action for no more than three hours in a quarter, provided that neither the employee nor the employer makes any expenditure as defined in G.S. 120-47.1.

"§ 120-47.8A. Expenditures made by persons exempted or not covered by this

Article.

(a) If a covered person or a legislative employee accepts an expenditure made for the purpose of lobbying valued over two hundred dollars (\$200.00) from a person exempted or not covered by this Article, the person making the expenditure shall report the date, a description of the expenditure, the name and address of the person making the expenditure, the name of the covered person or legislative employee accepting the expenditure, and the estimated fair market value of the expenditure.

(b) If the person making the expenditure in subsection (a) of this section is outside North Carolina, the covered person or legislative employee accepting the expenditure shall be responsible for filing the report.

(c) If a covered person or a legislative employee accepts a scholarship valued over two hundred dollars (\$200.00) from a person exempted or not covered by this Article, the person granting the scholarship shall report the date of the scholarship, a description of the event involved, the name and address of the person granting the scholarship, the name of the covered person or legislative employee accepting the scholarship, and the estimated fair market value.

(d) If the person granting the scholarship in subsection (c) of this section is outside North Carolina, the covered person or legislative employee accepting the scholarship shall be responsible for filing the report.

(e) This section shall not apply to any of the following:

(1) Lawful campaign contributions.

(2) Any gift from a family member to a covered person or legislative employee.

(3) Gifts associated primarily with the covered person's, legislative employee's, or that person's immediate family member's nonlegislative employment.

(4) Gifts, other than food, beverages, travel, and lodging, which are received from a person who is a citizen of a country other than the United States or a state other than North Carolina and given during a ceremonial presentation or as a custom.

(5) A thing of value that is paid for by the State.

(f) Reports required by this section shall be filed by the end of the quarter following the expenditure with the Secretary of State in a manner prescribed by the Secretary of State, including electronically.

1 **"§ 120-47.9. Punishment for violation.**

2 (a) Whoever willfully violates any provision of this Article shall be guilty of a
3 Class 1 misdemeanor. In addition, no legislative lobbyist who is convicted of a violation
4 of the provisions of this Article shall in any way act as a legislative or executive
5 lobbyist for a period of two years following his conviction.

6 (b) In addition to the criminal penalties set forth in this section, the Secretary of
7 State may levy civil fines for willful false or incomplete reporting up to five thousand
8 dollars (\$5,000) per violation.

9 **"§ 120-47.10. Enforcement of Article by Attorney General.**

10 The Secretary of State shall report apparent violations of this Article to the Attorney
11 General. The Attorney General shall, upon ~~complaint made to him of violations of this~~
12 ~~Article, complaint,~~ make an appropriate investigation thereof, and ~~he the Attorney~~
13 General shall forward a copy of the investigation to the district attorney of the
14 prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who
15 shall prosecute any person who violates any provisions of this Article.

16 **"§ 120-47.11. Rules and forms.**

17 The Secretary of State shall ~~make, amend, and rescind~~ adopt any rules, orders, forms,
18 and definitions as are necessary to carry out the provisions of this Article.

19 **"§ 120-47.12. Limitations on agency legislative liaisons. liaison personnel.**

20 (a) No ~~principal~~ State department may use State funds to contract with persons
21 who are not employed by the State to lobby the General Assembly.

22 (b) No more than two persons in each ~~principal~~ State department and constituent
23 institution of The University of North Carolina may be registered to lobby the General
24 Assembly or designated as legislative ~~liaisons~~ liaison personnel pursuant to this Article.

25 (c) All persons designated as legislative liaison personnel pursuant to this Article
26 and the State department or constituent institution of The University of North Carolina
27 that employs the legislative liaison personnel shall report all expenditures made for
28 lobbying purposes in the same manner as required for legislative lobbyists under
29 G.S. 120-47.6 and lobbyists' principals under G.S. 120-47.7."

30 **SECTION 2.** Chapter 147 of the General Statutes is amended by adding a
31 new Article to read:

32 "Article 4C.

33 "Executive Branch Lobbying.

34 **"§ 147-54.31. Definitions.**

35 The following definitions shall apply in this Article:

- 36 (1) The term "executive action" means the preparation, research, drafting,
37 introduction, consideration, modification, amendment, approval,
38 passage, adoption, tabling, postponement, defeat, or rejection of a rule,
39 regulation, executive order, policy, resolution, contract, request for
40 proposal, amendment, motion, report, nomination, or appointment by
41 the executive branch or by a member or employee of the executive
42 branch acting or purporting to act in an official capacity. This term
43 shall not include any action by an attorney representing a client with
44 respect to the executive action.

- 1 (2) The term "executive branch officers" means the Governor, any
2 member of the Council of State, and heads of those departments listed
3 in G.S. 143-6, and the Board of Governors and the presidents of the
4 universities of The University of North Carolina System.
- 5 (3) The term "executive lobbyist" means any lobbyist for or against
6 executive action.
- 7 (4) The term "expenditure" means any advance, contribution, conveyance,
8 deposit, distribution, payment, gift, retainer, fee, salary, honorarium,
9 reimbursement, loan, pledge, or thing of value greater than ten dollars
10 (\$10.00), or a contract, agreement, promise, or other obligation
11 whether or not legally enforceable, that directly or indirectly is made
12 to, at the request of, for the benefit of, or on the behalf of an executive
13 branch officer or that person's immediate family member.
- 14 (5) The term "immediate family member" means spouse, descendant, or
15 ascendant.
- 16 (6) The term "lobbying" means any of the following:
17 a. Influencing or attempting to influence executive action through
18 direct communication or activities with an executive branch
19 officer.
20 b. Solicitation of others by an executive lobbyist or lobbyist's
21 principal to influence executive action.
22 c. Developing executive goodwill through communications or
23 activities with an executive branch officer or that person's
24 immediate family with the intention of influencing current or
25 future executive action, but does not include communications or
26 activities with executive branch officers or that person's
27 immediate family member in a business, civic, religious,
28 fraternal, or commercial relationship which is not connected to
29 executive action.
- 30 (7) The term "lobbyist" means an individual who meets any of the
31 following criteria:
32 a. Is employed and receives compensation, or who contracts for
33 economic consideration, for the purpose of lobbying.
34 b. Represents another person and receives compensation for the
35 purpose of lobbying.
36 The term "lobbyist" shall not include those individuals who are
37 specifically exempted from this Article by G.S. 147-54.40. For the
38 purpose of determining whether an individual is an executive lobbyist
39 under this subdivision, reimbursement of actual travel and subsistence
40 expenses shall not be considered compensation; provided, however,
41 that reimbursement in the ordinary course of business of these
42 expenses shall be considered compensation if a significant part of the
43 individual's duties involves executive lobbying.

(8) The terms "lobbyist's principal" and "principal" mean the person on whose behalf the executive lobbyist lobbies. In the case where a lobbyist is compensated by a law firm, consulting firm, or other entity retained by a person for executive lobbying, the principal is the person whose interests the lobbyist represents in lobbying.

(9) The term "person" means any individual, firm, partnership, committee, association, corporation, business entity, or any other organization or group of persons which has an independent legal existence.

"§ 147-54.32. Registration procedure.

(a) An executive lobbyist shall file a registration statement with the Secretary of State before engaging in any lobbying in a manner prescribed by the Secretary of State. It shall be unlawful for a person to lobby without registering unless exempted by this Article. A separate registration statement is required for each lobbyist's principal. The registration shall indicate whether it is registration as a legislative lobbyist, executive lobbyist, or both, and a separate registration fee shall be paid for each separate type of registration.

(b) The form of the registration shall be prescribed by the Secretary of State and shall include the registrant's full name, firm, and complete address and telephone number; the registrant's place of business; the full name and complete address and telephone number of each person by whom the registrant is employed or retained; and a general description of the matters on which the registrant expects to act as an executive lobbyist. The Secretary of State shall make available as soon as practicable the registrations of the lobbyists and lobbyists' principals in an electronic, searchable format.

(c) Each executive lobbyist shall file an amended registration form with the Secretary of State no later than 10 days after any change in the information supplied in the executive lobbyist's last registration under subsection (b). Each supplementary registration shall include a complete statement of the information that has changed.

(d) Each registration statement of an executive lobbyist required under this Article shall be effective from the date of filing until January 1 of the following year. The executive lobbyist shall file a new registration statement after that date.

"§ 147-54.33. Registration fee.

(a) Every lobbyist's principal shall pay to the Secretary of State a fee of one hundred dollars (\$100.00) that is due and payable by either the executive lobbyist or the lobbyist's principal at the time of registration. If the executive lobbyist is also registering as a legislative lobbyist for that lobbyist's principal, the fee shall be seventy-five dollars (\$75.00) to register as an executive lobbyist.

(b) A separate registration, together with a separate registration fee of one hundred dollars (\$100.00), is required for each lobbyist's principal for which a person acts as an executive lobbyist. No lobbyist's principal may be charged a registration fee for executive lobbyist more than one time per year.

(c) All fees shall be paid to the Department of the Secretary of State and deposited into the Lobbyist Registration Fund to be used to pay the costs incurred in administering and enforcing this Article.

(d) The Secretary of State may allow fees required under this section to be paid electronically, but may not require those fees to be paid electronically.

"§ 147-54.34. Written authority from lobbyist's principal to be filed.

Each executive lobbyist shall file with the Secretary of State within 10 days after the executive lobbyist's registration a written authorization to act as such, signed by the lobbyist's principal.

"§ 147-54.35. Contingency lobbying fees and election influence prohibited.

(a) No person shall act as an executive lobbyist for compensation that is dependent upon the result or outcome of any executive action.

(b) No executive lobbyist or executive lobbyist's principal shall attempt to influence the action of an executive branch officer by the promise of financial support of the executive branch officer's candidacy or appointment, or by threat of financial support in opposition to the executive branch officer's candidacy in any future election or future reappointment.

"§ 147-54.36. Exemptions and inclusions for reporting purposes.

(a) For purposes of G.S. 147-54.37 and G.S. 147-54.38, the following expenditures need not be reported:

(1) Gifts from an immediate family member or person who is the child, stepchild, parent, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild of the executive branch officer.

(2) Lawful campaign contributions.

(b) For purposes of G.S. 147-54.37 and G.S. 147-54.38, all expenditures made for the purpose of lobbying need to be reported, including:

(1) Expenditures benefiting or made on behalf of an executive branch officer or that person's immediate family members, in the regular course of that person's nonexecutive employment.

(2) Contractual arrangements or direct business relationships between an executive lobbyist or executive lobbyist's principal and an executive branch officer or that person's immediate family member, in effect during the reporting period or the previous 12 months.

(3) Amounts reimbursed to an executive lobbyist in the ordinary course of business by the lobbyist's principal or other employer.

"§ 147-54.37. Statements of executive lobbyist's lobbying expenditures required.

(a) Each executive lobbyist shall file quarterly expenditure reports under oath with the Secretary of State, in a manner prescribed by the Secretary of State, including electronically, with respect to each lobbyist's principal within 10 days after the end of the reporting period. The expenditure report shall include all expenditures during the reporting period. The executive lobbyist shall file an expenditure report whether or not expenditures are made.

(b) Each expenditure report shall set forth the amount, date, a description of the expenditure, name and address of the payee, and name of any executive branch officer, or that person's immediate family member benefiting by the expenditure. Such expenditures shall be reported using the following categories:

- (1) Transportation and lodging.
- (2) Entertainment, food, and beverages.
- (3) Meetings and events.
- (4) Gifts.
- (5) Solicitation of others to lobby.
- (6) Other expenditures.

(c) All reports shall be in the form prescribed by the Secretary of State and shall be open to public inspection upon filing. When more than 15 executive branch officers benefit from an expenditure, no names of individuals need be reported provided that the report identifies the approximate number of executive branch officers benefiting and, with particularity, the basis for their selection. The approximate number of immediate family members who benefited from the expenditure shall be listed separately.

(d) When an executive lobbyist fails to file an expenditure report as required in this section, the Secretary of State shall send a certified or registered letter advising the executive lobbyist of the delinquency and the penalties provided by law. Within 20 days of the receipt of the letter, the executive lobbyist shall deliver or post by United States mail to the Secretary of State the required report and an additional late filing fee in an amount equal to the late filing fee under G.S. 163-278.34(a)(2).

(e) Filing of the required report and payment of the additional fee within the time extended shall constitute compliance with this section. Failure to file an expense report in one of the manners prescribed herein shall result in revocation of any and all registrations of an executive lobbyist under this Article. No executive lobbyist may register or reregister under this Article until the executive lobbyist has fully complied with this section.

(f) Appeal of a decision by the Secretary of State under this section shall be in accordance with Article 3 of Chapter 150B of the General Statutes.

(g) The Secretary of State may adopt rules to facilitate complete and timely disclosure of expenditures, including the format of reports and additional categories of information, and to protect the addresses of payees under protective order issued pursuant to Chapter 50B of the General Statutes or participating in the Address Confidentiality Program pursuant to Chapter 15C of the General Statutes.

"§ 147-54.38. Statements of lobbyist's principal lobbying expenses required.

(a) Each executive lobbyist's principal shall file quarterly expenditure reports under oath with the Secretary of State, in a manner prescribed by the Secretary of State including electronically, within 10 days after the end of the reporting period. The expenditure report shall include all expenditures during the reporting period. The lobbyist's principal shall file an expenditure report whether or not expenditures are made during a reporting period.

(b) Each expenditure report shall set forth the amount, date, a description of the expenditure, name and address of the payee, and name of any executive branch officers, or that person's immediate family member affected by the expenditure. Such expenditures shall be reported using the following categories:

- (1) Transportation and lodging.
- (2) Entertainment, food, and beverages.

(3) Meetings and events.

(4) Gifts.

(5) Solicitation of others to lobby.

(6) Other expenditures.

(c) All reports shall be in the form prescribed by the Secretary of State and open to public inspection upon filing. When more than 15 executive branch officers benefit from an expenditure, no names of individuals need be reported provided that the report identifies the approximate number of executive branch officers benefiting and, with particularity, the basis for their selection. The approximate number of immediate family members who benefited from the expenditure shall be listed separately.

(d) When a lobbyist's principal fails to file an expenditure report as required in this section, the Secretary of State shall send a certified or registered letter advising the lobbyist's principal of the delinquency and the penalties provided by law. Within 20 days of the receipt of the letter, the lobbyist's principal shall deliver or post by United States mail to the Secretary of State the required report and a late filing fee in an amount equal to the late filing fee under G.S. 163-278.34(a)(2).

(e) Filing of the required report and payment of the late fee within the time extended shall constitute compliance with this section. Failure to file an expense report in one of the manners prescribed herein shall result in revocation of any and all registrations of an executive lobbyist under this Article. No executive lobbyist may register or reregister under this Article until the executive lobbyist has fully complied with this section.

(f) Appeal of a decision by the Secretary of State under this section shall be in accordance with Article 3 of Chapter 150B of the General Statutes.

(g) The Secretary of State may adopt rules to facilitate complete and timely disclosure of expenditures, including the format of reports and additional categories of information, and to protect the addresses of payees under protective order issued pursuant to Chapter 50B of the General Statutes or participating in the Address Confidentiality Program pursuant to Chapter 15C of the General Statutes.

"§ 147-54.39. Powers and duties of the Secretary of State.

(a) The Secretary of State shall perform systematic reviews of reports required to be filed under G.S. 147-54.37 and G.S. 147-54.38 on a regular basis to assure complete and timely disclosure of expenditures.

(b) The Secretary of State may petition the Superior Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of violations of this Article. The court shall authorize subpoenas under this subsection when the court determines they are necessary for the enforcement of this Article. Subpoenas issued pursuant to this subsection shall be enforceable by the court through contempt powers.

(c) Complaints of violations of this Article and all other records accumulated in conjunction with the investigation of these complaints shall be considered records of criminal investigations under G.S. 132-1.4.

"§ 147-54.40. Persons exempted from provisions of Article.

1 Except as otherwise provided in this Article, the provisions of this Article shall not
2 be construed to apply to any of the following:

- 3 (1) An individual solely engaged in expressing a personal opinion on an
4 executive action and not acting as an executive lobbyist.
- 5 (2) A person appearing before a committee, commission, board, council,
6 or other collective body at the invitation or request of the collective
7 body or a member thereof and who engages in no further activities as
8 an executive lobbyist in connection with that or any other executive
9 action.
- 10 (3) A duly elected or appointed official or employee of the State, the
11 United States, a county, municipality, school district, or other
12 governmental agency, when appearing solely in connection with
13 matters pertaining to the office and its public duties.
- 14 (4) A person performing professional services in advising and rendering
15 opinions to clients, or executive branch officers on behalf of clients, as
16 to the construction and effect of proposed or pending executive action
17 where the professional services are not otherwise connected with
18 executive action.
- 19 (5) A person who owns, publishes, or is employed by any news medium
20 while engaged in the acquisition or dissemination of news on behalf of
21 the news medium as defined in G.S. 8-53.11.
- 22 (6) A person responding to inquiries from an executive branch officer and
23 who engages in no further activities as an executive lobbyist in
24 connection with that or any other executive action.
- 25 (7) A person appearing before an executive branch agency or department
26 on behalf of another person, on an individual application for a license
27 or permit, or a disciplinary action on a license or permit.
- 28 (8) An employee who represents the employer's interests in executive
29 action for no more than six hours during a six-month reporting period,
30 provided that neither the employee nor the employer make any
31 expenditure as defined in G.S. 147-54.31.

32 **"§ 147-54.41. Expenditures made by persons exempted or not covered by this**
33 **Article.**

34 (a) If an executive branch officer accepts an expenditure made for the purpose of
35 lobbying valued over two hundred dollars (\$200.00) from a person exempted or not
36 covered by this Article, the person making the expenditure shall report the date, a
37 description of the expenditure, the name and address of the person making the
38 expenditure, the name of the executive branch officer accepting the expenditure, and the
39 estimated fair market value of the expenditure.

40 (b) If the person making the expenditure in subsection (a) of this section is
41 outside North Carolina, the executive branch officer accepting the expenditure shall be
42 responsible for filing the report.

43 (c) If a covered person or a legislative employee accepts a scholarship valued
44 over two hundred dollars (\$200.00) from a person exempted or not covered by this

Article, the person granting the scholarship shall report the date of the scholarship, a description of the event involved, the name and address of the person granting the scholarship, the name of the executive branch officer accepting the scholarship, and the estimated fair market value.

(d) If the person granting the scholarship in subsection (c) of this section is outside North Carolina, the covered person or legislative employee accepting the scholarship shall be responsible for filing the report.

(e) This section shall not apply to any of the following:

(1) Lawful campaign contributions.

(2) Any gift from a family member to a covered person or legislative employee.

(3) Gifts associated primarily with the executive branch officer's or that person's immediate family member's nonexecutive employment.

(4) Gifts, other than food, beverages, travel, and lodging, received by an executive branch officer which are received from a person who is a citizen of a country other than the United States or a state other than North Carolina and given during a ceremonial presentation or as a custom.

(5) A thing of value that is paid for by the State.

(f) Reports required by this section shall be filed by the end of the quarter following the expenditure with the Secretary of State in a manner prescribed by the Secretary of State, including electronically.

"§ 147-54.42. Punishment for violation.

(a) Whoever willfully violates any provision of this Article shall be guilty of a Class 1 misdemeanor. In addition, no executive lobbyist who is convicted of a violation of the provisions of this Article shall in any way act as an executive or legislative lobbyist for a period of two years following conviction.

(b) In addition to the criminal penalties set forth in this section, the Secretary of State may levy civil fines for willful false or incomplete reporting up to five thousand dollars (\$5,000) per violation.

"§ 147-54.43. Enforcement of Article by Attorney General.

The Secretary of State shall report apparent violations of this Article to the Attorney General. The Attorney General shall, upon complaint, make an appropriate investigation thereof, and the Attorney General shall forward a copy of the investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-60, of which Wake County is a part, who shall prosecute any person who violates any provisions of this Article.

"§ 147-54.44. Rules and forms.

The Secretary of State shall adopt any rules, orders, forms, and definitions as are necessary to carry out the provisions of this Article."

SECTION 3. Article 4 of Chapter 147 of the General Statutes is amended by adding a new section to read:

"§ 147-54.8. No gifts registry.

(a) The Secretary of State shall establish a 'No Gifts' registry for persons subject to Article 9A of Chapter 120 of the General Statutes or Article 4C of this Chapter. The

1 'No Gifts' registry shall be published and updated with the list of lobbyists and lobbyists'
2 principals required under G.S. 120-47.2.

3 (b) Executive lobbyists, legislative lobbyists, and lobbyists' principals shall not
4 give gifts to persons placing their names on the registry.

5 (c) The Secretary shall have the authority to adopt rules to implement this section
6 in compliance with the following criteria:

7 (1) The registration is valid from the time the person registers until
8 January 1 of the following year, unless the person requests in writing
9 the removal of that person's name.

10 (2) The registration shall be in writing.

11 (d) For purposes of this section, the term "gift" means any payment,
12 entertainment, advance, services, forgiveness of an obligation or debt, or thing of value,
13 unless consideration of equal or greater value has been given therefor."

14 **SECTION 4.** There is appropriated from the General Fund to the Office of
15 the Secretary of State the sum of two hundred thousand dollars (\$200,000) for the
16 2005-2006 fiscal year to provide for the enforcement personnel, administrative staff,
17 and expenses necessary to implement this act.

18 **SECTION 5.** There is appropriated from the General Fund to the Office of
19 the Secretary of State the sum of one hundred twelve thousand dollars (\$112,000) for
20 the 2005-2006 fiscal year to provide for the implementation of electronic filing of all
21 lobbyists' and lobbyists' principals' reports required under Article 9A of Chapter 120 of
22 the General Statutes and to provide public access via the Internet to all these filings. The
23 Secretary of State shall implement electronic filing of all lobbyists' and lobbyists'
24 principals' reports required under Article 9A of Chapter 120 of the General Statutes and
25 provide public access via the Internet to all these filings as soon as practicable.

26 **SECTION 6.** Sections 4, 5, and 6 of this act become effective July 1, 2005.
27 G.S. 120-47.7C(d), as enacted by Section 1 of this act, shall apply to appointments
28 made on or after January 1, 2007. The remainder of this act becomes effective January
29 1, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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D

SENATE BILL 612*

Judiciary I Committee Substitute Adopted 3/31/05

Finance Committee Substitute Adopted 4/11/05

Fourth Edition Engrossed 4/14/05

House Committee Substitute Favorable 7/20/05

House Committee Substitute #2 Favorable 7/27/05

PROPOSED HOUSE COMMITTEE SUBSTITUTE S612-CSSA-32 [v.5]

8/9/2005 10:14:43 PM

Short Title: Amend Lobbying Laws.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LOBBYING LAWS BY INCREASING THE INFORMATION REQUIRED TO BE REPORTED ON LOBBYING ACTIVITIES WITHOUT LIMITING EXPENDITURES; BY REQUIRING MONTHLY REPORTING OF LEGISLATIVE LOBBYING DURING SESSIONS OF THE GENERAL ASSEMBLY AND QUARTERLY THEREAFTER; BY ESTABLISHING A WAITING PERIOD BEFORE CERTAIN STATE OFFICERS MAY LOBBY; BY BARRING LOBBYISTS FROM CERTAIN APPOINTMENTS AND OTHER ACTIVITIES; BY REQUIRING REGISTRATION AND QUARTERLY REPORTING OF LOBBYING ACTIVITIES OF EXECUTIVE BRANCH OFFICERS; AND BY CREATING A NO GIFTS REGISTRY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9A of Chapter 120 of the General Statutes reads as rewritten:

"Article 9A.

"Legislative Branch Lobbying.

"§ 120-47.1. Definitions.

~~For the purposes of this Article, the following terms shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:~~ The following definitions shall apply in this Article:

(1) The term "covered person" means a legislator, the Governor, or the Lieutenant Governor.

- 1 (1)(1a) The terms ~~"contribution," "compensation" and term~~ "expenditure"
2 ~~mean—means~~ any advance, contribution, conveyance, deposit,
3 distribution, payment, gift, retainer, fee, salary, honorarium,
4 reimbursement, loan, pledge or anything thing of value greater than ten
5 dollars (\$10.00), and anyor contracta contract, agreement, promise or
6 other obligation whether or not legally enforceable, but those terms do
7 not include prizes, awards, or compensation not exceeding one
8 hundred dollars (\$100.00) in a calendar year that directly or indirectly
9 is made to, at the request of, for the benefit of, or on the behalf of a
10 covered person, legislative employee, or that person's immediate
11 family member.
- 12 (1b) The term "executive lobbyist" means a lobbyist registered pursuant to
13 Article 4C of Chapter 147 of the General Statutes.
- 14 (2), (3) Repealed by Session Laws 1991, c. 740, s. 1.1.
- 15 (3a) The term "immediate family member" means spouse, descendant, or
16 ascendant.
- 17 (4) The term "legislative action" means the preparation, research, drafting,
18 introduction, consideration, modification, amendment, approval,
19 passage, enactment, tabling, postponement, defeat, or rejection of a
20 bill, resolution, amendment, motion, report, nomination, appointment,
21 or other ~~matter—matter, whether or not the matter is identified by an~~
22 official title, general title, or other specific reference, by the legislature
23 or by a member or employee of the legislature acting or purporting to
24 act in an official capacity. It also includes the consideration of any bill
25 by the Governor for the Governor's approval or veto under Article II,
26 Section 22(1) of the Constitution or for the Governor to allow the bill
27 to become law under Article II, Section 22(7) of the Constitution.
- 28 (4a) The term "legislative employee" means employees and officers of the
29 General Assembly.
- 30 (4b) The term "legislative liaison personnel" means any State ~~officer or~~
31 ~~employee~~officer whose principal ~~duties—duties, in practice or as set~~
32 forth in that person's job description—description, involve—include
33 lobbying the General Assembly.
- 34 (4c) The term "legislative lobbyist" means any lobbyist for or against
35 legislative action.
- 36 (4d) The term "legislator" means a member of the General Assembly or a
37 person elected or appointed a member of the General Assembly prior
38 to taking office.
- 39 (5) The term "lobbying" ~~means;means~~ any of the following:
40 a. Influencing or attempting to influence legislative action through
41 ~~direct oral or written communication or activities with a~~
42 ~~member of the General Assembly; or~~covered person, legislative
43 employee, or that person's immediate family member.

- b. Solicitation of others by legislative lobbyists or lobbyists' principals to influence legislative action.
- c. Developing goodwill through communications or activities, including the building of relationships, with a covered person, legislative employee, or that person's immediate family with the intention of influencing current or future legislative action, but does not include communications or activities with a covered person, legislative employee, or that person's immediate family member in a business, civic, religious, fraternal, or commercial relationship which is not connected to legislative action.

(6) The term "lobbyist" means an individual ~~who~~ who meets any of the following criteria:

- a. Is employed and receives compensation, or who contracts for economic consideration, for the purpose of ~~lobbying;~~ or lobbying.
- b. Represents another person and receives compensation for the purpose of lobbying.
- c. Is legislative liaison personnel.

The term "lobbyist" shall not include those individuals who are specifically exempted from this Article by G.S. 120-47.8. For the purpose of determining whether an individual is a lobbyist under this subdivision, reimbursement of actual travel and subsistence expenses shall not be considered compensation; provided, however, that reimbursement in the ordinary course of business of these expenses shall be considered compensation if a significant part of the individual's duties involve lobbying before the General Assembly.

(7) The terms "lobbyist's principal" and "principal" mean the ~~entity in person on~~ entity ~~on whose behalf the legislative lobbyist influences or attempts to influence legislative action.~~ lobbies. In the case where a lobbyist is compensated by a law firm, consulting firm, or other entity retained by a person for legislative lobbying, the principal is the person whose interests the lobbyist represents in lobbying.

(8) The term "person" means any individual, firm, partnership, committee, association, corporation, business entity, or any other organization or group of ~~persons~~ persons which has an independent legal existence.

(9) The General Assembly is in "regular session" from the date set by law or resolution that the General Assembly convenes until the General Assembly either:

- a. Adjourns sine die; or
- b. Recesses or adjourns for more than 10 days.

"§ 120-47.2. Registration procedure.

(a) A legislative lobbyist shall file a registration statement with the Secretary of State before engaging in any ~~lobbying~~ lobbying in a manner prescribed by the Secretary of State. It shall be unlawful for a person to lobby without registering unless exempted

by this Article. A separate registration statement is required for each lobbyist's principal. The registration shall indicate whether it is registration as a legislative lobbyist, executive lobbyist, or both, and a separate registration fee shall be paid for each separate type of registration.

(b) The form of the registration shall be prescribed by the Secretary of State and shall include the registrant's full name, firm, ~~and complete address;~~ address and telephone number; the registrant's place of business; the full ~~name and~~ name, complete address and telephone number of each person by whom the registrant is employed or retained; and a general description of the matters on which the registrant expects to act as a legislative lobbyist. The Secretary of State shall make available as soon as practicable the registrations of the lobbyists and lobbyists' principals in an electronic, searchable format.

(c) Each legislative lobbyist shall ~~register again~~ file an amended registration form with the Secretary of State no later than 10 days after any change in the information supplied in ~~his~~ the legislative lobbyist's last registration under subsection (b). Each supplementary registration shall include a complete statement of the information that has changed.

(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 executive or legislative lobbyists and whom they represent. Within 20 days after the beginning of the term of a Governor, the Secretary of State shall furnish the Governor, each other member of the Council of State, the head of each principal department of the Executive Branch, and the State Legislative Library a list of all persons who have registered as executive or legislative lobbyists and whom they represent. A supplemental list of legislative lobbyists shall be furnished periodically each 20 days thereafter as the session progresses. A supplemental list of executive lobbyists shall be furnished periodically each 60 days thereafter. For each special session of the General Assembly, a supplemental list of legislative lobbyists shall be furnished to the State Legislative Library. All lists required by this section may be furnished electronically.

(e) Each registration statement of a legislative lobbyist required under this Article shall be effective from the date of filing until January 1 of the following ~~odd-numbered~~ year. The legislative lobbyist shall file a new registration statement after that date, and the applicable fee shall be due and payable.

"§ 120-47.3. Registration fee.

(a) Every lobbyist's ~~principal~~ legislative lobbyist shall pay to the Secretary of State a fee of ~~two hundred dollars (\$200.00)~~ one hundred dollars (\$100.00) that is due and payable by either the lobbyist or the lobbyist's principal at the time of registration.

(b) A separate registration, together with a separate registration fee of ~~two hundred dollars (\$200.00)~~ one hundred dollars (\$100.00), is required for each lobbyist's principal for which a person acts as a legislative lobbyist. If the lobbyist's principal is also registering a person to act as an executive lobbyist, the fee shall be seventy-five dollars (\$75.00). No lobbyist's principal may be charged a registration fee for legislative lobbying more than one time per year.

(c) Fees so collected shall be deposited in the General Fund of the State. The Secretary of State may allow fees required under this section to be paid electronically but may not require those fees to be paid electronically.

(d) The Secretary of State shall adopt rules providing for the reduction or waiver of the fees required by this section if the lobbyist's principal required to pay the fee has annual revenue of three hundred thousand dollars or less and no more than two registered lobbyists, or there otherwise exists a case of hardship.

"§ 120-47.4. Written authority from lobbyist's principal to be filed.

Each legislative lobbyist shall file with the Secretary of State within 10 days after his the legislative lobbyist's registration a written authorization to act as such, signed by the lobbyist's principal.

"§ 120-47.5. Contingency lobbying fees and election influence prohibited.

(a) No person shall act as a legislative lobbyist for compensation that is dependent upon the result or outcome of any legislative action. which is dependent in any manner upon the passage or defeat of any proposed legislation or upon any other contingency connected with any action of the General Assembly, the House, the Senate or any committee thereof.

(b) No person legislative lobbyist or legislative lobbyist's principal shall attempt to influence the action of any member of the General Assembly covered person by the promise of financial support of the member's covered person's candidacy, or by threat of financial contribution support in opposition to the member's covered person's candidacy in any future election.

"§ 120-47.5A. Exemptions and inclusions for reporting purposes.

(a) For purposes of G.S. 120-47.6 and G.S. 120-47.7, the following expenditures need not be reported:

(1) Gifts from an immediate family member or person who is the child, stepchild, parent, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild of the covered person or legislative employee.

(2) Lawful campaign contributions.

(b) For purposes of G.S. 120-47.6 and G.S. 120-47.7, all expenditures made for the purpose of lobbying shall be reported, including the following:

(1) Expenditures benefiting or made on behalf of a covered person, a legislative employee, or those persons' immediate family members, in the regular course of that person's nonlegislative employment.

(2) Contractual arrangements or direct business relationships between a legislative lobbyist or legislative lobbyist's principal and a covered person, legislative employee, or that person's immediate family member, in effect during the reporting period or the previous 12 months.

(3) Expenditures reimbursed to a legislative lobbyist in the ordinary course of business by the lobbyist's principal or other employer.

1 (c) For reporting purposes of G.S. 120-47.6 and G.S. 120-47.7, only legislative
2 lobbying with respect to the legislative actions of the Governor and Lieutenant
3 Governor shall be reported.

4 "§ 120-47.6. Statements of legislative lobbyist's lobbying expenses-expenditures
5 required.

6 (a) ~~Each legislative lobbyist shall file an expense report with the Secretary of~~
7 ~~State with respect to each principal within 60 days after the last day of the regular~~
8 ~~session. This expense report shall include all expenditures made between January 1 and~~
9 ~~the last day of the regular session. The lobbyist shall file a supplemental report~~
10 ~~including all expenditures made after the last day of the regular session, but during the~~
11 ~~calendar year, by February 28 of the following year. monthly expenditure reports under~~
12 ~~oath with the Secretary of State, in a manner prescribed by the Secretary of State, which~~
13 ~~may include electronic reports, with respect to each lobbyist's principal, while the~~
14 ~~General Assembly is in regular session, and quarterly thereafter. The expenditure report~~
15 ~~shall include all expenditures during the reporting period and shall be due 10 business~~
16 ~~days after the end of the reporting period. The legislative lobbyist shall file both~~
17 ~~expense reports whether or not expenditures are made.~~

18 (b) ~~Each expense-expenditure report shall set forth the date of each expenditure,~~
19 ~~to whom paid, the name of any legislator who benefitted from each expenditure, and the~~
20 ~~amount of each expenditure made during the previous reporting period in connection~~
21 ~~with lobbying, in each of the following categories: (1) transportation, (2) lodging, (3)~~
22 ~~entertainment, (4) food, (5) any item having a cash equivalent value of more than~~
23 ~~twenty-five dollars (\$25.00) and (6) contributions made, paid, incurred or promised,~~
24 ~~directly or indirectly. It shall not be necessary to report expenditures of twenty-five~~
25 ~~dollars (\$25.00) or less, nor shall it be necessary to report any expenditures made in~~
26 ~~connection with the attendance of a legislator at any fund-raising function or event~~
27 ~~sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When more~~
28 ~~than 10 members of the General Assembly benefitted or were invited to benefit from an~~
29 ~~expenditure, the lobbyist shall not be required to report the name of any legislator, but~~
30 ~~shall be required to report the number of legislators or, with particularity, the basis for~~
31 ~~their selection. amount, date, a description of the expenditure, name and address of the~~
32 ~~payee, and name of any covered person, legislative employee, or that person's~~
33 ~~immediate family member benefiting from the expenditure. Such expenditures shall be~~
34 ~~reported using the following categories:~~

- 35 (1) Transportation and lodging.
36 (2) Entertainment, food, and beverages.
37 (3) Meetings and events.
38 (4) Gifts.
39 (5) Other expenditures.

40 In addition, expenses for the solicitation of others to lobby, whether or not a covered
41 person, legislative employee, or family member is affected, shall be reportable if such
42 expenses are incurred in connection, or in concert, with other expenditures reportable
43 under this subsection.

(c) All reports shall be in the form prescribed by the Secretary of State and shall be open to public ~~inspection~~inspection upon filing. When more than 15 covered persons benefit from an expenditure, no names of individuals need be reported provided that the report identifies the approximate number of covered persons benefiting and, with particularity, the basis for their selection, including the name of the legislative body, committee, caucus, or other group whose membership list is a matter of public record in accordance with G.S. 132-1 or including a description of the group that clearly distinguishes its purpose or composition from the general membership of the General Assembly. The approximate number of legislative employees and immediate family members of covered persons and legislative employees who benefited from the expenditure shall be listed separately.

(d) When a legislative lobbyist fails to file a ~~lobbying expense~~an expenditure report as required ~~herein~~in this section, the Secretary of State shall send a certified or registered letter advising the legislative lobbyist of the delinquency and the penalties provided by law. Within 20 days of the receipt of the letter, the legislative lobbyist shall deliver or post by United States mail to the Secretary of State the required report and an additional late filing fee in an amount equal to the late filing fee under G.S. 163-278.34(a)(2).

(e) Filing of the required report and payment of the additional fee within the time extended shall constitute compliance with this section. Failure to file an expense expenditure report in one of the manners prescribed ~~herein~~in this section shall result in revocation of any and all registrations of a legislative lobbyist under this Article. No legislative lobbyist may register or reregister under this Article until ~~he~~the legislative lobbyist has fully complied with this section.

(f) Appeal of a decision by the Secretary of State under this section shall be in accordance with Article 3 of Chapter 150B of the General Statutes.

(g) The Secretary of State may adopt rules to facilitate complete and timely disclosure of expenditures, including the format of reports and additional categories of information, and to protect the addresses of payees under protective order issued pursuant to Chapter 50B of the General Statutes or participating in the Address Confidentiality Program pursuant to Chapter 15C of the General Statutes.

"§ 120-47.7. Statements of legislative lobbyist's principal lobbying expenses expenditures required.

(a) Each legislative lobbyist's principal shall file an ~~expense~~ report with the Secretary of State within 60 days after the last day of the regular session. This ~~expense~~ report shall include all expenditures made between January 1 and the last day of the regular session. The 'principal shall file a supplemental ~~expense~~ report, including all expenditures made after the last day of the regular session, but during the calendar year, by February 28 of the following year. monthly expenditure reports under oath with the Secretary of State, in a manner prescribed by the Secretary of State, which may include electronic reports, while the General Assembly is in regular session, and quarterly thereafter. The expenditure report shall include all expenditures during the reporting period, and shall be due 10 business days after the end of the reporting period. The

1 lobbyist's principal shall file ~~both expense~~ the expenditure reports whether or not
2 expenditures are made during a reporting period.

3 (b) Each ~~expense expenditure~~ report shall set forth the ~~name and address of each~~
4 lobbyist employed, appointed, or retained by the lobbyist's principal, the ~~date of each~~
5 expenditure made, to whom paid, name of any legislator who benefitted from each
6 expenditure, and amount of each expenditure made during the previous reporting period
7 in connection with lobbying, in each of the following categories: (1) transportation, (2)
8 lodging, (3) entertainment, (4) food, (5) any item having a cash equivalent value of
9 more than twenty five dollars (\$25.00), (6) contributions made, paid, incurred or
10 promised, directly or indirectly, and (7) compensation to lobbyists in connection with
11 their lobbying activities. It shall not be necessary to report expenditures of twenty five
12 dollars (\$25.00) or less, nor shall it be necessary to report any expenditures made in
13 connection with the attendance of a legislator at any fund raising function or event
14 sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When more
15 than 10 members of the General Assembly benefitted or were invited to benefit from an
16 expenditure, the principal shall not be required to report the name of any legislator, but
17 shall be required to report the number of legislators or the basis for their selection. In
18 the category of compensation to lobbyists the principal shall estimate and report the
19 compensation paid or promised directly or indirectly, to all lobbyists based on the
20 estimated time, effort and expense in connection with lobbying activities on behalf of
21 the principal. If a lobbyist is a full-time employee of the principal, or is compensated by
22 means of an annual fee or retainer, the principal shall estimate and report the portion of
23 all such lobbyists' salaries or retainers that compensate the lobbyists for lobbying.
24 amount, date, a description of the expenditure, name and address of the payee, and name
25 of any covered person, legislative employee, or that person's immediate family member
26 affected by the expenditure. Such expenditures shall be reported using the following
27 categories:

- 28 (1) Transportation and lodging.
29 (2) Entertainment, food, and beverages.
30 (3) Meetings and events.
31 (4) Gifts.
32 (5) Other expenditures.

33 In addition, expenses for the solicitation of others to lobby, whether or not a covered
34 person, legislative employee, or family member is affected, shall be reportable if such
35 expenses are incurred in connection, or in concert, with other expenditures reportable
36 under this subsection.

37 In addition, the compensation paid or agreed to be paid to all legislative lobbyists
38 shall be reported, whether or not a covered person, legislative employee, or family
39 member is affected. If a legislative lobbyist is a full-time employee of the lobbyist's
40 principal, or is compensated by means of an annual fee or retainer, the lobbyist's
41 principal shall estimate and report the portion of the salary, fee, or retainer that
42 compensates for lobbying. The lobbyist's principal's expenditure report shall include an
43 itemized description of all expenditures reimbursed or paid to legislative lobbyists for
44 lobbying that are not reported on the legislative lobbyists' reports.

(c) All reports shall be in the form prescribed by the Secretary of State and open to public inspection upon filing. When more than 15 covered persons benefit from an expenditure, no names of individuals need be reported provided that the report identifies the approximate number of covered persons benefiting and, with particularity, the basis for their selection, including the name of the legislative body, committee, caucus, or other group whose membership list is a matter of public record in accordance with G.S. 132-1 or including a description of the group that clearly distinguishes its purpose or composition from the general membership of the General Assembly. The approximate number of legislative employees and immediate family members of covered persons and legislative employees who benefited from the expenditure shall be listed separately.

(d) When a lobbyist's principal fails to file a ~~lobbying expense~~ expenditure report as required ~~herein~~ in this section, the Secretary of State shall send a certified or registered letter advising the lobbyist's principal of the delinquency and the penalties provided by law. Within 20 days of the receipt of the letter, the lobbyist's principal shall deliver or post by United States mail to the Secretary of State the required report and a late filing fee in an amount equal to the late filing fee under G.S. 163-278.34(a)(2).

(e) Filing of the required report and payment of the late fee within the time extended shall constitute compliance with this section. Failure to file an expenditure report in one of the manners prescribed in this section shall result in revocation of any and all registrations of a lobbyist's principal under this Article. No lobbyist's principal may register or reregister under this Article until the lobbyist's principal has fully complied with this section.

(f) Appeal of a decision by the Secretary of State under this section shall be in accordance with Article 3 of Chapter 150B of the General Statutes.

(g) The Secretary of State may adopt rules to facilitate complete and timely disclosure of expenditures, including the format of reports and additional categories of information, and to protect the addresses of payees under protective order issued pursuant to Chapter 50B of the General Statutes or participating in the Address Confidentiality Program pursuant to Chapter 15C of the General Statutes.

"§ 120-47.7B. Powers and duties of the Secretary of State.

(a) The Secretary of State shall perform systematic reviews of reports required to be filed under G.S. 120-47.6 and G.S. 120-47.7 on a regular basis to assure complete and timely disclosure of expenditures.

(b) The Secretary of State may petition the Superior Court of Wake County for the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct investigations of violations of this Article. The court shall authorize subpoenas under this subsection when the court determines they are necessary for the enforcement of this Article. Subpoenas issued pursuant to this subsection shall be enforceable by the court through contempt powers. The Superior Court of Wake County may exercise personal jurisdiction over any nonresident person, or that person's agent, who makes a reportable expenditure under this Article.

1 (c) Complaints of violations of this Article and all other records accumulated in
2 conjunction with the investigation of these complaints shall be considered records of
3 criminal investigations under G.S. 132-1.4.

4 **"§ 120-47.7C. Prohibitions.**

5 (a) No member or former member of the General Assembly may be employed as
6 an executive or legislative lobbyist by a lobbyist's principal to lobby as defined in this
7 Article or Article 4C of Chapter 147 of the General Statutes within one year after the
8 expiration of the term for which the member was elected or appointed to serve.

9 (b) No person serving as Governor, as a member of the Council of State, or as a
10 head of a principal State department listed in G.S. 143B-6 may be employed as an
11 executive or legislative lobbyist by a lobbyist's principal to lobby as defined in this
12 Article or Article 4C of Chapter 147 of the General Statutes within one year after
13 separation from employment or leaving office, whichever is later.

14 (c) No individual registered as a legislative lobbyist shall serve as a campaign
15 treasurer under Chapter 163 of the General Statutes for a campaign for election as a
16 member of the General Assembly.

17 (d) A legislative or executive lobbyist shall not be eligible for appointment by a
18 State official to any body created under the laws of this State that has regulatory
19 authority over the activities of a person that the lobbyist represented within one year
20 after the expiration of the lobbyist's registration representing that person. Nothing herein
21 shall be construed to prohibit appointment by any unit of local government.

22 (e) No legislative or executive lobbyist or another acting on the lobbyist's behalf
23 shall permit a covered person, legislative employee, executive branch officer, or that
24 person's immediate family member, to use the cash or credit of the lobbyist for the
25 purpose of lobbying unless the lobbyist is in attendance at the time of the expenditure.

26 **"§ 120-47.8. Persons exempted from provisions of Article.**

27 The-Except as otherwise provided in this Article, the provisions of this Article shall
28 not be construed to apply to any of the following:

29 (1) An individual, not acting as a lobbyist, individual solely engaged in
30 expressing a personal opinion or stating facts or recommendations on
31 legislative matters to his-own legislative delegation or other members
32 of the General Assembly-Assembly and not acting as a legislative
33 lobbyist.

34 (2) A person appearing before a legislative committee at the invitation or
35 request of the committee or a member thereof and who engages in no
36 further activities as a legislative lobbyist in connection with that or any
37 other legislative matter-lobbyist.

38 (3) a. A duly elected or appointed official or employee of the State,
39 the United States, a county, municipality, school district or
40 other governmental agency, when appearing solely in
41 connection with matters pertaining to his-the office and public
42 duties.

43 b. Notwithstanding the persons exempted in this Article, the
44 Governor, Council of State, and all appointed heads of State

1 departments, agencies and institutions, shall designate all
2 authorized official legislative liaison personnel and shall file
3 and maintain current lists of designated legislative liaison
4 personnel with the Secretary of State ~~and shall likewise file~~
5 ~~with the Secretary of State a full and accurate accounting of all~~
6 ~~money expended on lobbying, other than the salaries of regular~~
7 ~~full time employees, at the same times lobbyists are required to~~
8 ~~file expense reports under G.S. 120-47.6.State.~~

- 9 (4) A person performing professional services in drafting bills or in
10 advising and rendering opinions to clients, or to legislators covered
11 persons on behalf of clients, as to the construction and effect of
12 proposed or pending legislation where the professional services are not
13 ~~otherwise, directly or indirectly, otherwise~~ connected with legislative
14 action.
- 15 (5) A person who owns, publishes or is employed by any news medium
16 while engaged in the acquisition or dissemination of news on behalf of
17 the news ~~medium~~ medium as defined in G.S. 8-53.11.
- 18 (6) Repealed by Session Laws 1991, c. 740, s. 1.1.
- 19 (7) ~~Members of the General Assembly.~~ Covered persons and legislative
20 employees.
- 21 (8) A person responding to inquiries from a member of the General
22 Assembly or a legislative employee, and who engages in no further
23 activities as a legislative lobbyist in connection with that or any other
24 legislative matter.
- 25 (9) ~~An individual giving facts or recommendations pertaining to~~
26 ~~legislative matters to his own legislative delegation only.~~ An employee
27 who represents the employer's interests in legislative action for no
28 more than three hours in a quarter, provided that neither the employee
29 nor the employer makes any expenditure as defined in G.S. 120-47.1.

30 **"§ 120-47.8A. Expenditures made by persons exempted or not covered by this**
31 **Article.**

32 (a) If a covered person or a legislative employee accepts an expenditure made for
33 the purpose of lobbying valued over two hundred dollars (\$200.00) from a person or
34 group of persons acting together, exempted or not otherwise covered by this Article, the
35 person, or group of persons, making the expenditure shall report the date, a description
36 of the expenditure, the name and address of the person, or group of persons, making the
37 expenditure, the name of the covered person or legislative employee accepting the
38 expenditure, and the estimated fair market value of the expenditure.

39 (b) If the person making the expenditure in subsection (a) of this section is
40 outside North Carolina, the covered person or legislative employee accepting the
41 expenditure shall be responsible for filing the report.

42 (c) If a covered person or a legislative employee accepts a scholarship valued
43 over two hundred dollars (\$200.00) from a person or group of person acting together,
44 exempted or not covered by this Article, the person, or group of persons, granting the

scholarship shall report the date of the scholarship, a description of the event involved, the name and address of the person, or group of persons, granting the scholarship, the name of the covered person or legislative employee accepting the scholarship, and the estimated fair market value.

(d) If the person granting the scholarship in subsection (c) of this section is outside North Carolina, the covered person or legislative employee accepting the scholarship shall be responsible for filing the report.

(e) This section shall not apply to any of the following:

(1) Lawful campaign contributions.

(2) Any gift from a family member to a covered person or legislative employee.

(3) Gifts associated primarily with the covered person's, legislative employee's, or that person's immediate family member's nonlegislative employment.

(4) Gifts, other than food, beverages, travel, and lodging, which are received from a person who is a citizen of a country other than the United States or a state other than North Carolina and given during a ceremonial presentation or as a custom.

(5) A thing of value that is paid for by the State.

(f) Reports required by this section shall be filed within 10 business days after the end of the quarter in which the expenditure was made, with the Secretary of State in a manner prescribed by the Secretary of State, which may include electronic reports.

"§ 120-47.9. Punishment for violation.

(a) Whoever willfully violates any provision of this Article shall be guilty of a Class 1 misdemeanor. In addition, no legislative lobbyist who is convicted of a violation of the provisions of this Article shall in any way act as a legislative or executive lobbyist for a period of two years following his conviction.

(b) In addition to the criminal penalties set forth in this section, the Secretary of State may levy civil fines for willful false or incomplete reporting up to five thousand dollars (\$5,000) per violation.

"§ 120-47.10. Enforcement of Article by Attorney General.

The Secretary of State shall report apparent violations of this Article to the Attorney General. The Attorney General shall, upon ~~complaint made to him of violations of this Article, complaint,~~ make an appropriate investigation thereof, and ~~he the Attorney General~~ shall forward a copy of the investigation to the district attorney of the prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who shall prosecute any person who violates any provisions of this Article.

"§ 120-47.11. Rules and forms.

The Secretary of State shall ~~make, amend, and rescind~~ adopt any rules, orders, forms, and definitions as are necessary to carry out the provisions of this Article. The Secretary of State may appoint a council to advise the Secretary in adopting rules under this section.

"§ 120-47.12. Limitations on agency legislative ~~liaisons~~ liaison personnel.

(a) No ~~principal~~ State department may use State funds to contract with persons who are not employed by the State to lobby the General Assembly.

(b) No more than two persons in each ~~principal~~ State department and constituent institution of The University of North Carolina may be registered to lobby the General Assembly or designated as legislative ~~liaisons~~ liaison personnel pursuant to this Article.

(c) All persons designated as legislative liaison personnel pursuant to this Article and the State department or constituent institution of The University of North Carolina that employs the legislative liaison personnel shall report all expenditures made for lobbying purposes in the same manner as required for legislative lobbyists under G.S. 120-47.6 and lobbyists' principals under G.S. 120-47.7."

SECTION 2. Chapter 147 of the General Statutes is amended by adding a new Article to read:

"Article 4C.

"Executive Branch Lobbying.

"§ 147-54.31. Definitions.

The following definitions shall apply in this Article:

(1) The term "executive action" means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, adoption, tabling, postponement, defeat, or rejection of a rule, regulation, executive order, policy, resolution, contract, request for proposal, amendment, motion, report, nomination, or appointment by the executive branch or by a member or employee of the executive branch acting or purporting to act in an official capacity. This term shall not include any action by an attorney representing a client with respect to the executive action.

(2) The term "executive branch officers" means the Governor, any member of the Council of State, and heads of those departments listed in G.S. 143B-6, and the Board of Governors and the presidents of the universities of The University of North Carolina System.

(3) The term "executive lobbyist" means any lobbyist for or against executive action.

(4) The term "expenditure" means any advance, contribution, conveyance, deposit, distribution, payment, gift, retainer, fee, salary, honorarium, reimbursement, loan, pledge, or thing of value greater than ten dollars (\$10.00), or a contract, agreement, promise, or other obligation whether or not legally enforceable, that directly or indirectly is made to, at the request of, for the benefit of, or on the behalf of an executive branch officer or that person's immediate family member.

(5) The term "immediate family member" means spouse, descendant, or ascendant.

(6) The term "lobbying" means any of the following:

a. Influencing or attempting to influence executive action through direct communication or activities with an executive branch officer.

b. Solicitation of others by an executive lobbyist or lobbyist's principal to influence executive action.

c. Developing executive goodwill through communications or activities, including the building of relationships, with an executive branch officer or that person's immediate family with the intention of influencing current or future executive action, but does not include communications or activities with executive branch officers or that person's immediate family member in a business, civic, religious, fraternal, or commercial relationship which is not connected to executive action.

(7) The term "lobbyist" means an individual who meets any of the following criteria:

a. Is employed and receives compensation, or who contracts for economic consideration, for the purpose of lobbying.

b. Represents another person and receives compensation for the purpose of lobbying.

The term "lobbyist" shall not include those individuals who are specifically exempted from this Article by G.S. 147-54.40. For the purpose of determining whether an individual is an executive lobbyist under this subdivision, reimbursement of actual travel and subsistence expenses shall not be considered compensation; provided, however, that reimbursement in the ordinary course of business of these expenses shall be considered compensation if a significant part of the individual's duties involves executive lobbying.

(8) The terms "lobbyist's principal" and "principal" mean the person on whose behalf the executive lobbyist lobbies. In the case where a lobbyist is compensated by a law firm, consulting firm, or other entity retained by a person for executive lobbying, the principal is the person whose interests the lobbyist represents in lobbying.

(9) The term "person" means any individual, firm, partnership, committee, association, corporation, business entity, or any other organization or group of persons which has an independent legal existence.

"§ 147-54.32. Registration procedure.

(a) An executive lobbyist shall file a registration statement with the Secretary of State before engaging in any lobbying in a manner prescribed by the Secretary of State. It shall be unlawful for a person to lobby without registering unless exempted by this Article. A separate registration statement is required for each lobbyist's principal. The registration shall indicate whether it is registration as a legislative lobbyist, executive lobbyist, or both, and a separate registration fee shall be paid for each separate type of registration.

(b) The form of the registration shall be prescribed by the Secretary of State and shall include the registrant's full name, firm, and complete address and telephone number; the registrant's place of business; the full name and complete address and telephone number of each person by whom the registrant is employed or retained; and a

1 general description of the matters on which the registrant expects to act as an executive
2 lobbyist. The Secretary of State shall make available as soon as practicable the
3 registrations of the lobbyists and lobbyists' principals in an electronic, searchable
4 format.

5 (c) Each executive lobbyist shall file an amended registration form with the
6 Secretary of State no later than 10 business days after any change in the information
7 supplied in the executive lobbyist's last registration under subsection (b). Each
8 supplementary registration shall include a complete statement of the information that
9 has changed.

10 (d) Each registration statement of an executive lobbyist required under this
11 Article shall be effective from the date of filing until January 1 of the following year.
12 The executive lobbyist shall file a new registration statement after that date.

13 **"§ 147-54.33. Registration fee.**

14 (a) Every executive lobbyist shall pay to the Secretary of State a fee of one
15 hundred dollars (\$100.00) at the time of registration.

16 (b) A separate registration, together with a separate registration fee of one
17 hundred dollars (\$100.00), is required for each lobbyist's principal for which a person
18 acts as an executive lobbyist. If the lobbyist's principal is also registering a person to act
19 as a legislative lobbyist, the fee shall be seventy-five dollars (\$75.00). No lobbyist's
20 principal may be charged a registration fee for executive lobbying more than one time
21 per year.

22 (c) Fees so collected shall be deposited in the General Fund of the State. The
23 Secretary of State may allow fees required under this section to be paid electronically,
24 but may not require those fees to be paid electronically.

25 (d) The Secretary of State shall adopt rules providing for the reduction or waiver
26 of the fees required by this section if the lobbyist's principal required to pay the fee has
27 annual revenue of three hundred thousand dollars or less and no more than two
28 registered lobbyists, or there otherwise exists a case of hardship.

29 **"§ 147-54.34. Written authority from lobbyist's principal to be filed.**

30 Each executive lobbyist shall file with the Secretary of State within 10 business days
31 after the executive lobbyist's registration a written authorization to act as such, signed
32 by the lobbyist's principal.

33 **"§ 147-54.35. Contingency lobbying fees and election influence prohibited.**

34 (a) No person shall act as an executive lobbyist for compensation that is
35 dependent upon the result or outcome of any executive action.

36 (b) No executive lobbyist or executive lobbyist's principal shall attempt to
37 influence the action of an executive branch officer by the promise of financial support
38 of the executive branch officer's candidacy or appointment, or by threat of financial
39 support in opposition to the executive branch officer's candidacy in any future election
40 or future reappointment.

41 **"§ 147-54.36. Exemptions and inclusions for reporting purposes.**

42 (a) For purposes of G.S. 147-54.37 and G.S. 147-54.38, the following
43 expenditures need not be reported:

(1) Gifts from an immediate family member or person who is the child, stepchild, parent, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild of the executive branch officer.

(2) Lawful campaign contributions.

(b) For purposes of G.S. 147-54.37 and G.S. 147-54.38, all expenditures made for the purpose of lobbying need to be reported, including:

(1) Expenditures benefiting or made on behalf of an executive branch officer or that person's immediate family members, in the regular course of that person's nonexecutive employment.

(2) Contractual arrangements or direct business relationships between an executive lobbyist or executive lobbyist's principal and an executive branch officer or that person's immediate family member, in effect during the reporting period or the previous 12 months.

(3) Expenditures reimbursed to an executive lobbyist in the ordinary course of business by the lobbyist's principal or other employer.

(c) For reporting purposes of G.S. 147-54.37 and G.S. 147-54.38, only executive lobbying with respect to the executive actions of the Governor and Lieutenant Governor shall be reported.

"§ 147-54.37. Statements of executive lobbyist's lobbying expenditures required.

(a) Each executive lobbyist shall file quarterly expenditure reports under oath with the Secretary of State, in a manner prescribed by the Secretary of State, which may include electronic reports, with respect to each lobbyist's principal within 10 business days after the end of the reporting period. The expenditure report shall include all expenditures during the reporting period. The executive lobbyist shall file an expenditure report whether or not expenditures are made.

(b) Each expenditure report shall set forth the amount, date, a description of the expenditure, name and address of the payee, and name of any executive branch officer, or that person's immediate family member benefiting by the expenditure. Such expenditures shall be reported using the following categories:

(1) Transportation and lodging.

(2) Entertainment, food, and beverages.

(3) Meetings and events.

(4) Gifts.

(5) Other expenditures.

In addition, expenses for the solicitation of others to lobby, whether or not an executive branch officer or that person's immediate family member is affected, shall be reportable if such expenses are incurred in connection, or in concert, with other expenditures reportable under this subsection.

(c) All reports shall be in the form prescribed by the Secretary of State and shall be open to public inspection upon filing. When more than 15 executive branch officers benefit from an expenditure, no names of individuals need be reported provided that the report identifies the approximate number of executive branch officers benefiting and,

1 with particularity, the basis for their selection. The approximate number of immediate
2 family members who benefited from the expenditure shall be listed separately.

3 (d) When an executive lobbyist fails to file an expenditure report as required in
4 this section, the Secretary of State shall send a certified or registered letter advising the
5 executive lobbyist of the delinquency and the penalties provided by law. Within 20 days
6 of the receipt of the letter, the executive lobbyist shall deliver or post by United States
7 mail to the Secretary of State the required report and an additional late filing fee in an
8 amount equal to the late filing fee under G.S. 163-278.34(a)(2).

9 (e) Filing of the required report and payment of the additional fee within the time
10 extended shall constitute compliance with this section. Failure to file an expense report
11 in one of the manners prescribed herein shall result in revocation of any and all
12 registrations of an executive lobbyist under this Article. No executive lobbyist may
13 register or reregister under this Article until the executive lobbyist has fully complied
14 with this section.

15 (f) Appeal of a decision by the Secretary of State under this section shall be in
16 accordance with Article 3 of Chapter 150B of the General Statutes.

17 (g) The Secretary of State may adopt rules to facilitate complete and timely
18 disclosure of expenditures, including the format of reports and additional categories of
19 information, and to protect the addresses of payees under protective order issued
20 pursuant to Chapter 50B of the General Statutes or participating in the Address
21 Confidentiality Program pursuant to Chapter 15C of the General Statutes.

22 **"§ 147-54.38. Statements of lobbyist's principal lobbying expenses required.**

23 (a) Each executive lobbyist's principal shall file quarterly expenditure reports
24 under oath with the Secretary of State, in a manner prescribed by the Secretary of State,
25 which may include electronic reports, within 10 business days after the end of the
26 reporting period. The expenditure report shall include all expenditures during the
27 reporting period. The lobbyist's principal shall file an expenditure report whether or not
28 expenditures are made during a reporting period.

29 (b) Each expenditure report shall set forth the amount, date, a description of the
30 expenditure, name and address of the payee, and name of any executive branch officers,
31 or that person's immediate family member affected by the expenditure. Such
32 expenditures shall be reported using the following categories:

33 (1) Transportation and lodging.

34 (2) Entertainment, food, and beverages.

35 (3) Meetings and events.

36 (4) Gifts.

37 (5) Other expenditures.

38 In addition, expenses for the solicitation of others to lobby, whether or not an
39 executive branch officer or that person's immediate family member is affected, shall be
40 reportable if such expenses are incurred in connection, or in concert, with other
41 expenditures reportable under this subsection.

42 (c) All reports shall be in the form prescribed by the Secretary of State and open
43 to public inspection upon filing. When more than 15 executive branch officers benefit
44 from an expenditure, no names of individuals need be reported provided that the report

1 identifies the approximate number of executive branch officers benefiting and, with
2 particularity, the basis for their selection. The approximate number of immediate family
3 members who benefited from the expenditure shall be listed separately.

4 (d) When a lobbyist's principal fails to file an expenditure report as required in
5 this section, the Secretary of State shall send a certified or registered letter advising the
6 lobbyist's principal of the delinquency and the penalties provided by law. Within 20
7 days of the receipt of the letter, the lobbyist's principal shall deliver or post by United
8 States mail to the Secretary of State the required report and a late filing fee in an amount
9 equal to the late filing fee under G.S. 163-278.34(a)(2).

10 (e) Filing of the required report and payment of the late fee within the time
11 extended shall constitute compliance with this section. Failure to file an expense report
12 in one of the manners prescribed herein shall result in revocation of any and all
13 registrations of an executive lobbyist's principal under this Article. No executive
14 lobbyist may register or reregister under this Article until the executive lobbyist has
15 fully complied with this section.

16 (f) Appeal of a decision by the Secretary of State under this section shall be in
17 accordance with Article 3 of Chapter 150B of the General Statutes.

18 (g) The Secretary of State may adopt rules to facilitate complete and timely
19 disclosure of expenditures, including the format of reports and additional categories of
20 information, and to protect the addresses of payees under protective order issued
21 pursuant to Chapter 50B of the General Statutes or participating in the Address
22 Confidentiality Program pursuant to Chapter 15C of the General Statutes.

23 **"§ 147-54.39. Powers and duties of the Secretary of State.**

24 (a) The Secretary of State shall perform systematic reviews of reports required to
25 be filed under G.S. 147-54.37 and G.S. 147-54.38 on a regular basis to assure complete
26 and timely disclosure of expenditures.

27 (b) The Secretary of State may petition the Superior Court of Wake County for
28 the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct
29 investigations of violations of this Article. The court shall authorize subpoenas under
30 this subsection when the court determines they are necessary for the enforcement of this
31 Article. Subpoenas issued pursuant to this subsection shall be enforceable by the court
32 through contempt powers. The Superior Court of Wake County may exercise personal
33 jurisdiction over any nonresident person, or that person's agent, who makes a reportable
34 expenditure under this Article.

35 (c) Complaints of violations of this Article and all other records accumulated in
36 conjunction with the investigation of these complaints shall be considered records of
37 criminal investigations under G.S. 132-1.4.

38 **"§ 147-54.40. Persons exempted from provisions of Article.**

39 Except as otherwise provided in this Article, the provisions of this Article shall not
40 be construed to apply to any of the following:

41 (1) An individual solely engaged in expressing a personal opinion on an
42 executive action and not acting as an executive lobbyist.

43 (2) A person appearing before a committee, commission, board, council,
44 or other collective body at the invitation or request of the collective

body or a member thereof and who engages in no further activities as an executive lobbyist in connection with that or any other executive action.

(3) A duly elected or appointed official or employee of the State, the United States, a county, municipality, school district, or other governmental agency, when appearing solely in connection with matters pertaining to the office and its public duties.

(4) A person performing professional services in advising and rendering opinions to clients, or to executive branch officers on behalf of clients, as to the construction and effect of proposed or pending executive action where the professional services are not otherwise connected with executive action.

(5) A person who owns, publishes, or is employed by any news medium while engaged in the acquisition or dissemination of news on behalf of the news medium as defined in G.S. 8-53.11.

(6) A person responding to inquiries from an executive branch officer and who engages in no further activities as an executive lobbyist in connection with that or any other executive action.

(7) A person appearing before an executive branch agency or department on behalf of another person, on an individual application for a license or permit, or a disciplinary action on a license or permit.

(8) A person appearing before an executive branch officer on behalf of another person with respect to a proposed sale or lease of real property, goods or services to the State, or construction of property by the State.

(9) An employee who represents the employer's interests in executive action for no more than six hours during a six-month reporting period, provided that neither the employee nor the employer make any expenditure as defined in G.S. 147-54.31.

"§ 147-54.41. Expenditures made by persons exempted or not covered by this Article.

(a) If an executive branch officer accepts an expenditure made for the purpose of lobbying valued over two hundred dollars (\$200.00) from a person or group of persons acting together, exempted or not otherwise covered by this Article, the person, or group of persons, making the expenditure shall report the date, a description of the expenditure, the name and address of the person, or group of persons, making the expenditure, the name of the executive branch officer accepting the expenditure, and the estimated fair market value of the expenditure.

(b) If the person making the expenditure in subsection (a) of this section is outside North Carolina, the executive branch officer accepting the expenditure shall be responsible for filing the report.

(c) If an executive branch officer accepts a scholarship valued over two hundred dollars (\$200.00) from a person or group of persons acting together, exempted or not otherwise covered by this Article, the person, or group of persons, granting the scholarship shall report the date of the scholarship, a description of the event involved,

1 the name and address of the person, or group of persons, granting the scholarship, the
2 name of the executive branch officer accepting the scholarship, and the estimated fair
3 market value.

4 (d) If the person granting the scholarship in subsection (c) of this section is
5 outside North Carolina, the covered person or legislative employee accepting the
6 scholarship shall be responsible for filing the report.

7 (e) This section shall not apply to any of the following:

8 (1) Lawful campaign contributions.

9 (2) Any gift from a family member to a covered person or legislative
10 employee.

11 (3) Gifts associated primarily with the executive branch officer's or that
12 person's immediate family member's nonexecutive employment.

13 (4) Gifts, other than food, beverages, travel, and lodging, received by an
14 executive branch officer which are received from a person who is a
15 citizen of a country other than the United States or a state other than
16 North Carolina and given during a ceremonial presentation or as a
17 custom.

18 (5) A thing of value that is paid for by the State.

19 (f) Reports required by this section shall be filed within 10 business days after
20 the end of the quarter in which the expenditure was made, with the Secretary of State in
21 a manner prescribed by the Secretary of State, which may include electronic reports.

22 **"§ 147-54.42. Punishment for violation.**

23 (a) Whoever willfully violates any provision of this Article shall be guilty of a
24 Class 1 misdemeanor. In addition, no executive lobbyist who is convicted of a violation
25 of the provisions of this Article shall in any way act as an executive or legislative
26 lobbyist for a period of two years following conviction.

27 (b) In addition to the criminal penalties set forth in this section, the Secretary of
28 State may levy civil fines for willful false or incomplete reporting up to five thousand
29 dollars (\$5,000) per violation.

30 **"§ 147-54.43. Enforcement of Article by Attorney General.**

31 The Secretary of State shall report apparent violations of this Article to the Attorney
32 General. The Attorney General shall, upon complaint, make an appropriate investigation
33 thereof, and the Attorney General shall forward a copy of the investigation to the district
34 attorney of the prosecutorial district as defined in G.S. 7A-60, of which Wake County is
35 a part, who shall prosecute any person who violates any provisions of this Article.

36 **"§ 147-54.44. Rules and forms.**

37 (a) The Secretary of State shall adopt any rules, orders, forms, and definitions as
38 are necessary to carry out the provisions of this Article. The Secretary of State may
39 appoint a council to advise the Secretary in adopting rules under this section.

40 (b) The Secretary of State shall adopt rules providing for delayed reporting under
41 G.S. 147-54.37 and G.S. 147-54.38 if the report would release information this is
42 confidential information under Chapter 132 of the General Statutes related to industrial
43 or business recruitment activities."

1 SECTION 3. Article 4 of Chapter 147 of the General Statutes is amended by
2 adding a new section to read:

3 "§ 147-54.8. No gifts registry."

4 (a) The Secretary of State shall establish a 'No Gifts' registry for persons subject
5 to Article 9A of Chapter 120 of the General Statutes or Article 4C of this Chapter. The
6 'No Gifts' registry shall be published and updated with the list of lobbyists and lobbyists'
7 principals required under G.S. 120-47.2.

8 (b) Except as provided in this subsection, executive lobbyists, legislative
9 lobbyists, and lobbyists' principals shall not give gifts to persons placing their names on
10 the registry. Gifts of informational directories may be given to persons placing their
11 names on the registry.

12 (c) The Secretary shall have the authority to adopt rules to implement this section
13 in compliance with the following criteria:

14 (1) The registration is valid from the time the person registers until
15 January 1 of the following year, unless the person requests in writing
16 the removal of that person's name.

17 (2) The registration shall be in writing.

18 (d) For purposes of this section, the term "gift" means any payment,
19 entertainment, advance, services, forgiveness of an obligation or debt, or thing of value,
20 unless consideration of equal or greater value has been given therefor."

21 SECTION 4. The Secretary of State shall implement electronic filing of all
22 lobbyists' and lobbyists' principals' reports required under Article 9A of Chapter 120 of
23 the General Statutes and provide public access via the Internet to all these filings as
24 soon as practicable.

25 SECTION 5. Sections 4 and 5 of this act become effective July 1, 2005.
26 G.S. 120-47.7C(d), as enacted by Section 1 of this act, shall apply to appointments
27 made on or after January 1, 2007. The remainder of this act becomes effective January
28 1, 2007.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 612*
Judiciary I Committee Substitute Adopted 3/31/05
Finance Committee Substitute Adopted 4/11/05
Fourth Edition Engrossed 4/14/05
House Committee Substitute Favorable 7/20/05
House Committee Substitute #2 Favorable 7/27/05
PROPOSED HOUSE COMMITTEE SUBSTITUTE S612-PCS35262-SA-32

Short Title: Amend Lobbying Laws.

(Public)

Sponsors:

Referred to:

March 17, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LOBBYING LAWS BY INCREASING THE
3 INFORMATION REQUIRED TO BE REPORTED ON LOBBYING ACTIVITIES
4 WITHOUT LIMITING EXPENDITURES; BY REQUIRING MONTHLY
5 REPORTING OF LEGISLATIVE LOBBYING DURING SESSIONS OF THE
6 GENERAL ASSEMBLY AND QUARTERLY THEREAFTER; BY
7 ESTABLISHING A WAITING PERIOD BEFORE CERTAIN STATE OFFICERS
8 MAY LOBBY; BY BARRING LOBBYISTS FROM CERTAIN APPOINTMENTS
9 AND OTHER ACTIVITIES; BY REQUIRING REGISTRATION AND
10 QUARTERLY REPORTING OF LOBBYING ACTIVITIES OF EXECUTIVE
11 BRANCH OFFICERS; AND BY CREATING A NO GIFTS REGISTRY.

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.** Article 9A of Chapter 120 of the General Statutes reads as
14 rewritten:

"Article 9A.

"Legislative Branch Lobbying.

17 **"§ 120-47.1. Definitions.**

18 ~~For the purposes of this Article, the following terms shall have the meanings~~
19 ~~ascribed to them in this section unless the context clearly indicates a different~~
20 ~~meaning.~~ The following definitions shall apply in this Article:

21 (1) The term "covered person" means a legislator, the Governor, or the
22 Lieutenant Governor.

- (1)(1a) ~~The terms "contribution," "compensation" and term "expenditure"~~
~~mean—means~~ any advance, contribution, conveyance, deposit,
distribution, payment, gift, retainer, fee, salary, honorarium,
reimbursement, loan, pledge or anything thing of value greater than ten
dollars (\$10.00), and any or contracta contract, agreement, promise or
other obligation whether or not legally enforceable, but these terms do
not include prizes, awards, or compensation not exceeding one
hundred dollars (\$100.00) in a calendar year that directly or indirectly
is made to, at the request of, for the benefit of, or on the behalf of a
covered person, legislative employee, or that person's immediate
family member.
- (1b) The term "executive lobbyist" means a lobbyist registered pursuant to
Article 4C of Chapter 147 of the General Statutes.
- (2), (3) Repealed by Session Laws 1991, c. 740, s. 1.1.
- (3a) The term "immediate family member" means spouse, descendant, or
ascendant.
- (4) The term "legislative action" means the preparation, research, drafting,
introduction, consideration, modification, amendment, approval,
passage, enactment, tabling, postponement, defeat, or rejection of a
bill, resolution, amendment, motion, report, nomination, appointment,
or other matter—matter, whether or not the matter is identified by an
official title, general title, or other specific reference, by the legislature
or by a member or employee of the legislature acting or purporting to
act in an official capacity. It also includes the consideration of any bill
by the Governor for the Governor's approval or veto under Article II,
Section 22(1) of the Constitution or for the Governor to allow the bill
to become law under Article II, Section 22(7) of the Constitution.
- (4a) The term "legislative employee" means employees and officers of the
General Assembly.
- (4b) The term "legislative liaison personnel" means any State officer or
employeeofficer whose principal duties—duties, in practice or as set
forth in that person's job description—description, involve—include
lobbying the General Assembly.
- (4c) The term "legislative lobbyist" means any lobbyist for or against
legislative action.
- (4d) The term "legislator" means a member of the General Assembly or a
person elected or appointed a member of the General Assembly prior
to taking office.
- (5) The term "lobbying" means;means any of the following:
a. Influencing or attempting to influence legislative action through
direct oral or written communication or activities with a
member of the General Assembly; or covered person, legislative
employee, or that person's immediate family member.

- b. Solicitation of others by legislative lobbyists or lobbyists' principals to influence legislative action.
- c. Developing goodwill through communications or activities, including the building of relationships, with a covered person, legislative employee, or that person's immediate family with the intention of influencing current or future legislative action, but does not include communications or activities with a covered person, legislative employee, or that person's immediate family member in a business, civic, religious, fraternal, or commercial relationship which is not connected to legislative action.
- (6) The term "lobbyist" means an individual ~~who~~who meets any of the following criteria:
- a. Is employed and receives compensation, or who contracts for economic consideration, for the purpose of ~~lobbying;~~or lobbying.
- b. Represents another person and receives compensation for the purpose of lobbying.
- c. Is legislative liaison personnel.
- The term "lobbyist" shall not include those individuals who are specifically exempted from this Article by G.S. 120-47.8. For the purpose of determining whether an individual is a lobbyist under this subdivision, reimbursement of actual travel and subsistence expenses shall not be considered compensation; provided, however, that reimbursement in the ordinary course of business of these expenses shall be considered compensation if a significant part of the individual's duties involve lobbying before the General Assembly.
- (7) The terms "lobbyist's principal" and "principal" mean the ~~entity in person on~~ entity ~~whose behalf the legislative lobbyist influences or attempts to influence legislative action.~~lobbies. In the case where a lobbyist is compensated by a law firm, consulting firm, or other entity retained by a person for legislative lobbying, the principal is the person whose interests the lobbyist represents in lobbying.
- (8) The term "person" means any individual, firm, partnership, committee, association, corporation, business entity, or any other organization or group of ~~persons.~~persons which has an independent legal existence.
- (9) The General Assembly is in "regular session" from the date set by law or resolution that the General Assembly convenes until the General Assembly either:
- a. Adjourns sine die; or
- b. Recesses or adjourns for more than 10 days.

"§ 120-47.2. Registration procedure.

(a) A legislative lobbyist shall file a registration statement with the Secretary of State before engaging in any ~~lobbying.~~lobbying in a manner prescribed by the Secretary of State. It shall be unlawful for a person to lobby without registering unless exempted

1 by this Article. A separate registration statement is required for each lobbyist's
2 principal. The registration shall indicate whether it is registration as a legislative
3 lobbyist, executive lobbyist, or both, and a separate registration fee shall be paid for
4 each separate type of registration.

5 (b) The form of the registration shall be prescribed by the Secretary of State and
6 shall include the registrant's full name, firm, ~~and complete address;~~address and
7 telephone number; the registrant's place of business; the full ~~name and name,~~ complete
8 address and telephone number of each person by whom the registrant is employed or
9 retained; and a general description of the matters on which the registrant expects to act
10 as a legislative lobbyist. The Secretary of State shall make available as soon as
11 practicable the registrations of the lobbyists and lobbyists' principals in an electronic,
12 searchable format.

13 (c) Each legislative lobbyist shall register again~~file an amended registration form~~
14 with the Secretary of State no later than 10 days after any change in the information
15 supplied in ~~his~~the legislative lobbyist's last registration under subsection (b). Each
16 supplementary registration shall include a complete statement of the information that
17 has changed.

18 (d) Within 20 days after the convening of each session of the General Assembly,
19 the Secretary of State shall furnish each member of the General Assembly and the State
20 Legislative Library a list of all persons who have registered as executive or legislative
21 lobbyists and whom they represent. Within 20 days after the beginning of the term of a
22 Governor, the Secretary of State shall furnish the Governor, each other member of the
23 Council of State, the head of each principal department of the Executive Branch, and the
24 State Legislative Library a list of all persons who have registered as executive or
25 legislative lobbyists and whom they represent. A supplemental list of legislative
26 lobbyists shall be furnished periodically each 20 days thereafter as the session
27 progresses. A supplemental list of executive lobbyists shall be furnished periodically
28 each 60 days thereafter. For each special session of the General Assembly, a
29 supplemental list of legislative lobbyists shall be furnished to the State Legislative
30 Library. All lists required by this section may be furnished electronically.

31 (e) Each registration statement of a legislative lobbyist required under this
32 Article shall be effective from the date of filing until January 1 of the following
33 odd-numbered year. The legislative lobbyist shall file a new registration statement after
34 that date, and the applicable fee shall be due and payable.

35 **"§ 120-47.3. Registration fee.**

36 (a) Every ~~lobbyist's principal~~legislative lobbyist shall pay to the Secretary of
37 State a fee of ~~two hundred dollars (\$200.00)~~ one hundred dollars (\$100.00) ~~that is due~~
38 ~~and payable by either the lobbyist or the lobbyist's principal~~ at the time of registration.

39 (b) A separate registration, together with a separate registration fee of ~~two~~
40 ~~hundred dollars (\$200.00)~~ one hundred dollars (\$100.00), is required for each lobbyist's
41 principal for which a person acts as a legislative lobbyist. If the lobbyist's principal is
42 also registering a person to act as an executive lobbyist, the fee shall be seventy-five
43 dollars (\$75.00). No lobbyist's principal may be charged a registration fee for legislative
44 lobbying more than one time per year.

1 (c) Fees so collected shall be deposited in the General Fund of the State. The
2 Secretary of State may allow fees required under this section to be paid electronically
3 but may not require those fees to be paid electronically.

4 (d) The Secretary of State shall adopt rules providing for the reduction or waiver
5 of the fees required by this section if the lobbyist's principal required to pay the fee has
6 annual revenue of three hundred thousand dollars (\$300,000) or less and no more than
7 two registered lobbyists, or there otherwise exists a case of hardship.

8 **"§ 120-47.4. Written authority from lobbyist's principal to be filed.**

9 Each legislative lobbyist shall file with the Secretary of State within 10 days after ~~his~~
10 the legislative lobbyist's registration a written authorization to act as such, signed by the
11 lobbyist's principal.

12 **"§ 120-47.5. Contingency lobbying fees and election influence prohibited.**

13 (a) No person shall act as a legislative lobbyist for compensation that is
14 dependent upon the result or outcome of any legislative action, which is dependent in
15 any manner upon the passage or defeat of any proposed legislation or upon any other
16 contingency connected with any action of the General Assembly, the House, the Senate
17 or any committee thereof.

18 (b) ~~No person legislative lobbyist or legislative lobbyist's principal shall attempt~~
19 to influence the action of any member of the General Assembly covered person by the
20 promise of financial support of the member's covered person's candidacy, or by threat of
21 financial contribution support in opposition to the member's covered person's candidacy
22 in any future election.

23 **"§ 120-47.5A. Exemptions and inclusions for reporting purposes.**

24 (a) For purposes of G.S. 120-47.6 and G.S. 120-47.7, the following expenditures
25 need not be reported:

26 (1) Gifts from an immediate family member or person who is the child,
27 stepchild, parent, sibling, mother-in-law, father-in-law, son-in-law,
28 daughter-in-law, grandparent, or grandchild of the covered person or
29 legislative employee.

30 (2) Lawful campaign contributions.

31 (b) For purposes of G.S. 120-47.6 and G.S. 120-47.7, all expenditures made for
32 the purpose of lobbying shall be reported, including the following:

33 (1) Expenditures benefiting or made on behalf of a covered person, a
34 legislative employee, or those persons' immediate family members, in
35 the regular course of that person's nonlegislative employment.

36 (2) Contractual arrangements or direct business relationships between a
37 legislative lobbyist or legislative lobbyist's principal and a covered
38 person, legislative employee, or that person's immediate family
39 member, in effect during the reporting period or the previous 12
40 months.

41 (3) Expenditures reimbursed to a legislative lobbyist in the ordinary
42 course of business by the lobbyist's principal or other employer.

1 (c) For reporting purposes of G.S. 120-47.6 and G.S. 120-47.7, only legislative
2 lobbying with respect to the legislative actions of the Governor and Lieutenant
3 Governor shall be reported.

4 **"§ 120-47.6. Statements of legislative lobbyist's lobbying expenses expenditures**
5 **required.**

6 (a) Each legislative lobbyist shall file an ~~expense report~~ with the Secretary of
7 State with respect to each principal within 60 days after the last day of the regular
8 session. This ~~expense report~~ shall include all expenditures made between January 1 and
9 the last day of the regular session. The lobbyist shall file a supplemental report
10 including all expenditures made after the last day of the regular session, but during the
11 calendar year, by February 28 of the following year. monthly expenditure reports under
12 oath with the Secretary of State, in a manner prescribed by the Secretary of State, which
13 may include electronic reports, with respect to each lobbyist's principal, while the
14 General Assembly is in regular session, and quarterly thereafter. The expenditure report
15 shall include all expenditures during the reporting period and shall be due 10 business
16 days after the end of the reporting period. The legislative lobbyist shall file both
17 expense reports whether or not expenditures are made.

18 (b) Each ~~expense-expenditure~~ report shall set forth the date of each expenditure,
19 to whom paid, the name of any legislator who benefitted from each expenditure, and the
20 amount of each expenditure made during the previous reporting period in connection
21 with lobbying, in each of the following categories: (1) transportation, (2) lodging, (3)
22 entertainment, (4) food, (5) any item having a cash equivalent value of more than
23 twenty-five dollars (\$25.00) and (6) contributions made, paid, incurred or promised,
24 directly or indirectly. It shall not be necessary to report expenditures of twenty-five
25 dollars (\$25.00) or less, nor shall it be necessary to report any expenditures made in
26 connection with the attendance of a legislator at any fund-raising function or event
27 sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When more
28 than 10 members of the General Assembly benefitted or were invited to benefit from an
29 expenditure, the lobbyist shall not be required to report the name of any legislator, but
30 shall be required to report the number of legislators or, with particularity, the basis for
31 their selection. amount, date, a description of the expenditure, name and address of the
32 payee, and name of any covered person, legislative employee, or that person's
33 immediate family member benefiting from the expenditure. Such expenditures shall be
34 reported using the following categories:

- 35 (1) Transportation and lodging.
36 (2) Entertainment, food, and beverages.
37 (3) Meetings and events.
38 (4) Gifts.
39 (5) Other expenditures.

40 In addition, expenses for the solicitation of others to lobby, whether or not a covered
41 person, legislative employee, or family member is affected, shall be reportable if such
42 expenses are incurred in connection, or in concert, with other expenditures reportable
43 under this subsection.

(c) All reports shall be in the form prescribed by the Secretary of State and shall be open to public inspection upon filing. When more than 15 covered persons benefit from an expenditure, no names of individuals need be reported provided that the report identifies the approximate number of covered persons benefiting and, with particularity, the basis for their selection, including the name of the legislative body, committee, caucus, or other group whose membership list is a matter of public record in accordance with G.S. 132-1 or including a description of the group that clearly distinguishes its purpose or composition from the general membership of the General Assembly. The approximate number of legislative employees and immediate family members of covered persons and legislative employees who benefited from the expenditure shall be listed separately.

(d) When a legislative lobbyist fails to file a ~~lobbying expense~~ expenditure report as required ~~herein, in this section~~, the Secretary of State shall send a certified or registered letter advising the legislative lobbyist of the delinquency and the penalties provided by law. Within 20 days of the receipt of the letter, the legislative lobbyist shall deliver or post by United States mail to the Secretary of State the required report and an additional late filing fee in an amount equal to the late filing fee under G.S. 163-278.34(a)(2).

(e) Filing of the required report and payment of the additional fee within the time extended shall constitute compliance with this section. Failure to file an ~~expense~~ expenditure report in one of the manners prescribed ~~herein, in this section~~ shall result in revocation of any and all registrations of a legislative lobbyist under this Article. No legislative lobbyist may register or reregister under this Article until he the legislative lobbyist has fully complied with this section.

(f) Appeal of a decision by the Secretary of State under this section shall be in accordance with Article 3 of Chapter 150B of the General Statutes.

(g) The Secretary of State may adopt rules to facilitate complete and timely disclosure of expenditures, including the format of reports and additional categories of information, and to protect the addresses of payees under protective order issued pursuant to Chapter 50B of the General Statutes or participating in the Address Confidentiality Program pursuant to Chapter 15C of the General Statutes.

"§ 120-47.7. Statements of legislative lobbyist's principal lobbying expenses expenditures required.

(a) Each legislative lobbyist's principal shall file an ~~expense~~ report with the Secretary of State within 60 days after the last day of the regular session. This ~~expense~~ report shall include all expenditures made between January 1 and the last day of the regular session. The principal shall file a supplemental expense report, including all expenditures made after the last day of the regular session, but during the calendar year, by February 28 of the following year. monthly expenditure reports under oath with the Secretary of State, in a manner prescribed by the Secretary of State, which may include electronic reports, while the General Assembly is in regular session, and quarterly thereafter. The expenditure report shall include all expenditures during the reporting period and shall be due 10 business days after the end of the reporting period. The

1 lobbyist's principal shall file ~~both expense~~ the expenditure reports whether or not
2 expenditures are made during a reporting period.

3 (b) Each ~~expense~~ expenditure report shall set forth the ~~name and address of each~~
4 lobbyist employed, appointed, or retained by the lobbyist's principal, the ~~date of each~~
5 ~~expenditure made, to whom paid, name of any legislator who benefitted from each~~
6 ~~expenditure, and amount of each expenditure made during the previous reporting period~~
7 ~~in connection with lobbying, in each of the following categories: (1) transportation, (2)~~
8 ~~lodging, (3) entertainment, (4) food, (5) any item having a cash equivalent value of~~
9 ~~more than twenty-five dollars (\$25.00), (6) contributions made, paid, incurred or~~
10 ~~promised, directly or indirectly, and (7) compensation to lobbyists in connection with~~
11 ~~their lobbying activities. It shall not be necessary to report expenditures of twenty-five~~
12 ~~dollars (\$25.00) or less, nor shall it be necessary to report any expenditures made in~~
13 ~~connection with the attendance of a legislator at any fund-raising function or event~~
14 ~~sponsored by a nonprofit organization qualified under 26 U.S.C. § 501(c). When more~~
15 ~~than 10 members of the General Assembly benefitted or were invited to benefit from an~~
16 ~~expenditure, the principal shall not be required to report the name of any legislator, but~~
17 ~~shall be required to report the number of legislators or the basis for their selection. In~~
18 ~~the category of compensation to lobbyists the principal shall estimate and report the~~
19 ~~compensation paid or promised directly or indirectly, to all lobbyists based on the~~
20 ~~estimated time, effort and expense in connection with lobbying activities on behalf of~~
21 ~~the principal. If a lobbyist is a full-time employee of the principal, or is compensated by~~
22 ~~means of an annual fee or retainer, the principal shall estimate and report the portion of~~
23 ~~all such lobbyists' salaries or retainers that compensate the lobbyists for lobbying.~~
24 amount, date, a description of the expenditure, name and address of the payee, and name
25 of any covered person, legislative employee, or that person's immediate family member
26 affected by the expenditure. Such expenditures shall be reported using the following
27 categories:

- 28 (1) Transportation and lodging.
29 (2) Entertainment, food, and beverages.
30 (3) Meetings and events.
31 (4) Gifts.
32 (5) Other expenditures.

33 In addition, expenses for the solicitation of others to lobby, whether or not a covered
34 person, legislative employee, or family member is affected, shall be reportable if such
35 expenses are incurred in connection, or in concert, with other expenditures reportable
36 under this subsection.

37 In addition, the compensation paid or agreed to be paid to all legislative lobbyists
38 shall be reported, whether or not a covered person, legislative employee, or family
39 member is affected. If a legislative lobbyist is a full-time employee of the lobbyist's
40 principal, or is compensated by means of an annual fee or retainer, the lobbyist's
41 principal shall estimate and report the portion of the salary, fee, or retainer that
42 compensates for lobbying. The lobbyist's principal's expenditure report shall include an
43 itemized description of all expenditures reimbursed or paid to legislative lobbyists for
44 lobbying that are not reported on the legislative lobbyists' reports.

1 (c) All reports shall be in the form prescribed by the Secretary of State and open
2 to public ~~inspection~~inspection upon filing. When more than 15 covered persons benefit
3 from an expenditure, no names of individuals need be reported provided that the report
4 identifies the approximate number of covered persons benefiting and, with particularity,
5 the basis for their selection, including the name of the legislative body, committee,
6 caucus, or other group whose membership list is a matter of public record in accordance
7 with G.S. 132-1 or including a description of the group that clearly distinguishes its
8 purpose or composition from the general membership of the General Assembly. The
9 approximate number of legislative employees and immediate family members of
10 covered persons and legislative employees who benefited from the expenditure shall be
11 listed separately.

12 (d) When a lobbyist's principal fails to file a ~~lobbying expense~~an expenditure
13 report as required ~~herein~~in this section, the Secretary of State shall send a certified or
14 registered letter advising the lobbyist's principal of the delinquency and the penalties
15 provided by law. Within 20 days of the receipt of the letter, the lobbyist's principal shall
16 deliver or post by United States mail to the Secretary of State the required report and a
17 late filing fee in an amount equal to the late filing fee under G.S. 163-278.34(a)(2).

18 (e) Filing of the required report and payment of the late fee within the time
19 extended shall constitute compliance with this section. Failure to file an expenditure
20 report in one of the manners prescribed in this section shall result in revocation of any
21 and all registrations of a lobbyist's principal under this Article. No lobbyist's principal
22 may register or reregister under this Article until the lobbyist's principal has fully
23 complied with this section.

24 (f) Appeal of a decision by the Secretary of State under this section shall be in
25 accordance with Article 3 of Chapter 150B of the General Statutes.

26 (g) The Secretary of State may adopt rules to facilitate complete and timely
27 disclosure of expenditures, including the format of reports and additional categories of
28 information, and to protect the addresses of payees under protective order issued
29 pursuant to Chapter 50B of the General Statutes or participating in the Address
30 Confidentiality Program pursuant to Chapter 15C of the General Statutes.

31 **"§ 120-47.7B. Powers and duties of the Secretary of State.**

32 (a) The Secretary of State shall perform systematic reviews of reports required to
33 be filed under G.S. 120-47.6 and G.S. 120-47.7 on a regular basis to assure complete
34 and timely disclosure of expenditures.

35 (b) The Secretary of State may petition the Superior Court of Wake County for
36 the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct
37 investigations of violations of this Article. The court shall authorize subpoenas under
38 this subsection when the court determines they are necessary for the enforcement of this
39 Article. Subpoenas issued pursuant to this subsection shall be enforceable by the court
40 through contempt powers. The Superior Court of Wake County may exercise personal
41 jurisdiction over any nonresident person, or that person's agent, who makes a reportable
42 expenditure under this Article.

1 (c) Complaints of violations of this Article and all other records accumulated in
2 conjunction with the investigation of these complaints shall be considered records of
3 criminal investigations under G.S. 132-1.4.

4 **"§ 120-47.7C. Prohibitions.**

5 (a) No member or former member of the General Assembly may be employed as
6 an executive or legislative lobbyist by a lobbyist's principal to lobby as defined in this
7 Article or Article 4C of Chapter 147 of the General Statutes within one year after the
8 expiration of the term for which the member was elected or appointed to serve.

9 (b) No person serving as Governor, as a member of the Council of State, or as a
10 head of a principal State department listed in G.S. 143B-6 may be employed as an
11 executive or legislative lobbyist by a lobbyist's principal to lobby as defined in this
12 Article or Article 4C of Chapter 147 of the General Statutes within one year after
13 separation from employment or leaving office, whichever is later.

14 (c) No individual registered as a legislative lobbyist shall serve as a campaign
15 treasurer under Chapter 163 of the General Statutes for a campaign for election as a
16 member of the General Assembly.

17 (d) A legislative or executive lobbyist shall not be eligible for appointment by a
18 State official to any body created under the laws of this State that has regulatory
19 authority over the activities of a person that the lobbyist represented within one year
20 after the expiration of the lobbyist's registration representing that person. Nothing herein
21 shall be construed to prohibit appointment by any unit of local government.

22 (e) No legislative or executive lobbyist or another acting on the lobbyist's behalf
23 shall permit a covered person, legislative employee, executive branch officer, or that
24 person's immediate family member, to use the cash or credit of the lobbyist for the
25 purpose of lobbying unless the lobbyist is in attendance at the time of the expenditure.

26 **"§ 120-47.8. Persons exempted from provisions of Article.**

27 ~~The~~ Except as otherwise provided in this Article, the provisions of this Article shall
28 not be construed to apply to any of the following:

29 (1) ~~An individual, not acting as a lobbyist, individual solely engaged in~~
30 ~~expressing a personal opinion or stating facts or recommendations on~~
31 ~~legislative matters to his own legislative delegation or other members~~
32 ~~of the General Assembly. Assembly and not acting as a legislative~~
33 ~~lobbyist.~~

34 (2) ~~A person appearing before a legislative committee at the invitation or~~
35 ~~request of the committee or a member thereof and who engages in no~~
36 ~~further activities as a legislative lobbyist in connection with that or any~~
37 ~~other legislative matter. lobbyist.~~

38 (3) a. ~~A duly elected or appointed official or employee of the State,~~
39 ~~the United States, a county, municipality, school district or~~
40 ~~other governmental agency, when appearing solely in~~
41 ~~connection with matters pertaining to his the office and public~~
42 ~~duties.~~

43 b. ~~Notwithstanding the persons exempted in this Article, the~~
44 ~~Governor, Council of State, and all appointed heads of State~~

1 departments, agencies and institutions, shall designate all
2 authorized official legislative liaison personnel and shall file
3 and maintain current lists of designated legislative liaison
4 personnel with the Secretary of State and shall likewise file
5 with the Secretary of State a full and accurate accounting of all
6 money expended on lobbying, other than the salaries of regular
7 full-time employees, at the same times lobbyists are required to
8 file expense reports under G.S. 120-47.6. State.

- 9 (4) A person performing professional services in drafting bills or in
10 advising and rendering opinions to clients, or to legislators covered
11 persons on behalf of clients, as to the construction and effect of
12 proposed or pending legislation where the professional services are not
13 otherwise, directly or indirectly, otherwise connected with legislative
14 action.
- 15 (5) A person who owns, publishes or is employed by any news medium
16 while engaged in the acquisition or dissemination of news on behalf of
17 the news ~~medium~~ medium as defined in G.S. 8-53.11.
- 18 (6) Repealed by Session Laws 1991, c. 740, s. 1.1.
- 19 (7) ~~Members of the General Assembly.~~ Covered persons and legislative
20 employees.
- 21 (8) A person responding to inquiries from a member of the General
22 Assembly or a legislative employee, and who engages in no further
23 activities as a legislative lobbyist in connection with that or any other
24 legislative matter.
- 25 (9) ~~An individual giving facts or recommendations pertaining to~~
26 ~~legislative matters to his own legislative delegation only.~~ An employee
27 who represents the employer's interests in legislative action for no
28 more than three hours in a quarter, provided that neither the employee
29 nor the employer makes any expenditure as defined in G.S. 120-47.1.

30 "**§ 120-47.8A. Expenditures made by persons exempted or not covered by this**
31 **Article.**

32 (a) If a covered person or a legislative employee accepts an expenditure made for
33 the purpose of lobbying valued over two hundred dollars (\$200.00) from a person or
34 group of persons acting together, exempted or not otherwise covered by this Article, the
35 person, or group of persons, making the expenditure shall report the date, a description
36 of the expenditure, the name and address of the person, or group of persons, making the
37 expenditure, the name of the covered person or legislative employee accepting the
38 expenditure, and the estimated fair market value of the expenditure.

39 (b) If the person making the expenditure in subsection (a) of this section is
40 outside North Carolina, the covered person or legislative employee accepting the
41 expenditure shall be responsible for filing the report.

42 (c) If a covered person or a legislative employee accepts a scholarship valued
43 over two hundred dollars (\$200.00) from a person, or group of persons, acting together,
44 exempted or not covered by this Article, the person, or group of persons, granting the

1 scholarship shall report the date of the scholarship, a description of the event involved,
2 the name and address of the person, or group of persons, granting the scholarship, the
3 name of the covered person or legislative employee accepting the scholarship, and the
4 estimated fair market value.

5 (d) If the person granting the scholarship in subsection (c) of this section is
6 outside North Carolina, the covered person or legislative employee accepting the
7 scholarship shall be responsible for filing the report.

8 (e) This section shall not apply to any of the following:

9 (1) Lawful campaign contributions.

10 (2) Any gift from a family member to a covered person or legislative
11 employee.

12 (3) Gifts associated primarily with the covered person's, legislative
13 employee's, or that person's immediate family member's nonlegislative
14 employment.

15 (4) Gifts, other than food, beverages, travel, and lodging, which are
16 received from a person who is a citizen of a country other than the
17 United States or a state other than North Carolina and given during a
18 ceremonial presentation or as a custom.

19 (5) A thing of value that is paid for by the State.

20 (f) Reports required by this section shall be filed within 10 business days after
21 the end of the quarter in which the expenditure was made, with the Secretary of State in
22 a manner prescribed by the Secretary of State, which may include electronic reports.

23 **"§ 120-47.9. Punishment for violation.**

24 (a) Whoever willfully violates any provision of this Article shall be guilty of a
25 Class 1 misdemeanor. In addition, no legislative lobbyist who is convicted of a violation
26 of the provisions of this Article shall in any way act as a legislative or executive
27 lobbyist for a period of two years following his conviction.

28 (b) In addition to the criminal penalties set forth in this section, the Secretary of
29 State may levy civil fines for willful false or incomplete reporting up to five thousand
30 dollars (\$5,000) per violation.

31 **"§ 120-47.10. Enforcement of Article by Attorney General.**

32 The Secretary of State shall report apparent violations of this Article to the Attorney
33 General. The Attorney General shall, upon complaint made to him of violations of this
34 Article, complaint, make an appropriate investigation thereof, and he the Attorney
35 General shall forward a copy of the investigation to the district attorney of the
36 prosecutorial district as defined in G.S. 7A-60 of which Wake County is a part, who
37 shall prosecute any person who violates any provisions of this Article.

38 **"§ 120-47.11. Rules and forms.**

39 The Secretary of State shall make, amend, and rescind adopt any rules, orders, forms,
40 and definitions as are necessary to carry out the provisions of this Article. The Secretary
41 of State may appoint a council to advise the Secretary in adopting rules under this
42 section.

43 **"§ 120-47.12. Limitations on agency legislative liaisons-liaison personnel.**

(a) No ~~principal~~ State department may use State funds to contract with persons who are not employed by the State to lobby the General Assembly.

(b) No more than two persons in each ~~principal~~ State department and constituent institution of The University of North Carolina may be registered to lobby the General Assembly or designated as legislative ~~liaisons~~ liaison personnel pursuant to this Article.

(c) All persons designated as legislative liaison personnel pursuant to this Article and the State department or constituent institution of The University of North Carolina that employs the legislative liaison personnel shall report all expenditures made for lobbying purposes in the same manner as required for legislative lobbyists under G.S. 120-47.6 and lobbyists' principals under G.S. 120-47.7."

SECTION 2. Chapter 147 of the General Statutes is amended by adding a new Article to read:

"Article 4C.

"Executive Branch Lobbying.

"§ 147-54.31. Definitions.

The following definitions shall apply in this Article:

- (1) The term "executive action" means the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, adoption, tabling, postponement, defeat, or rejection of a rule, regulation, executive order, policy, resolution, contract, request for proposal, amendment, motion, report, nomination, or appointment by the executive branch or by a member or employee of the executive branch acting or purporting to act in an official capacity. This term shall not include any action by an attorney representing a client with respect to the executive action.
- (2) The term "executive branch officers" means the Governor, any member of the Council of State, and heads of those departments listed in G.S. 143B-6, and the Board of Governors and the presidents of the universities of The University of North Carolina System.
- (3) The term "executive lobbyist" means any lobbyist for or against executive action.
- (4) The term "expenditure" means any advance, contribution, conveyance, deposit, distribution, payment, gift, retainer, fee, salary, honorarium, reimbursement, loan, pledge, or thing of value greater than ten dollars (\$10.00), or a contract, agreement, promise, or other obligation whether or not legally enforceable, that directly or indirectly is made to, at the request of, for the benefit of, or on the behalf of an executive branch officer or that person's immediate family member.
- (5) The term "immediate family member" means spouse, descendant, or ascendant.
- (6) The term "lobbying" means any of the following:
 - a. Influencing or attempting to influence executive action through direct communication or activities with an executive branch officer.

- 1 b. Solicitation of others by an executive lobbyist or lobbyist's
2 principal to influence executive action.
- 3 c. Developing executive goodwill through communications or
4 activities, including the building of relationships, with an
5 executive branch officer or that person's immediate family with
6 the intention of influencing current or future executive action,
7 but does not include communications or activities with
8 executive branch officers or that person's immediate family
9 member in a business, civic, religious, fraternal, or commercial
10 relationship which is not connected to executive action.
- 11 (7) The term "lobbyist" means an individual who meets any of the
12 following criteria:
- 13 a. Is employed and receives compensation, or who contracts for
14 economic consideration, for the purpose of lobbying.
- 15 b. Represents another person and receives compensation for the
16 purpose of lobbying.
- 17 The term "lobbyist" shall not include those individuals who are
18 specifically exempted from this Article by G.S. 147-54.40. For the
19 purpose of determining whether an individual is an executive lobbyist
20 under this subdivision, reimbursement of actual travel and subsistence
21 expenses shall not be considered compensation; provided, however,
22 that reimbursement in the ordinary course of business of these
23 expenses shall be considered compensation if a significant part of the
24 individual's duties involves executive lobbying.
- 25 (8) The terms "lobbyist's principal" and "principal" mean the person on
26 whose behalf the executive lobbyist lobbies. In the case where a
27 lobbyist is compensated by a law firm, consulting firm, or other entity
28 retained by a person for executive lobbying, the principal is the person
29 whose interests the lobbyist represents in lobbying.
- 30 (9) The term "person" means any individual, firm, partnership, committee,
31 association, corporation, business entity, or any other organization or
32 group of persons which has an independent legal existence.

33 **"§ 147-54.32. Registration procedure.**

34 (a) An executive lobbyist shall file a registration statement with the Secretary of
35 State before engaging in any lobbying in a manner prescribed by the Secretary of State.
36 It shall be unlawful for a person to lobby without registering unless exempted by this
37 Article. A separate registration statement is required for each lobbyist's principal. The
38 registration shall indicate whether it is registration as a legislative lobbyist, executive
39 lobbyist, or both, and a separate registration fee shall be paid for each separate type of
40 registration.

41 (b) The form of the registration shall be prescribed by the Secretary of State and
42 shall include the registrant's full name, firm, and complete address and telephone
43 number; the registrant's place of business; the full name and complete address and
44 telephone number of each person by whom the registrant is employed or retained; and a

1 general description of the matters on which the registrant expects to act as an executive
2 lobbyist. The Secretary of State shall make available as soon as practicable the
3 registrations of the lobbyists and lobbyists' principals in an electronic, searchable
4 format.

5 (c) Each executive lobbyist shall file an amended registration form with the
6 Secretary of State no later than 10 business days after any change in the information
7 supplied in the executive lobbyist's last registration under subsection (b) of this section.
8 Each supplementary registration shall include a complete statement of the information
9 that has changed.

10 (d) Each registration statement of an executive lobbyist required under this
11 Article shall be effective from the date of filing until January 1 of the following year.
12 The executive lobbyist shall file a new registration statement after that date.

13 **"§ 147-54.33. Registration fee.**

14 (a) Every executive lobbyist shall pay to the Secretary of State a fee of one
15 hundred dollars (\$100.00) at the time of registration.

16 (b) A separate registration, together with a separate registration fee of one
17 hundred dollars (\$100.00), is required for each lobbyist's principal for which a person
18 acts as an executive lobbyist. If the lobbyist's principal is also registering a person to act
19 as a legislative lobbyist, the fee shall be seventy-five dollars (\$75.00). No lobbyist's
20 principal may be charged a registration fee for executive lobbying more than one time
21 per year.

22 (c) Fees so collected shall be deposited in the General Fund of the State. The
23 Secretary of State may allow fees required under this section to be paid electronically,
24 but may not require those fees to be paid electronically.

25 (d) The Secretary of State shall adopt rules providing for the reduction or waiver
26 of the fees required by this section if the lobbyist's principal required to pay the fee has
27 annual revenue of three hundred thousand dollars (\$300,000) or less and no more than
28 two registered lobbyists, or there otherwise exists a case of hardship.

29 **"§ 147-54.34. Written authority from lobbyist's principal to be filed.**

30 Each executive lobbyist shall file with the Secretary of State within 10 business days
31 after the executive lobbyist's registration a written authorization to act as such, signed
32 by the lobbyist's principal.

33 **"§ 147-54.35. Contingency lobbying fees and election influence prohibited.**

34 (a) No person shall act as an executive lobbyist for compensation that is
35 dependent upon the result or outcome of any executive action.

36 (b) No executive lobbyist or executive lobbyist's principal shall attempt to
37 influence the action of an executive branch officer by the promise of financial support
38 of the executive branch officer's candidacy or appointment, or by threat of financial
39 support in opposition to the executive branch officer's candidacy in any future election
40 or future reappointment.

41 **"§ 147-54.36. Exemptions and inclusions for reporting purposes.**

42 (a) For purposes of G.S. 147-54.37 and G.S. 147-54.38, the following
43 expenditures need not be reported:

- 1 (1) Gifts from an immediate family member or person who is the child,
2 stepchild, parent, sibling, mother-in-law, father-in-law, son-in-law,
3 daughter-in-law, grandparent, or grandchild of the executive branch
4 officer.
- 5 (2) Lawful campaign contributions.
- 6 (b) For purposes of G.S. 147-54.37 and G.S. 147-54.38, all expenditures made
7 for the purpose of lobbying need to be reported, including:
- 8 (1) Expenditures benefiting or made on behalf of an executive branch
9 officer or that person's immediate family members, in the regular
10 course of that person's nonexecutive employment.
- 11 (2) Contractual arrangements or direct business relationships between an
12 executive lobbyist or executive lobbyist's principal and an executive
13 branch officer or that person's immediate family member, in effect
14 during the reporting period or the previous 12 months.
- 15 (3) Expenditures reimbursed to an executive lobbyist in the ordinary
16 course of business by the lobbyist's principal or other employer.
- 17 (c) For reporting purposes of G.S. 147-54.37 and G.S. 147-54.38, only executive
18 lobbying with respect to the executive actions of the Governor and Lieutenant Governor
19 shall be reported.
- 20 **"§ 147-54.37. Statements of executive lobbyist's lobbying expenditures required.**
- 21 (a) Each executive lobbyist shall file quarterly expenditure reports under oath
22 with the Secretary of State, in a manner prescribed by the Secretary of State, which may
23 include electronic reports, with respect to each lobbyist's principal within 10 business
24 days after the end of the reporting period. The expenditure report shall include all
25 expenditures during the reporting period. The executive lobbyist shall file an
26 expenditure report whether or not expenditures are made.
- 27 (b) Each expenditure report shall set forth the amount, date, a description of the
28 expenditure, name and address of the payee, and name of any executive branch officer,
29 or that person's immediate family member benefiting by the expenditure. Such
30 expenditures shall be reported using the following categories:
- 31 (1) Transportation and lodging.
- 32 (2) Entertainment, food, and beverages.
- 33 (3) Meetings and events.
- 34 (4) Gifts.
- 35 (5) Other expenditures.
- 36 In addition, expenses for the solicitation of others to lobby, whether or not an
37 executive branch officer or that person's immediate family member is affected, shall be
38 reportable if such expenses are incurred in connection, or in concert, with other
39 expenditures reportable under this subsection.
- 40 (c) All reports shall be in the form prescribed by the Secretary of State and shall
41 be open to public inspection upon filing. When more than 15 executive branch officers
42 benefit from an expenditure, no names of individuals need be reported, provided that the
43 report identifies the approximate number of executive branch officers benefiting and,

1 with particularity, the basis for their selection. The approximate number of immediate
2 family members who benefited from the expenditure shall be listed separately.

3 (d) When an executive lobbyist fails to file an expenditure report as required in
4 this section, the Secretary of State shall send a certified or registered letter advising the
5 executive lobbyist of the delinquency and the penalties provided by law. Within 20 days
6 of the receipt of the letter, the executive lobbyist shall deliver or post by United States
7 mail to the Secretary of State the required report and an additional late filing fee in an
8 amount equal to the late filing fee under G.S. 163-278.34(a)(2).

9 (e) Filing of the required report and payment of the additional fee within the time
10 extended shall constitute compliance with this section. Failure to file an expense report
11 in one of the manners prescribed herein shall result in revocation of any and all
12 registrations of an executive lobbyist under this Article. No executive lobbyist may
13 register or reregister under this Article until the executive lobbyist has fully complied
14 with this section.

15 (f) Appeal of a decision by the Secretary of State under this section shall be in
16 accordance with Article 3 of Chapter 150B of the General Statutes.

17 (g) The Secretary of State may adopt rules to facilitate complete and timely
18 disclosure of expenditures, including the format of reports and additional categories of
19 information, and to protect the addresses of payees under protective order issued
20 pursuant to Chapter 50B of the General Statutes or participating in the Address
21 Confidentiality Program pursuant to Chapter 15C of the General Statutes.

22 **"§ 147-54.38. Statements of lobbyist's principal lobbying expenses required.**

23 (a) Each executive lobbyist's principal shall file quarterly expenditure reports
24 under oath with the Secretary of State, in a manner prescribed by the Secretary of State,
25 which may include electronic reports, within 10 business days after the end of the
26 reporting period. The expenditure report shall include all expenditures during the
27 reporting period. The lobbyist's principal shall file an expenditure report whether or not
28 expenditures are made during a reporting period.

29 (b) Each expenditure report shall set forth the amount, date, a description of the
30 expenditure, name and address of the payee, and name of any executive branch officers,
31 or that person's immediate family member affected by the expenditure. Such
32 expenditures shall be reported using the following categories:

33 (1) Transportation and lodging.

34 (2) Entertainment, food, and beverages.

35 (3) Meetings and events.

36 (4) Gifts.

37 (5) Other expenditures.

38 In addition, expenses for the solicitation of others to lobby, whether or not an
39 executive branch officer or that person's immediate family member is affected, shall be
40 reportable if such expenses are incurred in connection, or in concert, with other
41 expenditures reportable under this subsection.

42 (c) All reports shall be in the form prescribed by the Secretary of State and open
43 to public inspection upon filing. When more than 15 executive branch officers benefit
44 from an expenditure, no names of individuals need be reported provided that the report

1 identifies the approximate number of executive branch officers benefiting and, with
2 particularity, the basis for their selection. The approximate number of immediate family
3 members who benefited from the expenditure shall be listed separately.

4 (d) When a lobbyist's principal fails to file an expenditure report as required in
5 this section, the Secretary of State shall send a certified or registered letter advising the
6 lobbyist's principal of the delinquency and the penalties provided by law. Within 20
7 days of the receipt of the letter, the lobbyist's principal shall deliver or post by United
8 States mail to the Secretary of State the required report and a late filing fee in an amount
9 equal to the late filing fee under G.S. 163-278.34(a)(2).

10 (e) Filing of the required report and payment of the late fee within the time
11 extended shall constitute compliance with this section. Failure to file an expense report
12 in one of the manners prescribed herein shall result in revocation of any and all
13 registrations of an executive lobbyist's principal under this Article. No executive
14 lobbyist may register or reregister under this Article until the executive lobbyist has
15 fully complied with this section.

16 (f) Appeal of a decision by the Secretary of State under this section shall be in
17 accordance with Article 3 of Chapter 150B of the General Statutes.

18 (g) The Secretary of State may adopt rules to facilitate complete and timely
19 disclosure of expenditures, including the format of reports and additional categories of
20 information, and to protect the addresses of payees under protective order issued
21 pursuant to Chapter 50B of the General Statutes or participating in the Address
22 Confidentiality Program pursuant to Chapter 15C of the General Statutes.

23 **"§ 147-54.39. Powers and duties of the Secretary of State.**

24 (a) The Secretary of State shall perform systematic reviews of reports required to
25 be filed under G.S. 147-54.37 and G.S. 147-54.38 on a regular basis to assure complete
26 and timely disclosure of expenditures.

27 (b) The Secretary of State may petition the Superior Court of Wake County for
28 the approval to issue subpoenas and subpoenas duces tecum as necessary to conduct
29 investigations of violations of this Article. The court shall authorize subpoenas under
30 this subsection when the court determines they are necessary for the enforcement of this
31 Article. Subpoenas issued pursuant to this subsection shall be enforceable by the court
32 through contempt powers. The Superior Court of Wake County may exercise personal
33 jurisdiction over any nonresident person, or that person's agent, who makes a reportable
34 expenditure under this Article.

35 (c) Complaints of violations of this Article and all other records accumulated in
36 conjunction with the investigation of these complaints shall be considered records of
37 criminal investigations under G.S. 132-1.4.

38 **"§ 147-54.40. Persons exempted from provisions of Article.**

39 Except as otherwise provided in this Article, the provisions of this Article shall not
40 be construed to apply to any of the following:

41 (1) An individual solely engaged in expressing a personal opinion on an
42 executive action and not acting as an executive lobbyist.

43 (2) A person appearing before a committee, commission, board, council,
44 or other collective body at the invitation or request of the collective

body or a member thereof and who engages in no further activities as an executive lobbyist in connection with that or any other executive action.

(3) A duly elected or appointed official or employee of the State, the United States, a county, municipality, school district, or other governmental agency, when appearing solely in connection with matters pertaining to the office and its public duties.

(4) A person performing professional services in advising and rendering opinions to clients, or to executive branch officers on behalf of clients, as to the construction and effect of proposed or pending executive action where the professional services are not otherwise connected with executive action.

(5) A person who owns, publishes, or is employed by any news medium while engaged in the acquisition or dissemination of news on behalf of the news medium as defined in G.S. 8-53.11.

(6) A person responding to inquiries from an executive branch officer and who engages in no further activities as an executive lobbyist in connection with that or any other executive action.

(7) A person appearing before an executive branch agency or department on behalf of another person, on an individual application for a license or permit, or a disciplinary action on a license or permit.

(8) A person appearing before an executive branch officer on behalf of another person with respect to a proposed sale or lease of real property, goods or services to the State, or construction of property by the State.

(9) An employee who represents the employer's interests in executive action for no more than six hours during a six-month reporting period, provided that neither the employee nor the employer make any expenditure as defined in G.S. 147-54.31.

"§ 147-54.41. Expenditures made by persons exempted or not covered by this Article.

(a) If an executive branch officer accepts an expenditure made for the purpose of lobbying valued over two hundred dollars (\$200.00) from a person or group of persons acting together, exempted or not otherwise covered by this Article, the person, or group of persons, making the expenditure shall report the date, a description of the expenditure, the name and address of the person, or group of persons, making the expenditure, the name of the executive branch officer accepting the expenditure, and the estimated fair market value of the expenditure.

(b) If the person making the expenditure in subsection (a) of this section is outside North Carolina, the executive branch officer accepting the expenditure shall be responsible for filing the report.

(c) If an executive branch officer accepts a scholarship valued over two hundred dollars (\$200.00) from a person, or group of persons, acting together, exempted or not otherwise covered by this Article, the person, or group of persons, granting the scholarship shall report the date of the scholarship, a description of the event involved,

1 the name and address of the person, or group of persons, granting the scholarship, the
2 name of the executive branch officer accepting the scholarship, and the estimated fair
3 market value.

4 (d) If the person granting the scholarship in subsection (c) of this section is
5 outside North Carolina, the covered person or legislative employee accepting the
6 scholarship shall be responsible for filing the report.

7 (e) This section shall not apply to any of the following:

8 (1) Lawful campaign contributions.

9 (2) Any gift from a family member to a covered person or legislative
10 employee.

11 (3) Gifts associated primarily with the executive branch officer's or that
12 person's immediate family member's nonexecutive employment.

13 (4) Gifts, other than food, beverages, travel, and lodging, received by an
14 executive branch officer which are received from a person who is a
15 citizen of a country other than the United States or a state other than
16 North Carolina and given during a ceremonial presentation or as a
17 custom.

18 (5) A thing of value that is paid for by the State.

19 (f) Reports required by this section shall be filed within 10 business days after
20 the end of the quarter in which the expenditure was made, with the Secretary of State in
21 a manner prescribed by the Secretary of State, which may include electronic reports.

22 **"§ 147-54.42. Punishment for violation.**

23 (a) Whoever willfully violates any provision of this Article shall be guilty of a
24 Class 1 misdemeanor. In addition, no executive lobbyist who is convicted of a violation
25 of the provisions of this Article shall in any way act as an executive or legislative
26 lobbyist for a period of two years following conviction.

27 (b) In addition to the criminal penalties set forth in this section, the Secretary of
28 State may levy civil fines for willful false or incomplete reporting up to five thousand
29 dollars (\$5,000) per violation.

30 **"§ 147-54.43. Enforcement of Article by Attorney General.**

31 The Secretary of State shall report apparent violations of this Article to the Attorney
32 General. The Attorney General shall, upon complaint, make an appropriate investigation
33 thereof, and the Attorney General shall forward a copy of the investigation to the district
34 attorney of the prosecutorial district as defined in G.S. 7A-60, of which Wake County is
35 a part, who shall prosecute any person who violates any provisions of this Article.

36 **"§ 147-54.44. Rules and forms.**

37 (a) The Secretary of State shall adopt any rules, orders, forms, and definitions as
38 are necessary to carry out the provisions of this Article. The Secretary of State may
39 appoint a council to advise the Secretary in adopting rules under this section.

40 (b) The Secretary of State shall adopt rules providing for delayed reporting under
41 G.S. 147-54.37 and G.S. 147-54.38 if the report would release information that is
42 confidential information under Chapter 132 of the General Statutes related to industrial
43 or business recruitment activities."

1 **SECTION 3.** Article 4 of Chapter 147 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 147-54.8. No gifts registry."**

4 (a) The Secretary of State shall establish a 'No Gifts' registry for persons subject
5 to Article 9A of Chapter 120 of the General Statutes or Article 4C of this Chapter. The
6 'No Gifts' registry shall be published and updated with the list of lobbyists and lobbyists'
7 principals required under G.S. 120-47.2.

8 (b) Except as provided in this subsection, executive lobbyists, legislative
9 lobbyists, and lobbyists' principals shall not give gifts to persons placing their names on
10 the registry. Gifts of informational directories may be given to persons placing their
11 names on the registry.

12 (c) The Secretary shall have the authority to adopt rules to implement this section
13 in compliance with the following criteria:

14 (1) The registration is valid from the time the person registers until
15 January 1 of the following year, unless the person requests in writing
16 the removal of that person's name.

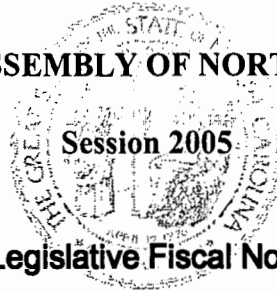
17 (2) The registration shall be in writing.

18 (d) For purposes of this section, the term "gift" means any payment,
19 entertainment, advance, services, forgiveness of an obligation or debt, or thing of value,
20 unless consideration of equal or greater value has been given therefor."

21 **SECTION 4.** The Secretary of State shall implement electronic filing of all
22 lobbyists' and lobbyists' principals' reports required under Article 9A of Chapter 120 of
23 the General Statutes and provide public access via the Internet to all these filings as
24 soon as practicable.

25 **SECTION 5.** Sections 4 and 5 of this act become effective July 1, 2005.
26 G.S. 120-47.7C(d), as enacted by Section 1 of this act, shall apply to appointments
27 made on or after January 1, 2007. The remainder of this act becomes effective January
28 1, 2007.

GENERAL ASSEMBLY OF NORTH CAROLINA



Legislative Fiscal Note

BILL NUMBER: Senate Bill 612 (Sixth Edition)

SHORT TITLE: Amend Lobbying Laws.

SPONSOR(S): Senator Rand

FISCAL IMPACT

	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2003-04</u>	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>
GENERAL FUND					
Correction	Exact amount cannot be determined; no substantial impact anticipated.				
Judicial	Exact amount cannot be determined; no substantial impact anticipated.				
LOCAL GOVERNMENTS	Exact amount cannot be determined; no substantial impact anticipated.				
ADDITIONAL PRISON BEDS*	Exact amount cannot be determined; no substantial impact anticipated.				
POSITIONS: (cumulative)	Exact amount cannot be determined; no additional positions anticipated.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Correction; Judicial Branch; Local Governments					
EFFECTIVE DATE: January 1, 2006					

**This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.*

BILL SUMMARY: This bill would amend Article 9A of Chapter 120 of the General Statutes to increase the regulation of and reporting requirements related to legislative lobbying activities. The bill would additionally add Article 4C to Chapter 147 of the General Statutes to require registration and reporting of lobbying of Executive Branch officials and agencies. Among other things, the bill would prohibit a legislative or executive lobbyist or lobbyist principal from giving or paying for certain gifts to legislators or executive branch officials, their immediate family, or legislative and Executive Branch staff and employees. Any willful violation of Articles 9A or 4C

of Chapters 120 and 147, respectively, would constitute a Class 1 misdemeanor. Any one convicted under these articles would be banned from executive or legislative lobbying for two years. *The 6th edition of the bill also contains these penalties.*

ASSUMPTIONS AND METHODOLOGY:

The 6th edition of the bill does not change fiscal impact from previous editions of the bill

General

Because this bill would expand the scope of an existing criminal offense for violations related to legislative lobbying and create a new criminal offense for violations related to executive lobbying additional charges and convictions would be expected to result from this legislation. However, the Administrative Office of the Courts (AOC) does not maintain a specific offense code for current violations of Chapter 120, which is some indication that the existing offenses are infrequently charged and rarely result in convictions. As such, few additional charges and convictions would be expected due to this bill, and no substantial impact is anticipated to result from this legislation.

The Sentencing and Policy Advisory Commission prepares prison population projections for each criminal penalty bill. The Commission assumes for each bill that increasing criminal penalties does not have a deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume savings due to deterrent effects for this bill or any criminal penalty bill.

Department of Correction

The Sentencing and Policy Advisory Commission prepares inmate population projections annually. The projections used for incarceration fiscal notes are based on January 2005 projections. These projections are based on historical information on incarceration and release rates under Structured Sentencing, crime rate forecasts by a technical advisory group, probation and revocation rates, and the decline (parole and maxouts) of the stock prison population sentenced under previous sentencing acts. Based on the most recent population projections and estimated available prison bed capacity, *there are no surplus prison beds available for the five-year fiscal note horizon and beyond.*

This bill would a) expand the scope of an existing Class 1 misdemeanor offense for violations related to legislative lobbying activities, and b) create a new Class 1 misdemeanor for violations related to Executive Branch lobbying. Because these offenses would apply to additional individuals and types of behavior, the Sentencing Commission has no historical data from which to estimate the number of convictions that might result from this legislation.

- In FY 2003-04, 19 percent of Class 1 misdemeanors resulted in active sentences and the average active sentence length was 43 days.
- Offenders with active sentences of less than ninety days are housed in county jails.
- DOC reimburses counties for housing offenders between thirty and ninety days at a rate of \$18 per day per offender. If, for example, one offender were sentenced to 43 days active time as a result of this bill, costs to DOC to reimburse the county would be \$774.
- The remaining 81 percent of Class 1 misdemeanants received non-active sentences. For those offenders sentenced to supervised probation, the Division of Community Correction (DCC) would incur costs of \$1.87 per offender per day. Offenders sentenced to

community service would cost \$0.67 per offender per day, and offenders given unsupervised probation would not impact DCC.

Because most Class 1 misdemeanants serving active time as a result of this bill would be housed in county jails, this legislation is not expected to significantly impact prison population.

Judicial Branch

For most criminal penalty bills, the Administrative Office of the Courts provides Fiscal Research with an analysis of the fiscal impact of the specific bill. For these bills, fiscal impact is typically based on the assumption that court time will increase due to an expected increase in trials and a corresponding increase in the hours of work for judges, clerks and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

As this bill would expand the scope of an existing Class 1 misdemeanor offense and create a new Class 1 misdemeanor offense, no data is available to estimate the number of new charges that might result from this bill. Due to the lack of an offense code for current violations of Chapter 120—an indication that there are presently few charges for violations related to legislative lobbying—AOC does not anticipate a substantial number of new charges to result from this bill. The bill would additionally authorize a civil penalty of up to \$5,000 per violation, in addition to the criminal penalty, for false or incomplete reporting as required by Articles 9A and 4C of Chapters 120 and 147, respectively, in relation to executive or legislative lobbying.

Based on the costs of time in court, attorney preparation time, and indigent defense, the average estimated cost to process one Class 1 misdemeanor is \$5,000 per trial and \$219 per guilty plea. The trial cost includes an estimated \$2,627 in jury fees, costs of time in court, and attorney costs and an additional \$2,373 in indigent defense. Based on prior-year data, the majority of any new Class 1 misdemeanor charges are likely to be settled by plea.

SOURCES OF DATA: Department of Correction; Judicial Branch; North Carolina Sentencing and Policy Advisory Commission

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jim Mills

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



DATE: August 9, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices



SENATE BILL 612: Amend Lobbying Laws

BILL ANALYSIS

Committee: House Appropriations
Introduced by: Sen. Rand
Version: PCS to Sixth Edition
 S612-CSSA-32

Date: August 9, 2005
Summary by: R. Erika Churchill
 Staff Counsel

SUMMARY: *The Proposed Committee Substitute for Senate Bill 612 would amend the lobbying laws by including goodwill lobbying, increasing the frequency and details of legislative lobbyists' and lobbyist's principals' reports, and prohibiting a legislator from lobbying during one year following a legislative session to which the legislator was elected or appointed. The bill also creates lobbying laws governing executive branch lobbying.*

CURRENT LAW:

Under current law, a person who is paid to try to influence legislative action (action on a specific bill, resolution, amendment, etc.) is required to register as a lobbyist with the Secretary of State and report at the end of each regular session, expenditures in excess of \$25 spent on lobbying legislators. Expenditures spent for the general goodwill of legislators not tied to specific legislative action do not need to be reported, nor do expenditures spent on legislative staff or legislators' family members. There is no limitation on the types or amount of expenditures that a lobbyist can spend on a legislator for lobbying purposes. Every principal who hires the services of a lobbyist also has to file reports on expenditures they made for lobbying, including the amount of compensation paid to lobbyists. Exempt from the lobbying laws are persons who lobby on their own behalf, persons appearing before the General Assembly at the General Assembly's request, elected and appointed local government officials and employees lobbying on behalf of their local governments, State agency legislative liaison personnel, and members of the General Assembly. Violation of this law is punished as a Class 1 misdemeanor.

Currently executive branch lobbying is not regulated.

BILL ANALYSIS:

Section 1 amends the legislative lobbying law in the following ways:

- Includes lobbying the Governor in relation to the Governor's veto.
- Includes developing goodwill as part of the definition of lobbying.
- Permits gifts from lobbyists to their family members who are legislators or legislative employees. Also exempts lawful campaign contributions.
- Defines "expenditure" to include anything of value over \$10.
- Expenditures by legislative liaison personnel and State agencies are subject to the same reporting requirements as expenditures by other lobbyists.
- The registration period for a lobbyist is one year, rather than the current two years.
- Increases the frequency of expenditure reports to monthly when the General Assembly is in session, quarterly thereafter.
- Increases the details of lobbying expenditure reports to include the amount, date, a description of the expenditure, name and address of the payee, name of any covered person benefiting from the expenditure (or legislative employee or those person's immediate family members) in each of the following categories:
 - Transportation and lodging
 - Entertainment, food, and beverages
 - Meetings and events
 - Gifts
 - Other expenditures

Monies spent for solicitation of others is also to be reported.

Senate Bill 612

Page 2

If more than 15 covered persons benefit from the expenditure, the lobbyist may elect to report the approximate number of covered persons benefiting and, with particularity, the basis for their selection. The approximate number of legislative employees and immediate family members shall be reported separately.

The Secretary of State is granted rulemaking authority to facilitate disclosure of expenditures, including the format of the report and additional categories. The rules are also to protect the address of payees under a Chapter 50B protective order or participating in the Address Confidentiality Program.

- The lobbyist's principal must also report, in addition to the expenditures reported by the lobbyist, the compensation paid or agreed to be paid to each lobbyist.
- Prohibits a legislator or former legislator from being employed as a legislative or executive branch lobbyist within 1 year after the expiration of the term for which the legislator was elected or appointed to serve.
- Prohibits the Governor or Council of State member or head of a cabinet department from being employed as a legislative or executive branch lobbyist within 1 year after separation from employment or leaving office, whichever is later.
- Prohibits a lobbyist from serving as a campaign treasurer for a legislative campaign.
- Prohibits a lobbyist from being appointed to body created under State law with regulatory authority over the activities of a person that the lobbyist represented within one year of end of that representation, except for appointments by a local government.
- Prohibits a lobbyist from allowing a covered person, legislative employee, or that person's immediate family member to use the lobbyist's cash or credit for the purpose of lobbying without the lobbyist being present at the time of the expenditure.
- An additional exception to the registration and reporting law is made for an employee who represents an employer's interest before the General Assembly for no more than 3 hours in a quarter, and who does not spend money on a legislator, legislative employee or an immediate family member that would otherwise be required to be reported by a registered lobbyist.
- Requires expenditures of \$200 made for the purpose of lobbying from persons not required to register and report as lobbyists or lobbyist's principals or more to be reported. If the person giving the gift is in North Carolina, that person shall make the report. If the person giving the gift is outside North Carolina, the person accepting the gift shall make the report. Certain exceptions apply.
- Requires scholarships valued over \$200 to be reported.
- Allows for a civil fine up to \$5,000 per violation in addition to any criminal penalties.

Section 2 creates a new article to regulate executive branch lobbying much the same as legislative lobbying is regulated with the following differences:

- Lobbying is defined as the influencing of "executive action" which is defined as being the consideration of a rule, regulation, executive order, policy, resolution, contract, request for proposal, nomination or appointment by the Governor, member of the Council of State, heads of the cabinet, and the Board of Governors and university presidents.
- Executive branch lobbying does not include action by an attorney.
- Lobbyist and lobbyist's principals' reports are due every 6 months.
- Prohibits the Governor or a member of the Council of State from acting as a legislative or executive branch lobbyist during the time of the biennial legislative session in which the person served in office.

Section 3 requires the Secretary of State to create a "No Gifts" registry.

Section 4 appropriates \$200,000 for the '05-'06 fiscal year to the Secretary of State for personnel and expenses to implement the act.

Section 5 appropriates \$112,000 for the '05-'06 fiscal year to the Secretary of State for the implementation of electronic filing of reports required by the act.

EFFECTIVE DATE: The appropriations are effective July 1, 2005. The remainder of the act is effective January 1, 2007.

S0612e6-SMST-CSSA-32

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)



EDITION No. _____

H. B. No. _____

DATE 8-10-95S. B. No. 612

Amendment No. _____

COMMITTEE SUBSTITUTE ✓(to be filled in by
Principal Clerk)

Rep.)

Sen.)

Stam1 moves to amend the bill on page 10, line 8

2 () WHICH CHANGES THE TITLE

3 by rewriting that line to read:4
5 "member is no longer^{er} serving as a member";6
7 and on page 10, line 13 by rewriting that
8 line to read:9 "Separation from employment or leaving office."

10

11

12

13

14

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16

17

18

19

SIGNED

Stam

ADOPTED _____ FAILED _____ TABLED _____

PRINCIPAL CLERK'S OFFICE

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☐ Committee Substitute for

HB 1431 A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS
FOR A CONSUMER PROTECTION SPECIALIST IN THE DEPARTMENT OF JUSTICE TO
ASSIST MILITARY PERSONNEL AND THEIR FAMILIES.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

H

1

HOUSE BILL 1431

Short Title: Military Consumer Protection Specialist. (Public)

Sponsors: Representatives Martin, Cleveland, Lucas, Underhill (Primary Sponsors); Alexander, B. Allen, Coates, Coleman, Dickson, Faison, Fisher, Folwell, Glazier, Goodwin, Harrison, Jeffus, McAllister, McLawhorn, Moore, Pierce, Ross, Sutton, Vinson, Wainwright, Weiss, Wiley, Wray, and Wright.

Referred to: Appropriations.

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS FOR A CONSUMER PROTECTION
SPECIALIST IN THE DEPARTMENT OF JUSTICE TO ASSIST MILITARY
PERSONNEL AND THEIR FAMILIES.

The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the General Fund to the Department of Justice the sum of thirty-two thousand five hundred twenty-five dollars (\$32,525) for the 2005-2006 fiscal year and the sum of fifty thousand eight hundred eighteen dollars (\$50,818) for the 2006-2007 fiscal year for a new consumer protection specialist position in the Department of Justice. The consumer protection specialist shall be responsible for (i) coordinating consumer complaints from military personnel and their families; (ii) providing a single point of contact in the Consumer Protection Division for military personnel, their families, and military attorneys; and (iii) communicating with military bases in North Carolina on a regular basis to inform the appropriate military offices of the services provided by the Consumer Protection Division, to discover new complaints, and to follow up on cases initiated by military personnel or their families through military offices.

SECTION 2. The Department of Justice shall report by April 1 each year of the 2005-2007 biennium to the General Assembly on the consumer protection accomplishments of the new position established by this act. The report shall be submitted to the Chairs of the Justice and Public Safety Subcommittee of the Joint Legislative Commission on Governmental Operations, the Chairs of the House of Representatives and Senate Appropriations Committees, the Chairs of the House of Representatives and Senate Appropriations Subcommittees on Justice and Public Safety, the Chairs of the Military, Veterans and Indian Affairs Committee of the House of

- 1 Representatives, and the Chairs of the Senate Select Committee on Homeland Security,
- 2 Emergency Management and Military Affairs.
- 3 **SECTION 3.** This act becomes effective July 1, 2005.

April 21, 2005

H 1431. MILITARY CONSUMER PROTECTION SPECIALIST. *TO APPROPRIATE FUNDS FOR A CONSUMER PROTECTION SPECIALIST IN THE DEPARTMENT OF JUSTICE TO ASSIST MILITARY PERSONNEL AND THEIR FAMILIES.* Appropriates \$32,535 for 2005-06 and \$50,818 for 2006-07 from General Fund to Dep't of Justice as title indicates. Requires Dep't of Justice to submit annual report to General Assembly on consumer protection accomplishments of new position. Effective July 1, 2005.

Intro. by Martin.

Ref. to Appropriations

APPROP

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute for

HB 1112 A BILL TO BE ENTITLED AN ACT REQUIRING THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES TO DEVELOP A CENTRAL
LISTING OF MENTAL HEALTH FACILITIES DESIGNATED TO ASSIST IN THE
PLACEMENT OF INDIVIDUALS TO BE INVOLUNTARILY COMMITTED AND REQUIRE
AREA AUTHORITIES TO MAINTAIN A CRISIS RESPONSE SERVICE.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 1112*
PROPOSED COMMITTEE SUBSTITUTE H1112-CSSQ-38 [v.1]

8/3/2005 11:23:45 AM

Short Title: Central Listing/MH Beds/Invol. Comm.

(Public)

Sponsors:

Referred to:

April 5, 2005

A BILL TO BE ENTITLED
AN ACT REQUIRING THE DEPARTMENT OF HEALTH AND HUMAN
SERVICES TO DEVELOP A CENTRAL LISTING OF MENTAL HEALTH
FACILITIES DESIGNATED TO ASSIST IN THE PLACEMENT OF
INDIVIDUALS TO BE INVOLUNTARILY COMMITTED AND REQUIRE
AREA AUTHORITIES TO MAINTAIN A CRISIS RESPONSE SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services, shall develop a central listing of mental health facilities designated for the placement of individuals to be involuntarily committed to assist law enforcement officers and others. The list shall be developed from existing funds appropriated to the Department. The listing shall be accessible on the Internet and implemented not later than October 1, 2005. The Department shall report on the implementation of the listing and the status and compliance of area authorities' crisis response service to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services not later than March 1, 2006.

SECTION 2. G.S. 122C-117(a) is amended by adding the following new subdivision to read:

"(14) Maintain a 24-hour a day, seven day a week crisis response service. Crisis response shall include telephone and face-to-face capabilities. Crisis phone response shall include triage and referral to appropriate face-to-face crisis providers and shall be initiated within one hour of notification. Crisis services do not require prior authorization but shall be delivered in compliance with appropriate policies and procedures. Crisis services shall be designed for prevention, intervention, and resolution, not merely triage and transfer, and shall be provided in the

least restrictive setting possible, consistent with individual and family
need and community safety."

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



HOUSE BILL 1112: Central Listing/MH Beds/Invol. Comm

BILL ANALYSIS

Committee:	House Health	Date:	August 3, 2005
Introduced by:	Rep. Justus	Summary by:	Shawn Parker
Version:	PCS to First Edition		Committee Analyst
	H1112-CSSQ-38		

SUMMARY: *The proposed committee substitute requires the Department of Health and Human Services to develop a central listing of mental health facilities to assist in the placement of individuals to be involuntarily committed. The bill also requires Area Authorities (Local Management Entities, LMEs) to maintain a crisis response service.*

CURRENT LAW: Part 7 of Article 5 of Chapter 122C of the General Statutes sets forth the provisions for involuntary commitment of the mentally ill. The policy of the State is to assist individuals with mental illness, developmental disabilities, and substance abuse problems in ways consistent with the dignity, rights, and responsibilities of all North Carolina Citizens. Within available resources it is the obligation of the State and local government to provide services to eliminate, reduce, or prevent the disabling effects of mental illness, developmental disabilities, and substance abuse through a service delivery system designed to meet the needs of clients in the least restrictive available setting, if the least restrictive setting is therapeutically most appropriate to maximize their quality of life.¹ G.S. 122C-252 authorizes the Secretary to designate State Facilities, 24-hour facilities licensed under Chapter 122C, or hospitals licensed under Chapter 131E as facilities for the custody and treatment of involuntary clients.

BILL ANALYSIS: House Bill 1112 requires the Department of Health and Human Services to develop a central listing of mental health facilities designated for the placement of individuals to be involuntarily committed. The listing shall be developed from existing funds, accessible on the internet, and implemented no later than October 1, 2005. The bill codifies the contractual obligation of area authorities to maintain a specific crisis response service. House Bill 1112 directs the department to report on the status of compliance of area authorities' crisis response service and to report on the implementation of the central listing to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities, and Substance Abuse Services by March 1, 2006.

EFFECTIVE DATE: This act is effective when it becomes law.

H1112e2-SMSQ-CSSQ-38

¹ G.S. 122C-2

VISITOR REGISTRATION SHEET

HOUSE APPROPRIATIONS

August 10, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

George Suddato

NCSDA

Henry Hutaff

NCSDA

Julia Leggett

Common Cause N.C.

Marc Tiese

NCCLR

Paula A. Wolf

El Pueblo

Daley Montgomery

SOS

Robert Wilson

SOS

Ann K. Harris

SOS

Bruce Sanner

So. State.

Joal Brown

SOS

Lange P. Holder

SOS

VISITOR REGISTRATION SHEET

HOUSE APPROPRIATIONS

August 10, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jack Brinson

DOJ- Raleigh

Erin Kunrey

NC Conservation Network

PAUL Stock

NC Barbers Association

BSB Phil. p.

CCNC

Cliff Barbs

NCAE

Mahdousse

CyberGroup

John Fitzgerald

NCFPC

Cathy McKinney

NCAE

Abbey Reynolds

NCGA Intern

DOH HOBART

NC DOC

Margaret Whitman

KCLH

VISITOR REGISTRATION SHEET

HOUSE APPROPRIATIONS

August 10, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Johanna Reese	DENK
Rick Zedini	NC Assoc. of Realtors
Alastair Macaulay	NC Home Builders Assoc.
BRIAN LEWIS	Covenant w/ NC's Children ✓
Alice Garland	NCDC
Roz Smith	NC child Care Coalition
Lynne Weaver	NC DOJ
DAVID ELLIOTT	NC DOT
Maye Gattis	NC State Ports
DAN SIMP	conduwms ARC
Molly Ryan	NCSBA

VISITOR REGISTRATION SHEET

HOUSE APPROPRIATIONS

August 10, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

7 Dan Hennen	WCPS
Jan Mize	Gouorkin
Elizabeth Dalton	NCCB
Cory Mc	WCHS
Stephanie Jensen	NCAR
Ken Melton	DOR
BH Hall	Democracy North Carolina
Steve Shaber	Payner + Spruill
George Millsaps	DOA
Estherine Davis	Electricities
John Cyrus	NS Energy

HOUSE APPROPRIATIONS

Name of Committee

Date _____

NAME _____

FIRM OR AGENCY AND ADDRESS

Hal Miller

NCACET

Elizabeth Self

Sicilia Club

Marglow Foster

NCAHP

Henry Jones

Attorney Daleigh

GARY GOVERN

NeDDJ

CASANDRA SKINNER

NCAPS

VISITOR REGISTRATION SHEET

HOUSE APPROPRIATIONS

August 10, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Betty Turner

Bank of America

Bela Harne

Verzogen

Joanne Winsa

WCSBA

John Davis

PSF of NC

Joanne Slem

music

Jo Bobbitt (Rep. Nye)

From: Linda Winstead (Rep. Jim Crawford)

Sent: Thursday, August 11, 2005 3:54 PM

Cc: Anita Wilder (Rep. Michaux); Mary Hayes (Rep. Frye); Juanita Coley (Rep. Sutton); Mary Lee Robinson (Rep. Jeffus); Kathie Young (Sen. Kinnaird)

Subject: Meeting Notice & Bill Sponsor Notice

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **APPROPRIATIONS** will meet as follows:

DAY & DATE: Thursday, August 11, 2005

TIME: 4:00 pm

LOCATION: ~~643~~ / 228

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 50 Street Gang Prevention Act - Reps. Michaux and Frye

HB 1415 Report Denial of Some Pistol Permits - Reps. Sutton and Jeffus

SB 223 Public Confidence in Elections - Sen. Kinnaird

Respectfully,

Representatives Clary, Crawford, Earle, Nye, Owens,
Sherrill
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **4:00 pm** on **August 11, 2005**.

____ Principal Clerk
____ Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

8/17/2005

MINUTES
HOUSE COMMITTEE ON APPROPRIATIONS
AUGUST 11, 2005

The House Committee on Appropriations met on Thursday, August 11, 2005 in Room 1228 of the Legislative Building at 4:00 p.m. Chairman Edd Nye presided. Fifty-eight (58) members of the committee were present. A visitor registration list is attached and made part of these minutes.

HB 50 STREET GANG PREVENTION ACT.

Rep. Mickey Michaux was recognized to present the bill. He moved to amend the bill to change section 9, line 36, on page 8, from \$20 million dollars to \$2 million dollars appropriation to the Governor's Crime Commission. He further moved for a modified amendment to the bill to remove the words to the State Bureau of Investigation on page 8, section 8, line 30. Chairman Nye asked for a voice vote on the amendment and the motion on the amendment passed. Rep. Michaux moved that the amendment be incorporated into a committee substitute and that the bill be given a favorable report. Chairman Nye asked for a voice vote and the motion carried.

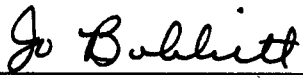
HB 1415 REPORT DENIAL OF SOME PISTOL PERMITS

Rep. Ronnie Sutton was recognized to present the bill. After he explained the bill, Greg McLoud, Department of Justice, was introduced to give the Department's position on the bill. He stated the Department's original estimate was \$100,000 that would be needed, but that the \$38,500 would help and that the Department requested support for the bill. After questions by some of the members, Rep. Johnson made a motion to give the bill a favorable report. Chairman Nye asked for a voice vote and the motion carried.

The meeting adjourned at 4:30 pm.



Representative Edd Nye, Co-Chair



Jo Bobbitt, Committee Assistant

Representative Jim Crawford
Representative Bill Owens
Representative Beverly Earle
Representative Debbie Clary
Representative Wilma Sherrill

STATE OF NORTH CAROLINA
NORTH CAROLINA GENERAL ASSEMBLY
RALEIGH, NORTH CAROLINA 27601



HOUSE APPROPRIATIONS COMMITTEE
AGENDA
Thursday, August 11, 2005
After Session

Representative Edd Nye, Presiding

Chair's Comments

Bills

HB 50 Street Gang Prevention Act
HB 1415 Report Denial of Some Pistol Permits
SB 223 Public Confidence in Elections

Adjourn

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute for

HB 50 A BILL TO BE ENTITLED AN ACT TO ENACT THE NORTH CAROLINA
STREET GANG PREVENTION ACT AS RECOMMENDED BY THE HOUSE SELECT
COMMITTEE ON STREET GANG PREVENTION.

☒ With a favorable report, as amended.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

2

HOUSE BILL 50
Committee Substitute Favorable 3/29/05

Short Title: Street Gang Prevention Act.

(Public)

Sponsors:

Referred to:

February 3, 2005

A BILL TO BE ENTITLED

AN ACT TO ENACT THE NORTH CAROLINA STREET GANG PREVENTION
ACT AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON
STREET GANG PREVENTION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 14 of the General Statutes is amended by adding a
new Article to read:

"Article 13A.

"North Carolina Street Gang Prevention Act.

"§ 14-50.15. Short title.

This Article shall be known and may be cited as the "North Carolina Street Gang
Prevention Act".

"§ 14-50.16. Legislative findings and intent.

(a) The General Assembly finds and declares that it is the right of every person to
be secure and protected from fear, intimidation, and physical harm caused by the
activities of violent groups and individuals. It is not the intent of this Article to interfere
with the exercise of the constitutionally protected rights of freedom of expression and
association. The General Assembly recognizes the constitutional right of every citizen
to harbor and express beliefs on any lawful subject whatsoever, to associate lawfully
with others who share similar beliefs, to petition lawfully constituted authority for a
redress of perceived grievances, and to participate in the electoral process.

(b) The General Assembly, however, further finds that the State of North
Carolina is in a state of crisis that has been caused by violent street gangs whose
members threaten, terrorize, and commit a multitude of crimes against the peaceful
citizens of their neighborhoods. These activities, both individually and collectively,
present a clear and present danger to public order and safety and are not constitutionally
protected.

(c) The General Assembly finds that there are criminal street gangs operating in
North Carolina and that the number of gang-related murders is increasing. It is the intent

1 of the General Assembly in enacting this Article to seek the eradication of criminal
2 activity by street gangs by focusing upon patterns of criminal gang activity and upon the
3 organized nature of street gangs which together are the chief source of terror created by
4 street gangs.

5 (d) The General Assembly further finds that an effective means of punishing and
6 deterring the criminal activities of street gangs is through forfeiture of the profits,
7 proceeds, and instrumentalities acquired, accumulated, or used by street gangs.

8 **"§ 14-50.17. Definitions.**

9 The following definitions apply in this Article:

10 (1) "Criminal street gang" or "street gang" means any ongoing
11 organization, association, or group of three or more persons, whether
12 formal or informal, which engages in a pattern of criminal gang
13 activity as defined in subdivision (2) of this section. The existence of
14 the organization, association, or group of individuals associated in fact
15 may be established by evidence of a common name or common
16 identifying signs, symbols, tattoos, graffiti, or attire or other
17 distinguishing characteristics.

18 (2) "Pattern of criminal gang activity" means the commission, attempted
19 commission, conspiracy to commit, or solicitation, coercion, or
20 intimidation of another person to commit at least two of the following
21 offenses, provided that at least one of these offenses occurred after
22 December 1, 2005, and the last of the offenses occurred within three
23 years, excluding any periods of imprisonment, of prior criminal gang
24 activity:

25 a. Any offense under Article 5 of Chapter 90 of the General
26 Statutes (Controlled Substances Act).

27 b. Any offense under Chapter 14 of the General Statutes except
28 Articles 9, 22A, 38, 40, 43, 46, 47, 59 thereof; and further
29 excepting G.S. 14-78.1, 14-82, 14-86, 14-145, 14-179, 14-183,
30 14-184, 14-186, 14-190.9, 14-195, 14-197, 14-201, 14-247,
31 14-248, 14-313 thereof.

32 **"§ 14-50.18. Participation in criminal street gang activity prohibited.**

33 (a) It is unlawful for any person employed by or associated with a criminal street
34 gang to conduct or participate in the criminal street gang through a pattern of criminal
35 gang activity.

36 (b) It is unlawful for any person to acquire or maintain, directly or indirectly,
37 through a pattern of criminal gang activity or proceeds derived therefrom, any interest in
38 or control of any real or personal property of any nature, including money.

39 (c) It is unlawful for any person who occupies a position of organizer,
40 supervisory position, or any other position of management with regard to a criminal
41 street gang to engage in, directly or indirectly, or conspire to engage in, a pattern of
42 criminal gang activity.

43 (d) It is unlawful for any person to cause, encourage, solicit, or coerce another to
44 participate in a criminal street gang.

(e) It is unlawful for any person to communicate, directly or indirectly, with another any threat of injury or damage to the person or property of the other person or to any associate or relative of the other person with the intent to deter the person from assisting a member or associate of a criminal street gang to withdraw from such criminal street gang.

(f) It is unlawful for any person to communicate, directly or indirectly, with another any threat of injury or damage to the person or property of the other person or to any associate or relative of the other person with the intent to punish or retaliate against the person for having withdrawn from a criminal street gang.

(g) Any person who violates this section shall be punished as follows:

(1) A person who violates subsection (a) or (b) of this section shall, in addition to any other penalty imposed by law, be punished as a Class E felon.

(2) A person who violates subsection (a), (b), (d), (e), or (f) of this section may, if the person also violates subsection (c) of this section in the same course of conduct, in addition to any other penalty provided by law, be punished by imprisonment for an additional 10 years which shall be served consecutively to any other sentence imposed on the person by law.

(3) A person who violates subsection (d), (e), or (f) of this section shall, in addition to any other penalty provided by law, be punished as a Class G felon.

(h) Any crime committed in violation of this section shall be considered a separate offense.

"§ 14-50.19. Enhanced offense for criminal gang activity.

Unless a different classification is expressly stated, a person who is convicted of an offense that is committed for the benefit of, at the direction of, or in association with, any criminal street gang, is guilty of an offense that is one class higher than the offense committed. A Class A1 misdemeanor shall be enhanced to a Class I felony under this section.

This section does not apply to the offenses set forth in G.S. 14-50.18.

"§ 14-50.20. Reports of disposition; criminal street gang activity.

When a defendant is found guilty of an offense, the presiding judge shall determine whether the offense was committed for the benefit of, at the direction of, or in association with, any criminal street gang. If the judge determines that the offense so qualifies, then the judge shall indicate on the form reflecting the judgment that the offense involved criminal street gang activity. The clerk of court shall ensure that the official record of the defendant's conviction includes the court's determination.

"§ 14-50.21. Contraband, seizure, and forfeiture.

(a) All of the following are declared to be contraband, and no person shall have a property interest in them:

(1) All property that is directly or indirectly used or intended for use in any manner to facilitate a violation of this Article.

(2) Any property constituting or derived from gross profits or other proceeds obtained from a violation of this Article.

(b) In any action under this section, the court may enter a restraining order in connection with any interest that is subject to forfeiture.

(c) Within 60 days of the date of the seizure of contraband pursuant to this section, the district attorney or the Attorney General shall initiate a forfeiture proceeding as provided in G.S. 14-2.3.

"§ 14-50.22. Local ordinances not preempted by State law.

Nothing in this Article shall prevent a local governing body from adopting and enforcing ordinances relating to gangs and gang violence that are consistent with this Article. Where local laws duplicate or supplement the provisions of this Article, this Article shall be construed as providing alternative remedies and not as preempting the field.

"§ 14-50.23. Real property used by criminal street gangs declared a public nuisance; abatement; persons injured by gangs entitled to treble damages.

Any real property that is erected, established, maintained, owned, leased, or used by any criminal street gang for the purpose of conducting criminal gang activity shall constitute a public nuisance and may be abated as provided by Article 1 of Chapter 19 of the General Statutes. If the property is owned by a person who is not a member of the criminal street gang, this section shall apply only if the person has knowledge of the criminal gang activity.

"§ 14-50.24. Matters proved in criminal trial court.

A conviction of an offense defined as criminal gang activity shall preclude the defendant from contesting any factual matters determined in the criminal proceeding in any subsequent civil action or proceeding based on the same conduct."

SECTION 2. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-34.9. Discharging a firearm from within an enclosure.

Unless covered under some other provision of law providing greater punishment, any person who willfully or wantonly discharges or attempts to discharge a firearm, as a part of a pattern of criminal gang activity, from within any building, structure, motor vehicle, or other conveyance, erection, or enclosure toward a person or persons not within that enclosure shall be punished as a Class E felon."

SECTION 3. G.S. 15A-533 reads as rewritten:

"§ 15A-533. Right to pretrial release in capital and noncapital cases.

(a) A defendant charged with any crime, whether capital or noncapital, who is alleged to have committed this crime while still residing in or subsequent to his escape or during an unauthorized absence from involuntary commitment in a mental health facility designated or licensed by the Department of Health and Human Services, and whose commitment is determined to be still valid by the judge or judicial officer authorized to determine pretrial release to be valid, has no right to pretrial release. In lieu of pretrial release, however, the individual shall be returned to the treatment facility in which he was residing at the time of the alleged crime or from which he escaped or

absented himself for continuation of his treatment pending the additional proceedings on the criminal offense.

(b) A defendant charged with a noncapital offense must have conditions of pretrial release determined, in accordance with G.S. 15A-534.

(c) A judge may determine in his discretion whether a defendant charged with a capital offense may be released before trial. If he determines release is warranted, the judge must authorize release of the defendant in accordance with G.S. 15A-534.

(d) ~~Subject to rebuttal by the person, it shall be presumed~~ There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community if a judicial official finds the following:

(1) There is reasonable cause to believe that the person committed an offense involving trafficking in a controlled substance;

(2) The drug trafficking offense was committed while the person was on pretrial release for another offense; and

(3) The person has been previously convicted of a Class A through E felony or an offense involving trafficking in a controlled substance and not more than five years has elapsed since the date of conviction or the person's release from prison for the offense, whichever is later.

(e) There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community, if a judicial official finds the following:

(1) There is reasonable cause to believe that the person committed an offense for the benefit of, at the direction of, or in association with, any criminal street gang, as defined in G.S. 14-50.17;

(2) The offense described in subdivision (1) of this subsection was committed while the person was on pretrial release for another offense; and

(3) The person has been previously convicted of an offense described in G.S. 14-50.17, and not more than five years has elapsed since the date of conviction or the person's release for the offense, whichever is later.

~~Such person~~ Persons who are considered for bond under the provisions of subsections (d) and (e) of this section may only be released by a district or superior court judge upon a finding that there is a reasonable assurance that the person will appear and release does not pose an unreasonable risk of harm to the community."

SECTION 4. G.S. 15A-1340.16(d) reads as rewritten:

"(d) Aggravating Factors. – The following are aggravating factors:

(1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.

(2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

(2a) The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or

1 assist in any criminal conduct by gang members, and the defendant
2 was not charged with committing a conspiracy. A "criminal street
3 gang" means any ongoing organization, association, or group of three
4 or more persons, whether formal or informal, having as one of its
5 primary activities the commission of felony or violent misdemeanor
6 offenses, or delinquent acts that would be felonies or violent
7 misdemeanors if committed by an adult, and having a common name
8 or common identifying sign, colors, or symbols.

9 (3) The offense was committed for the purpose of avoiding or preventing a
10 lawful arrest or effecting an escape from custody.

11 (4) The defendant was hired or paid to commit the offense.

12 (5) The offense was committed to disrupt or hinder the lawful exercise of
13 any governmental function or the enforcement of laws.

14 (6) The offense was committed against or proximately caused serious
15 injury to a present or former law enforcement officer, employee of the
16 Department of Correction, jailer, fireman, emergency medical
17 technician, ambulance attendant, justice or judge, clerk or assistant or
18 deputy clerk of court, magistrate, prosecutor, juror, or witness against
19 the defendant, while engaged in the performance of that person's
20 official duties or because of the exercise of that person's official duties.

21 (7) The offense was especially heinous, atrocious, or cruel.

22 (8) The defendant knowingly created a great risk of death to more than
23 one person by means of a weapon or device which would normally be
24 hazardous to the lives of more than one person.

25 (9) The defendant held public office at the time of the offense and the
26 offense related to the conduct of the office.

27 (10) The defendant was armed with or used a deadly weapon at the time of
28 the crime.

29 (11) The victim was very young, or very old, or mentally or physically
30 infirm, or handicapped.

31 (12) The defendant committed the offense while on pretrial release on
32 another charge.

33 (13) The defendant involved a person under the age of 16 in the
34 commission of the crime.

35 (14) The offense involved an attempted or actual taking of property of great
36 monetary value or damage causing great monetary loss, or the offense
37 involved an unusually large quantity of contraband.

38 (15) The defendant took advantage of a position of trust or confidence,
39 including a domestic relationship, to commit the offense.

40 (16) The offense involved the sale or delivery of a controlled substance to a
41 minor.

42 (16a) The offense is the manufacture of methamphetamine and was
43 committed where a person under the age of 18 lives, was present, or

was otherwise endangered by exposure to the drug, its ingredients, its by-products, or its waste.

(17) The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.

(18) The defendant does not support the defendant's family.

(18a) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

(19) The serious injury inflicted upon the victim is permanent and debilitating.

(20) Any other aggravating factor reasonably related to the purposes of sentencing.

Evidence necessary to prove an element of the offense shall not be used to prove any factor in aggravation, and the same item of evidence shall not be used to prove more than one factor in aggravation. Evidence necessary to establish that an enhanced sentence is required under ~~G.S. 15A-1340.16A~~ G.S. 15A-1340.16A, 15A-1340.16B, or 14-50.19 may not be used to prove any factor in aggravation.

The judge shall not consider as an aggravating factor the fact that the defendant exercised the right to a jury trial."

SECTION 5. Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-1340.16B. Enhanced sentence if defendant is convicted of a Class A, B1, B2, C, D, or E felony that was committed for the benefit of, at the direction of, or in association with, any criminal street gang, and the defendant possessed, displayed, or discharged a firearm during the commission of the felony.

(a) Notwithstanding G.S. 15A-1340.16A, a person who is convicted of a Class A, B1, B2, C, D, or E felony that was committed for the benefit of, at the direction of, or in association with, any criminal street gang as defined in G.S. 14-50.17, and who possessed, displayed, or discharged a firearm during the commission of the felony shall be punished pursuant to one of the following subdivisions:

(1) If the person possessed a firearm during the commission of the felony, the person shall, in addition to the punishment for the underlying felony, be sentenced to a minimum term of imprisonment for 60 months.

(2) If the person displayed a firearm during the commission of the felony, the person shall, in addition to the punishment for the underlying felony, be sentenced to a minimum term of imprisonment for 84 months.

(3) If the person discharged a firearm during the commission of the felony, the person shall, in addition to the punishment for the underlying felony, be sentenced to a minimum term of imprisonment for 120 months.

1 (b) An indictment or information for the Class A, B1, B2, C, D, or E felony shall
2 allege in that indictment or information or in a separate indictment or information the
3 facts set out in subsection (a) of this section. The pleading is sufficient if it alleges that
4 the defendant committed the felony by possessing, displaying, or discharging the
5 firearm. One pleading is sufficient for all Class A, B1, B2, C, D, or E felonies that are
6 tried at a single trial.

7 (c) The State shall prove the issues set out in subsection (a) of this section
8 beyond a reasonable doubt during the same trial in which the defendant is tried for the
9 felony unless the defendant pleads guilty or no contest to the issues. If the defendant
10 pleads guilty or no contest to the felony but pleads not guilty to the issues set out in
11 subsection (a) of this section, then a jury shall be impaneled to determine the issues.

12 (d) The enhanced punishment provided by this section for the acts of possessing
13 or displaying a firearm applies even if the firearm is incapable of firing.

14 (e) The court shall not suspend any sentence imposed under this section and shall
15 not place a person sentenced under this section on probation for the sentence imposed
16 under this section. Sentences imposed pursuant to this section shall be consecutive to all
17 other sentences imposed and shall begin at the expiration of any other sentence being
18 served by the defendant."

19 **SECTION 6.** The Revisor of Statutes shall recodify the existing
20 G.S. 15A-1340.16B and subsequent statutes accordingly.

21 **SECTION 7.** G.S. 15A-1340.16A(c) reads as rewritten:

22 "(c) If Except as provided in G.S. 15A-1340.16B, if a person is convicted of a
23 Class A, B1, B2, C, D, or E felony and it is found as provided in this section that: (i) the
24 person committed the felony by using, displaying, or threatening the use or display of a
25 firearm and (ii) the person actually possessed the firearm about his or her person, then
26 the person shall have the minimum term of imprisonment to which the person is
27 sentenced for that felony increased by 60 months. The maximum term of imprisonment
28 shall be the maximum term that corresponds to the minimum term after it is increased
29 by 60 months, as specified in G.S. 15A-1340.17(e) and (e1)."

30 **SECTION 8.** There is appropriated to the State Bureau of Investigation the
31 amount of one hundred fifty thousand dollars (\$150,000) to obtain an enterprise license
32 for purchase of software that will create a statewide criminal street gang member
33 database. The database software shall be substantially similar to the Gang Net Program
34 that is currently being used in Durham County.

35 **SECTION 9.** There is appropriated to the Governor's Crime Commission,
36 the sum of twenty million dollars (\$20,000,000) for the 2005-2006 fiscal year to be used
37 to provide grants for street gang violence prevention and intervention programs.

38 The Governor's Crime Commission shall develop the criteria for eligibility
39 for these funds. The criteria shall include a matching requirement of twenty-five percent
40 (25%), one-half of which may be in in-kind contributions, and presentation of a written
41 plan for the services to be provided by the funds. Funds shall be available to public and
42 private entities or agencies for juvenile or adult programs that meet the criteria
43 established by the Governor's Crime Commission.

1 The Governor's Crime Commission shall report on the uses of these funds no
2 later than April 1, 2006, to the House of Representatives Appropriations Subcommittee
3 on Justice and Public Safety, the Senate Appropriations Subcommittee on Justice and
4 Public Safety, and the Fiscal Research Division.

5 **SECTION 10.** Sections 8 and 9 of this act become effective July 1, 2005.
6 The remainder of this act becomes effective December 1, 2005, and applies to offenses
7 committed on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 2

H. B. No. 50

DATE 8/11/05

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.)

Sen.)

Michaux

1 moves to amend the bill on page 8, line 30

2 () WHICH CHANGES THE TITLE

3 by deleting "State Bureau of Investigation"

4 and inserting "Department of Justice"

5 _____

6 and further moves to amend the bill

7 on page 8, line 36, by deleting the

8 sum twenty million dollars (\$20,000,000)

9 and inserting the sum two million dollars

10 (\$2,000,000).

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

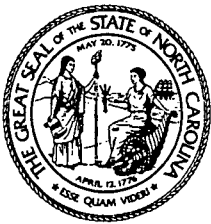
18 _____

19 _____

SIGNED

[Signature]

ADOPTED _____ FAILED _____ TABLED _____



HOUSE BILL 50: Street Gang Prevention Act.

BILL ANALYSIS

Committee: House Judiciary II
Date: March 24, 2005
Version: First Edition

Introduced by: Reps. Michaux and Frye
Summary by: Karen Cochrane Brown
Committee Co-Counsel

SUMMARY: *House Bill 50 is a recommendation of the House Select Committee on Street Gang Prevention. The bill, (i) creates a new group of criminal offenses and sentence enhancements for participation in or aiding street gang activity, (ii) provides for seizure and forfeiture of property used to commit or obtained as a result of criminal street gang activity, (iii) creates a new crime of discharging a firearm from within an enclosure, (iv) creates a rebuttable presumption against granting pretrial release to a person charged with a street gang related offense, (v) provides that evidence used to prove an enhancement to a sentence for assisting street gang activity can not be used to prove an aggravating factor under structured sentencing, (vi) provides for enhanced sentences when the defendant commits a serious felony which benefits a street gang and possesses, displays, or discharges a firearm, (vii) appropriates \$150,000 to the SBI to purchase software to establish a statewide street gang member database, and (viii) appropriates \$20 million to the Governor's Crime Commission to provide grants for street gang prevention and intervention programs.*

BILL ANALYSIS:

Section 1 of the bill creates a new Article 13A of Chapter 14 of the General Statutes (Criminal Law) entitled the "North Carolina Street Gang Prevention Act". The new article contains the following provisions:

G.S. 14-50.16 – sets out legislative findings and intent concerning the problem of street gang activity.

G.S. 14-50.17 – defines the term "criminal street gang" as "any ongoing organization, association, or group of three or more persons, whether formal or informal, which engages in a pattern of criminal gang activity." The term "pattern of criminal gang activity" means "the commission, attempted commission, conspiracy to commit, or solicitation, coercion, or intimidation of another person to commit at least two of the following offenses". The listed offenses are any violation of the Controlled Substances Act and any violation of the Criminal Law except for certain specified crimes. At least one of the offenses must have occurred after December 1, 2005, and the last offense must have occurred within three years of prior gang activity.

G.S. 14-50.18 – prohibits participation in criminal street gang activity by creating the following offenses:

- Makes it a Class E felony to participate in a criminal street gang through a pattern of criminal gang activity or to acquire or maintain property through a pattern of criminal gang activity.
- Adds a 10-year penalty enhancement to a person's conviction if the person occupies a position of organizer, supervisor or manager of criminal gang activity or if the person conspires to engage in a pattern of criminal gang activity.
- Makes it a Class G felony to solicit or coerce another to participate in a criminal street gang, to communicate a threat of injury to a person or relative or associate of a person, or to threaten to

HOUSE BILL 50

Page 2

damage property with the intent to deter a person from withdrawing from a criminal street gang or to punish a person for having withdrawn from a criminal street gang.

G.S. 14-50.19 - provides that a person convicted of an offense that was committed to benefit a criminal street gang is guilty of an offense that is one class higher than the offense committed. This does not apply to offenses under G.S. 14-50.18.

G.S. 14-50.20 – requires that the judge determine whether an offense was committed for the benefit of a criminal street gang and to reflect the determination on the judgment so that it becomes part of the official record of the conviction.

G.S. 14-50.21 – declares property used to violate this act or derived from a violation of this act to be contraband, subject to seizure and forfeiture. The District Attorney or the Attorney General must initiate a forfeiture proceeding within 60 days of the seizure of the property.

G.S. 14-50.22 – provides that local ordinances related to gangs and gang violence are not preempted by this act.

G.S. 14-50.23 – declares real property used by criminal street gangs to be a public nuisance subject to abatement under Art. 1 of Chap. 19 of the General Statutes. If the owner is not a member of the street gang, this section only applies if the owner had knowledge of the criminal gang activity.

G.S. 14-50.24 – provides that a person convicted of a criminal street gang offense may not contest any facts determined in the criminal case in any subsequent civil case based on the same conduct.

Section 2 of the bill makes it a Class E felony to willfully discharge or attempt to discharge a firearm from within any kind of enclosure towards persons not within the enclosure.

Section 3 of the bill amends the law related to pretrial release of defendants to create a rebuttable presumption against allowing pretrial release if there is reasonable cause to believe that the person committed the offense in connection with criminal street gang activity, while on pretrial release for another offense and if the person had been convicted of a gang related offense within five years.

Section 4 of the bill amends the Structured Sentencing law to provide that evidence used to prove a case under G.S. 14-50.19 may not be used to prove an aggravating factor.

Section 5 authorizes enhanced sentences if the defendant is convicted of a serious felony that was committed for the benefit of gang activity and either possessed, displayed, or discharged a firearm. The enhancement for possession is an additional 60 months, for displaying, an additional 84 months and for discharging, an additional 120 months. This section applies even if the gun is incapable of firing. Also, the court cannot suspend a sentence imposed under this section.

Sections 6 and 7 are technical and conforming changes.

HOUSE BILL 50

Page 3

Section 8 appropriates \$150,000 to the State Bureau of Investigation to purchase software to create a statewide criminal street gang member database, which is substantially similar to the Gang Net Program currently being used in Durham County.

Section 9 appropriates \$20 million to the Governor's Crime Commission to provide grants for street gang violence prevention and intervention programs. The grants shall include a 25% matching requirement. The Governor's Crime Commission is directed to report to the Appropriations Subcommittees on Justice and Public Safety and the Fiscal Research Division on the uses of the funds by April 1, 2006.

Section 10 makes the two appropriations effective July 1, 2005 and the remainder of the act effective December 1, 2005, at which time it will only be applicable to offenses committed on or after that date.

INSTITUTE OF GOVERNMENT'S ANALYSIS OF THE PCS CHANGES TO THE
ORIGINAL BILL:

March 29, 2005

H 50. STREET GANG PREVENTION ACT. Intro. 2/3/05. House committee substitute makes the following changes to 1st edition. Modifies proposed new GS 14-34.9 to clarify that section prohibits the discharge of or attempt to discharge a firearm as a part of a pattern of criminal gang activity and to make technical changes.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute for

HB 1415 A BILL TO BE ENTITLED AN ACT TO PROVIDE THAT DENIAL
OF A LICENSE OR PERMIT TO PURCHASE A PISTOL SHALL BE REPORTED TO THE
STATE BUREAU OF INVESTIGATION TO BE ENTERED INTO AN APPROPRIATE
COMPUTERIZED DATABASE THAT IS ACCESSIBLE TO SHERIFFS STATEWIDE.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

2

HOUSE BILL 1415

Committee Substitute Favorable 5/19/05

Short Title: Report Denial of Some Pistol Permits.

(Public)

Sponsors:

Referred to:

April 21, 2005

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT DENIAL OF A LICENSE OR PERMIT TO PURCHASE A PISTOL SHALL BE REPORTED TO THE STATE BUREAU OF INVESTIGATION TO BE ENTERED INTO AN APPROPRIATE COMPUTERIZED DATABASE THAT IS ACCESSIBLE TO SHERIFFS STATEWIDE.

The General Assembly of North Carolina enacts:

SECTION 1. Article 52A of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-404.1. Report denial of license or permit in certain circumstances to SBI for entry into State computerized database.

(a) If a sheriff declines to issue a permit as provided by G.S. 14-404(b), the sheriff shall notify the State Bureau of Investigation and provide all of the following information to the State Bureau of Investigation for entry into a State computerized database designated by the State Bureau of Investigation:

- (1) A statement that the license or permit was denied in accordance with G.S. 14-404(b).
- (2) The date of the denial.
- (3) The county in which the license or permit was denied.
- (4) Sufficient information to identify the applicant.

(b) The State Bureau of Investigation shall enter any information provided to it in compliance with subsection (a) of this section into the appropriate State computer database within 24 hours of its receipt and in such a manner that a notation of the denial will appear in any subsequent record check conducted in accordance with this Article.

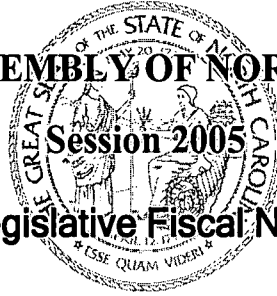
(c) If a person successfully appeals the denial of a permit as provided by G.S. 14-404(b), then the person may provide the sheriff with an official copy of the court's determination and request in writing that the sheriff remove the notation regarding the denial of the person's application for a permit from the appropriate State computerized database. The sheriff shall notify the State Bureau of Investigation of any

1 request made in compliance with this subsection within 24 hours of the receipt of the
2 request. The State Bureau of Investigation shall remove the notation within 24 hours of
3 its receipt of the request from the sheriff."

4 **SECTION 2.** By October 1, 2005, the State Bureau of Investigation shall
5 identify a State computerized database that is easily accessible and available to sheriffs
6 statewide and that is appropriate for the information provided in G.S. 14-404.1(a). The
7 State Bureau of Investigation shall notify the sheriff of each county which database has
8 been designated and how to access the database within 10 days after designating the
9 State computerized database.

10 **SECTION 3.** Section 1 of this act becomes effective December 1, 2005. The
11 remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA



Legislative Fiscal Note

Jim Crawford

BILL NUMBER: House Bill 1415 (First Edition)

SHORT TITLE: Report Denial of Some Pistol Permits.

SPONSOR(S): Representatives Jeffus and Sutton

FISCAL IMPACT

Yes (X)

No ()

No Estimate Available ()

FY 2005-06

FY 2006-07

FY 2007-08

FY 2008-09

FY 2009-10

EXPENDITURES:

Dept. of Justice (R)

* See Assumptions & Methodology – p. 2 *

(NR) \$38,500

Counties

Cannot be determined

POSITIONS

(cumulative):

* See Assumptions & Methodology – p.2 *

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Justice;
County Sheriffs' Departments.

EFFECTIVE DATE: December 1, 2005

BILL SUMMARY: The second edition of this bill would require sheriffs to report the denial of a license or permit to purchase a pistol to the State Bureau of Investigation (SBI) in the Department of Justice, which would be required to maintain that information in a database accessible to sheriffs statewide. The report and database would contain a statement that a license or permit was denied, the date of denial, the county in which the permit was denied, and information sufficient to identify the applicant. The bill also requires that sheriffs report to the SBI any successful appeal of the denial, and that the SBI subsequently remove the associated record from the database.

Source: Adapted from Bill Digest H.B. 1415 (04/21/2005)

ASSUMPTIONS AND METHODOLOGY:

The number of pistol permit applications that are denied each year is unknown. However, the SBI does keep data on the number of applications for permits to carry concealed handguns, and none of these applications have been denied in the last two years. This is some indication that the number of pistol permit applications denied by sheriffs may be relatively low.

SBI: One-time costs. The SBI plans to modify its Division of Criminal Information (DCI) system. Sheriffs will be able to enter information on pistol permit denials directly into the DCI database. The Department of Justice anticipates that the SBI will need \$30,000 for an information technology convenience contract and \$8,500 for computer equipment to enhance the DCI database.

SBI: Ongoing costs. The Department has stated that the SBI would need an additional Grade 70 fingerprint technician to implement this bill on an ongoing basis. Minimum salary for the position would be \$32,940. Total position costs would be \$57,407 in the first year and \$53,007 thereafter. However, since the data entry will be done by sheriffs' offices, and the number of denials is unknown, it is not clear that there would be a significant increase in the SBI's ongoing workload. Therefore, these costs have not been included in the front page box.

County Sheriffs. The sheriffs do not have aggregate data on the number of pistol permit applications that are denied, and therefore cannot project the impact of this bill. The NC Sheriffs' Association has noted that the planned implementation by the SBI – allowing the sheriffs to enter this information directly into DCI – would be the easiest for them. DCI is the database the sheriffs access to check for a criminal history on a pistol permit applicant.

SOURCES OF DATA: Department of Justice; NC Sheriffs' Association.

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Chloe Gossage

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



DATE: July 7, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices



HOUSE BILL 1415: Report Denial of some Pistol Permits

BILL ANALYSIS

Committee:	House Judiciary III	Date:	May 17, 2005
Introduced by:	Reps. Sutton, Jeffus	Summary by:	Wendy Graf Ray
Version:	PCS to First Edition		Committee Counsel
	H1415-CSLH-11[v.1]		

SUMMARY: *House Bill 1415 would require sheriffs to report denial of pistol purchase permits to the State Bureau of Investigation for entry into a statewide computer database.*

CURRENT LAW: G.S. 14-402 makes it unlawful for any person, firm, or corporation in North Carolina to sell, give away, transfer, purchase or receive a handgun if the purchaser or receiver has not first obtained a permit from the sheriff of the county in which the purchaser or receiver resides. The sheriff must certify on the permit that the sheriff has conducted a criminal background check of the applicant and has received no information to indicate that it would be a violation of federal or State law for the applicant to purchase or possess a handgun, and that the sheriff is satisfied as to the applicant's good moral character. A permit may not be issued to the following persons:

- One who is under indictment or information for, or has been convicted of, a felony.
- A fugitive from justice.
- An unlawful user of marijuana or any depressant, stimulant, or narcotic drug.
- One who has been adjudicated mentally incompetent or committed to a mental institution.
- An illegal alien.
- One who has been dishonorably discharged from the armed forces.
- One who has renounced his or her U.S. citizenship.
- One who is subject to a domestic violence restraining order.

A permit is required for each handgun purchase, and the sheriff is required to keep records of all permits issued, including the name, date, place of residence, age, and former place of residence of each person, firm, or corporation to whom a permit is issued.

If the sheriff declines to issue a permit, the sheriff must provide the applicant with a written statement containing the reason(s) for the denial. However, the sheriff is not otherwise required to report or keep records of permits that are denied. An applicant does have the right to appeal a denial in district court.

BILL ANALYSIS: House Bill 1415 would require that, if the sheriff declines to issue a permit, he or she must notify the State Bureau of Investigation (SBI) of the denial, including the date of the denial, the county in which the permit was denied, and information identifying the applicant. The SBI would then be required to enter the information into a statewide computerized database within 24 hours of its receipt so that the notation would come up on any subsequent pistol purchase permit record check. If an applicant successfully appeals a denial, the person would be able to submit a copy of the court's order and request in writing that the notation be removed from the database. The SBI would be required to remove the notation upon receiving such a request.

House Bill 1415

Page 2

The bill would also require that the SBI identify a computerized database by October 1, 2005, that is easily accessible and available to sheriffs statewide in order to accomplish the purposes of this act. Within 10 days of identifying a database, the SBI would be required to notify sheriffs in each county and provide information on how to access the database.

EFFECTIVE DATE: The provision of the bill that requires the SBI to identify an appropriate database would be effective when it becomes law, and the remainder of the bill would become effective December 1, 2005.

H1415e1-SMSU-CSLH-11v1

VISITOR REGISTRATION SHEET

APPROPRIATIONS

Name of Committee

8-11-05, 2005

Date

4:00 p

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

John Phelps

NCLM

Ed Regan

NCRGEA

RS P

NCFB

Amir P. Horne

NCMS

Pent m r m

grr

Lois A. Harris

ZAHA

Rick Zechini

NLAR

Colleen Kochanek

HYM H

Bill Zorn

NC Justice Cts.

Honna Rosefield

DCR

Mr. Gorn

Capl Bony

VISITOR REGISTRATION SHEET

APPROPRIATIONS

8-11-05

, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

John McQuill	GO ONING
Pat O'Leary	ACLU/APPCNC/MOJ
Elizabeth Ouzts	NCPIC ←
Perry Woods	NCUVE
John W.	
Melby House	
Ken Melton	D.O.R.
John P.	Don: Am.
Eddie Caldwell	NC Sheriff Assoc
Ag MZA	NC AGO
JOHN GOODMAN	ALLEY ASSOCIATES

VISITOR REGISTRATION SHEET

APPROPRIATIONS

Name of Committee

8-11-05, 2005

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Jamie Fitzgerald	NCFPC
Mike Davis Jr.	Hwy 10th Brk Lnc.
Chip Killian	Reboon mullins
Margaret Westbrook	KCLH
Evelyn Lubnowe	ENGR
Zeb Allery	Allery Assoc

MINUTES
HOUSE COMMITTEE ON APPROPRIATIONS
AUGUST 11, 2005

The House Committee on Appropriations met on Thursday, August 11, 2005 in Room 1228 of the Legislative Building at 6:30 p.m. Chairman Edd Nye presided. Sixty-three (63) members of the committee were present. A visitor registration list is attached and made part of these minutes.

HB 897 NCNGUARD-TUITION ASSISTANCE PROGRAM CHANGES

Chairman Nye called the meeting to order and acknowledged Rep. Crawford to explain the bill. He stated the money amount was in the appropriations bill that passed and became law. A motion was made for a favorable report. The motion passed.

HB 50 STREET GANG PREVENTION ACT

Chairman Nye stated that HB 50 was back before the Committee from the earlier meeting of the day. He stated Rep. Michaux wanted the bill and amendment to be reconsidered. Motion was made to reconsider the bill. Motion passed. Motion was then made to reconsider the amendment. Motion passed. Rep. Michaux then presented a new amendment. He stated the amendment corrects what was done previously by amending the bill on page 8, line 30 by deleting "State Bureau of Investigation" **and inserting "Department of Justice"**. He then moved adoption of the amendment. Chairman Nye asked for a vote. Motion passed. Rep. Michaux then asked for a favorable report on the bill as amended. Chairman Nye asked for a vote. Motion passed.

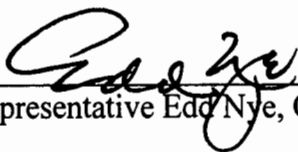
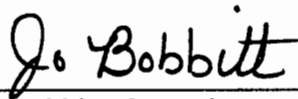
SB 223 PUBLIC CONFIDENCE IN ELECTIONS

Rep. Insko was introduced to explain the bill. She had handouts for the members (see attached). At the request of Rep. Wilkins, Rep. Insko offered an amendment to amend the bill on page 13, lines 36, 39 and 40 by deleting the word "may" and substituting it with the word "shall." She moved the adoption of the amendment. Motion carried. Rep. LaRoque moved that the bill, as amended, be given a favorable report. Motion passed.

SB 1323 ESTABLISH NC INNOCENCE INQUIRY COMMISSION

Rep. Hackney was introduced to explain the bill. He stated the Administrative Office of the Courts would absorb within its appropriated funds for this year under the budget, the first year cost. The second year, a bill will be introduced for the appropriation of approximately \$350,000 to \$400,000 dollars during the second year. There will be no appropriations necessary this year although there will be some resources used. Chairman Nye recognized Chief Justice I. Beverly Lake to answer questions from the members. Rep. Stam made a motion to give the bill a favorable report. Motion passed.

The meeting adjourned at 7:30 pm


Representative Edd Nye, Co-Chair
Jo Bobbitt, Committee Assistant

Representative Jim Crawford
Representative Bill Owens
Representative Beverly Earle
Representative Debbie Clary
Representative Wilma Sherrill

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☐ Committee Substitute for

HB 897 A BILL TO BE ENTITLED AN ACT TO MODIFY THE TUITION
ASSISTANCE PROGRAM FOR MEMBERS OF THE NORTH CAROLINA NATIONAL
GUARD.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 897*

Short Title: NCNGuard–Tuition Assistance Program Changes. (Public)

Sponsors: Representatives Owens; Faison, Pate, Pierce, Preston, Vinson, and Wainwright.

Referred to: Military, Veterans and Indian Affairs, if favorable, Appropriations.

March 24, 2005

A BILL TO BE ENTITLED
AN ACT TO MODIFY THE TUITION ASSISTANCE PROGRAM FOR MEMBERS
OF THE NORTH CAROLINA NATIONAL GUARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 127A-193 reads as rewritten:

"§ 127A-193. Benefit.

The benefit provided under this Article shall consist of a monetary educational assistance grant not to exceed ~~two thousand dollars (\$2,000) per academic year the~~ highest amount charged by a State educational institution per academic year or a lesser amount, as prescribed by the Secretary, to remain within the funds appropriated, to qualifying members of the North Carolina national guard. Benefits shall be payable for a period of one academic year at a time, renewable at the option of the ~~Secretary for a~~ maximum of eight thousand dollars (\$8,000).Secretary."

SECTION 2. G.S. 127A-195(c) reads as rewritten:

"(c) All tuition benefit disbursements shall be made to the business or trade school or State or private educational institution concerned, for credit to the tuition account of each recipient."

SECTION 3. G.S. 127A-195 is amended by adding a new subsection to read:

"(f) Any balance of the monetary educational assistance grant up to the maximum for the academic year remaining after tuition is paid pursuant to subsection (c) of this section may be disbursed to the applicant as reimbursement for required course books and materials. The manner of obtaining the reimbursement payment for these required books and materials shall be as prescribed by the Secretary."

SECTION 4. This act becomes effective July 1, 2005.

JO

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute for

HB 50 A BILL TO BE ENTITLED AN ACT TO ENACT THE NORTH CAROLINA
STREET GANG PREVENTION ACT AS RECOMMENDED BY THE HOUSE SELECT
COMMITTEE ON STREET GANG PREVENTION.

☒ With a favorable report, as amended.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

2

HOUSE BILL 50

Committee Substitute Favorable 3/29/05

Short Title: Street Gang Prevention Act.

(Public)

Sponsors:

Referred to:

February 3, 2005

A BILL TO BE ENTITLED

AN ACT TO ENACT THE NORTH CAROLINA STREET GANG PREVENTION
ACT AS RECOMMENDED BY THE HOUSE SELECT COMMITTEE ON
STREET GANG PREVENTION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 14 of the General Statutes is amended by adding a
new Article to read:

"Article 13A.

"North Carolina Street Gang Prevention Act.

"§ 14-50.15. Short title.

This Article shall be known and may be cited as the "North Carolina Street Gang
Prevention Act".

"§ 14-50.16. Legislative findings and intent.

(a) The General Assembly finds and declares that it is the right of every person to
be secure and protected from fear, intimidation, and physical harm caused by the
activities of violent groups and individuals. It is not the intent of this Article to interfere
with the exercise of the constitutionally protected rights of freedom of expression and
association. The General Assembly recognizes the constitutional right of every citizen
to harbor and express beliefs on any lawful subject whatsoever, to associate lawfully
with others who share similar beliefs, to petition lawfully constituted authority for a
redress of perceived grievances, and to participate in the electoral process.

(b) The General Assembly, however, further finds that the State of North
Carolina is in a state of crisis that has been caused by violent street gangs whose
members threaten, terrorize, and commit a multitude of crimes against the peaceful
citizens of their neighborhoods. These activities, both individually and collectively,
present a clear and present danger to public order and safety and are not constitutionally
protected.

(c) The General Assembly finds that there are criminal street gangs operating in
North Carolina and that the number of gang-related murders is increasing. It is the intent

1 of the General Assembly in enacting this Article to seek the eradication of criminal
2 activity by street gangs by focusing upon patterns of criminal gang activity and upon the
3 organized nature of street gangs which together are the chief source of terror created by
4 street gangs.

5 (d) The General Assembly further finds that an effective means of punishing and
6 detering the criminal activities of street gangs is through forfeiture of the profits,
7 proceeds, and instrumentalities acquired, accumulated, or used by street gangs.

8 **"§ 14-50.17. Definitions.**

9 The following definitions apply in this Article:

10 (1) "Criminal street gang" or "street gang" means any ongoing
11 organization, association, or group of three or more persons, whether
12 formal or informal, which engages in a pattern of criminal gang
13 activity as defined in subdivision (2) of this section. The existence of
14 the organization, association, or group of individuals associated in fact
15 may be established by evidence of a common name or common
16 identifying signs, symbols, tattoos, graffiti, or attire or other
17 distinguishing characteristics.

18 (2) "Pattern of criminal gang activity" means the commission, attempted
19 commission, conspiracy to commit, or solicitation, coercion, or
20 intimidation of another person to commit at least two of the following
21 offenses, provided that at least one of these offenses occurred after
22 December 1, 2005, and the last of the offenses occurred within three
23 years, excluding any periods of imprisonment, of prior criminal gang
24 activity:

25 a. Any offense under Article 5 of Chapter 90 of the General
26 Statutes (Controlled Substances Act).

27 b. Any offense under Chapter 14 of the General Statutes except
28 Articles 9, 22A, 38, 40, 43, 46, 47, 59 thereof; and further
29 excepting G.S. 14-78.1, 14-82, 14-86, 14-145, 14-179, 14-183,
30 14-184, 14-186, 14-190.9, 14-195, 14-197, 14-201, 14-247,
31 14-248, 14-313 thereof.

32 **"§ 14-50.18. Participation in criminal street gang activity prohibited.**

33 (a) It is unlawful for any person employed by or associated with a criminal street
34 gang to conduct or participate in the criminal street gang through a pattern of criminal
35 gang activity.

36 (b) It is unlawful for any person to acquire or maintain, directly or indirectly,
37 through a pattern of criminal gang activity or proceeds derived therefrom, any interest in
38 or control of any real or personal property of any nature, including money.

39 (c) It is unlawful for any person who occupies a position of organizer,
40 supervisory position, or any other position of management with regard to a criminal
41 street gang to engage in, directly or indirectly, or conspire to engage in, a pattern of
42 criminal gang activity.

43 (d) It is unlawful for any person to cause, encourage, solicit, or coerce another to
44 participate in a criminal street gang.

(e) It is unlawful for any person to communicate, directly or indirectly, with another any threat of injury or damage to the person or property of the other person or to any associate or relative of the other person with the intent to deter the person from assisting a member or associate of a criminal street gang to withdraw from such criminal street gang.

(f) It is unlawful for any person to communicate, directly or indirectly, with another any threat of injury or damage to the person or property of the other person or to any associate or relative of the other person with the intent to punish or retaliate against the person for having withdrawn from a criminal street gang.

(g) Any person who violates this section shall be punished as follows:

(1) A person who violates subsection (a) or (b) of this section shall, in addition to any other penalty imposed by law, be punished as a Class E felon.

(2) A person who violates subsection (a), (b), (d), (e), or (f) of this section may, if the person also violates subsection (c) of this section in the same course of conduct, in addition to any other penalty provided by law, be punished by imprisonment for an additional 10 years which shall be served consecutively to any other sentence imposed on the person by law.

(3) A person who violates subsection (d), (e), or (f) of this section shall, in addition to any other penalty provided by law, be punished as a Class G felon.

(h) Any crime committed in violation of this section shall be considered a separate offense.

"§ 14-50.19. Enhanced offense for criminal gang activity.

Unless a different classification is expressly stated, a person who is convicted of an offense that is committed for the benefit of, at the direction of, or in association with, any criminal street gang, is guilty of an offense that is one class higher than the offense committed. A Class A1 misdemeanor shall be enhanced to a Class I felony under this section.

This section does not apply to the offenses set forth in G.S. 14-50.18.

"§ 14-50.20. Reports of disposition; criminal street gang activity.

When a defendant is found guilty of an offense, the presiding judge shall determine whether the offense was committed for the benefit of, at the direction of, or in association with, any criminal street gang. If the judge determines that the offense so qualifies, then the judge shall indicate on the form reflecting the judgment that the offense involved criminal street gang activity. The clerk of court shall ensure that the official record of the defendant's conviction includes the court's determination.

"§ 14-50.21. Contraband, seizure, and forfeiture.

(a) All of the following are declared to be contraband, and no person shall have a property interest in them:

(1) All property that is directly or indirectly used or intended for use in any manner to facilitate a violation of this Article.

(2) Any property constituting or derived from gross profits or other proceeds obtained from a violation of this Article.

(b) In any action under this section, the court may enter a restraining order in connection with any interest that is subject to forfeiture.

(c) Within 60 days of the date of the seizure of contraband pursuant to this section, the district attorney or the Attorney General shall initiate a forfeiture proceeding as provided in G.S. 14-2.3.

"§ 14-50.22. Local ordinances not preempted by State law.

Nothing in this Article shall prevent a local governing body from adopting and enforcing ordinances relating to gangs and gang violence that are consistent with this Article. Where local laws duplicate or supplement the provisions of this Article, this Article shall be construed as providing alternative remedies and not as preempting the field.

"§ 14-50.23. Real property used by criminal street gangs declared a public nuisance; abatement; persons injured by gangs entitled to treble damages.

Any real property that is erected, established, maintained, owned, leased, or used by any criminal street gang for the purpose of conducting criminal gang activity shall constitute a public nuisance and may be abated as provided by Article 1 of Chapter 19 of the General Statutes. If the property is owned by a person who is not a member of the criminal street gang, this section shall apply only if the person has knowledge of the criminal gang activity.

"§ 14-50.24. Matters proved in criminal trial court.

A conviction of an offense defined as criminal gang activity shall preclude the defendant from contesting any factual matters determined in the criminal proceeding in any subsequent civil action or proceeding based on the same conduct."

SECTION 2. Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-34.9. Discharging a firearm from within an enclosure.

Unless covered under some other provision of law providing greater punishment, any person who willfully or wantonly discharges or attempts to discharge a firearm, as a part of a pattern of criminal gang activity, from within any building, structure, motor vehicle, or other conveyance, erection, or enclosure toward a person or persons not within that enclosure shall be punished as a Class E felon."

SECTION 3. G.S. 15A-533 reads as rewritten:

"§ 15A-533. Right to pretrial release in capital and noncapital cases.

(a) A defendant charged with any crime, whether capital or noncapital, who is alleged to have committed this crime while still residing in or subsequent to his escape or during an unauthorized absence from involuntary commitment in a mental health facility designated or licensed by the Department of Health and Human Services, and whose commitment is determined to be still valid by the judge or judicial officer authorized to determine pretrial release to be valid, has no right to pretrial release. In lieu of pretrial release, however, the individual shall be returned to the treatment facility in which he was residing at the time of the alleged crime or from which he escaped or

absented himself for continuation of his treatment pending the additional proceedings on the criminal offense.

(b) A defendant charged with a noncapital offense must have conditions of pretrial release determined, in accordance with G.S. 15A-534.

(c) A judge may determine in his discretion whether a defendant charged with a capital offense may be released before trial. If he determines release is warranted, the judge must authorize release of the defendant in accordance with G.S. 15A-534.

(d) ~~Subject to rebuttal by the person, it shall be presumed~~ There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community if a judicial official finds the following:

(1) There is reasonable cause to believe that the person committed an offense involving trafficking in a controlled substance;

(2) The drug trafficking offense was committed while the person was on pretrial release for another offense; and

(3) The person has been previously convicted of a Class A through E felony or an offense involving trafficking in a controlled substance and not more than five years has elapsed since the date of conviction or the person's release from prison for the offense, whichever is later.

(e) There shall be a rebuttable presumption that no condition of release will reasonably assure the appearance of the person as required and the safety of the community, if a judicial official finds the following:

(1) There is reasonable cause to believe that the person committed an offense for the benefit of, at the direction of, or in association with, any criminal street gang, as defined in G.S. 14-50.17;

(2) The offense described in subdivision (1) of this subsection was committed while the person was on pretrial release for another offense; and

(3) The person has been previously convicted of an offense described in G.S. 14-50.17, and not more than five years has elapsed since the date of conviction or the person's release for the offense, whichever is later.

~~Such person~~ Persons who are considered for bond under the provisions of subsections (d) and (e) of this section may only be released by a district or superior court judge upon a finding that there is a reasonable assurance that the person will appear and release does not pose an unreasonable risk of harm to the community."

SECTION 4. G.S. 15A-1340.16(d) reads as rewritten:

"(d) Aggravating Factors. – The following are aggravating factors:

(1) The defendant induced others to participate in the commission of the offense or occupied a position of leadership or dominance of other participants.

(2) The defendant joined with more than one other person in committing the offense and was not charged with committing a conspiracy.

(2a) The offense was committed for the benefit of, or at the direction of, any criminal street gang, with the specific intent to promote, further, or

1 assist in any criminal conduct by gang members, and the defendant
2 was not charged with committing a conspiracy. A "criminal street
3 gang" means any ongoing organization, association, or group of three
4 or more persons, whether formal or informal, having as one of its
5 primary activities the commission of felony or violent misdemeanor
6 offenses, or delinquent acts that would be felonies or violent
7 misdemeanors if committed by an adult, and having a common name
8 or common identifying sign, colors, or symbols.

9 (3) The offense was committed for the purpose of avoiding or preventing a
10 lawful arrest or effecting an escape from custody.

11 (4) The defendant was hired or paid to commit the offense.

12 (5) The offense was committed to disrupt or hinder the lawful exercise of
13 any governmental function or the enforcement of laws.

14 (6) The offense was committed against or proximately caused serious
15 injury to a present or former law enforcement officer, employee of the
16 Department of Correction, jailer, fireman, emergency medical
17 technician, ambulance attendant, justice or judge, clerk or assistant or
18 deputy clerk of court, magistrate, prosecutor, juror, or witness against
19 the defendant, while engaged in the performance of that person's
20 official duties or because of the exercise of that person's official duties.

21 (7) The offense was especially heinous, atrocious, or cruel.

22 (8) The defendant knowingly created a great risk of death to more than
23 one person by means of a weapon or device which would normally be
24 hazardous to the lives of more than one person.

25 (9) The defendant held public office at the time of the offense and the
26 offense related to the conduct of the office.

27 (10) The defendant was armed with or used a deadly weapon at the time of
28 the crime.

29 (11) The victim was very young, or very old, or mentally or physically
30 infirm, or handicapped.

31 (12) The defendant committed the offense while on pretrial release on
32 another charge.

33 (13) The defendant involved a person under the age of 16 in the
34 commission of the crime.

35 (14) The offense involved an attempted or actual taking of property of great
36 monetary value or damage causing great monetary loss, or the offense
37 involved an unusually large quantity of contraband.

38 (15) The defendant took advantage of a position of trust or confidence,
39 including a domestic relationship, to commit the offense.

40 (16) The offense involved the sale or delivery of a controlled substance to a
41 minor.

42 (16a) The offense is the manufacture of methamphetamine and was
43 committed where a person under the age of 18 lives, was present, or

was otherwise endangered by exposure to the drug, its ingredients, its by-products, or its waste.

(17) The offense for which the defendant stands convicted was committed against a victim because of the victim's race, color, religion, nationality, or country of origin.

(18) The defendant does not support the defendant's family.

(18a) The defendant has previously been adjudicated delinquent for an offense that would be a Class A, B1, B2, C, D, or E felony if committed by an adult.

(19) The serious injury inflicted upon the victim is permanent and debilitating.

(20) Any other aggravating factor reasonably related to the purposes of sentencing.

Evidence necessary to prove an element of the offense shall not be used to prove any factor in aggravation, and the same item of evidence shall not be used to prove more than one factor in aggravation. Evidence necessary to establish that an enhanced sentence is required under ~~G.S. 15A-1340.16~~ G.S. 15A-1340.16A, 15A-1340.16B, or 14-50.19 may not be used to prove any factor in aggravation.

The judge shall not consider as an aggravating factor the fact that the defendant exercised the right to a jury trial."

SECTION 5. Chapter 15A of the General Statutes is amended by adding a new section to read:

"§ 15A-1340.16B. Enhanced sentence if defendant is convicted of a Class A, B1, B2, C, D, or E felony that was committed for the benefit of, at the direction of, or in association with, any criminal street gang, and the defendant possessed, displayed, or discharged a firearm during the commission of the felony.

(a) Notwithstanding G.S. 15A-1340.16A, a person who is convicted of a Class A, B1, B2, C, D, or E felony that was committed for the benefit of, at the direction of, or in association with, any criminal street gang as defined in G.S. 14-50.17, and who possessed, displayed, or discharged a firearm during the commission of the felony shall be punished pursuant to one of the following subdivisions:

(1) If the person possessed a firearm during the commission of the felony, the person shall, in addition to the punishment for the underlying felony, be sentenced to a minimum term of imprisonment for 60 months.

(2) If the person displayed a firearm during the commission of the felony, the person shall, in addition to the punishment for the underlying felony, be sentenced to a minimum term of imprisonment for 84 months.

(3) If the person discharged a firearm during the commission of the felony, the person shall, in addition to the punishment for the underlying felony, be sentenced to a minimum term of imprisonment for 120 months.

(b) An indictment or information for the Class A, B1, B2, C, D, or E felony shall allege in that indictment or information or in a separate indictment or information the facts set out in subsection (a) of this section. The pleading is sufficient if it alleges that the defendant committed the felony by possessing, displaying, or discharging the firearm. One pleading is sufficient for all Class A, B1, B2, C, D, or E felonies that are tried at a single trial.

(c) The State shall prove the issues set out in subsection (a) of this section beyond a reasonable doubt during the same trial in which the defendant is tried for the felony unless the defendant pleads guilty or no contest to the issues. If the defendant pleads guilty or no contest to the felony but pleads not guilty to the issues set out in subsection (a) of this section, then a jury shall be impaneled to determine the issues.

(d) The enhanced punishment provided by this section for the acts of possessing or displaying a firearm applies even if the firearm is incapable of firing.

(e) The court shall not suspend any sentence imposed under this section and shall not place a person sentenced under this section on probation for the sentence imposed under this section. Sentences imposed pursuant to this section shall be consecutive to all other sentences imposed and shall begin at the expiration of any other sentence being served by the defendant."

SECTION 6. The Revisor of Statutes shall recodify the existing G.S. 15A-1340.16B and subsequent statutes accordingly.

SECTION 7. G.S. 15A-1340.16A(c) reads as rewritten:

"(c) If Except as provided in G.S. 15A-1340.16B, if a person is convicted of a Class A, B1, B2, C, D, or E felony and it is found as provided in this section that: (i) the person committed the felony by using, displaying, or threatening the use or display of a firearm and (ii) the person actually possessed the firearm about his or her person, then the person shall have the minimum term of imprisonment to which the person is sentenced for that felony increased by 60 months. The maximum term of imprisonment shall be the maximum term that corresponds to the minimum term after it is increased by 60 months, as specified in G.S. 15A-1340.17(e) and (e1)."

SECTION 8. ~~There is appropriated to the State Bureau of Investigation the amount of one hundred fifty thousand dollars (\$150,000) to obtain an enterprise license for purchase of software that will create a statewide criminal street gang member database. The database software shall be substantially similar to the Gang Net Program that is currently being used in Durham County.~~

SECTION 9. ~~There is appropriated to the Governor's Crime Commission, the sum of twenty million dollars (\$20,000,000) for the 2005-2006 fiscal year to be used to provide grants for street gang violence prevention and intervention programs.~~

~~The Governor's Crime Commission shall develop the criteria for eligibility for these funds. The criteria shall include a matching requirement of twenty-five percent (25%), one-half of which may be in in-kind contributions, and presentation of a written plan for the services to be provided by the funds. Funds shall be available to public and private entities or agencies for juvenile or adult programs that meet the criteria established by the Governor's Crime Commission.~~

1 The Governor's Crime Commission shall report on the uses of these funds no
2 later than April 1, 2006, to the House of Representatives Appropriations Subcommittee
3 on Justice and Public Safety, the Senate Appropriations Subcommittee on Justice and
4 Public Safety, and the Fiscal Research Division.

5 **SECTION 10.** Sections 8 and 9 of this act become effective July 1, 2005.
6 The remainder of this act becomes effective December 1, 2005, and applies to offenses
7 committed on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. 2

H. B. No. 50

DATE 8/11/05

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE _____

(to be filled in by
Principal Clerk)

Rep.)

Sen.)

Michaux

1 moves to amend the bill on page 8, line 30

2 () WHICH CHANGES THE TITLE

3 by deleting "State Bureau of Investigation"

4 and inserting "Department of Justice"

5 _____

6 and further moves to amend the bill

7 on page 8, line 36, by deleting the

8 sum twenty million dollars (\$20,000,000)

9 and inserting the sum two million dollars

10 (\$2,000,000).

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

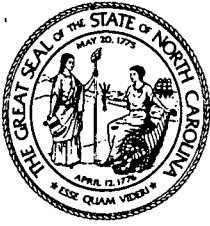
18 _____

19 _____

SIGNED

[Signature]

ADOPTED _____ FAILED _____ TABLED _____



HOUSE BILL 50: Street Gang Prevention Act.

BILL ANALYSIS

Committee: House Judiciary II
Date: March 24, 2005
Version: First Edition

Introduced by: Reps. Michaux and Frye
Summary by: Karen Cochrane Brown
Committee Co-Counsel

SUMMARY: *House Bill 50 is a recommendation of the House Select Committee on Street Gang Prevention. The bill, (i) creates a new group of criminal offenses and sentence enhancements for participation in or aiding street gang activity, (ii) provides for seizure and forfeiture of property used to commit or obtained as a result of criminal street gang activity, (iii) creates a new crime of discharging a firearm from within an enclosure, (iv) creates a rebuttable presumption against granting pretrial release to a person charged with a street gang related offense, (v) provides that evidence used to prove an enhancement to a sentence for assisting street gang activity can not be used to prove an aggravating factor under structured sentencing, (vi) provides for enhanced sentences when the defendant commits a serious felony which benefits a street gang and possesses, displays, or discharges a firearm, (vii) appropriates \$150,000 to the SBI to purchase software to establish a statewide street gang member database, and (viii) appropriates \$20 million to the Governor's Crime Commission to provide grants for street gang prevention and intervention programs.*

BILL ANALYSIS:

Section 1 of the bill creates a new Article 13A of Chapter 14 of the General Statutes (Criminal Law) entitled the "North Carolina Street Gang Prevention Act". The new article contains the following provisions:

G.S. 14-50.16 – sets out legislative findings and intent concerning the problem of street gang activity.

G.S. 14-50.17 – defines the term "criminal street gang" as "any ongoing organization, association, or group of three or more persons, whether formal or informal, which engages in a pattern of criminal gang activity." The term "pattern of criminal gang activity" means "the commission, attempted commission, conspiracy to commit, or solicitation, coercion, or intimidation of another person to commit at least two of the following offenses". The listed offenses are any violation of the Controlled Substances Act and any violation of the Criminal Law except for certain specified crimes. At least one of the offenses must have occurred after December 1, 2005, and the last offense must have occurred within three years of prior gang activity.

G.S. 14-50.18 – prohibits participation in criminal street gang activity by creating the following offenses:

- Makes it a Class E felony to participate in a criminal street gang through a pattern of criminal gang activity or to acquire or maintain property through a pattern of criminal gang activity.
- Adds a 10-year penalty enhancement to a person's conviction if the person occupies a position of organizer, supervisor or manager of criminal gang activity or if the person conspires to engage in a pattern of criminal gang activity.
- Makes it a Class G felony to solicit or coerce another to participate in a criminal street gang, to communicate a threat of injury to a person or relative or associate of a person, or to threaten to

HOUSE BILL 50

Page 2

damage property with the intent to deter a person from withdrawing from a criminal street gang or to punish a person for having withdrawn from a criminal street gang.

G.S. 14-50.19 - provides that a person convicted of an offense that was committed to benefit a criminal street gang is guilty of an offense that is one class higher than the offense committed. This does not apply to offenses under G.S. 14-50.18.

G.S. 14-50.20 – requires that the judge determine whether an offense was committed for the benefit of a criminal street gang and to reflect the determination on the judgment so that it becomes part of the official record of the conviction.

G.S. 14-50.21 – declares property used to violate this act or derived from a violation of this act to be contraband, subject to seizure and forfeiture. The District Attorney or the Attorney General must initiate a forfeiture proceeding within 60 days of the seizure of the property.

G.S. 14-50.22 – provides that local ordinances related to gangs and gang violence are not preempted by this act.

G.S. 14-50.23 – declares real property used by criminal street gangs to be a public nuisance subject to abatement under Art. 1 of Chap. 19 of the General Statutes. If the owner is not a member of the street gang, this section only applies if the owner had knowledge of the criminal gang activity.

G.S. 14-50.24 – provides that a person convicted of a criminal street gang offense may not contest any facts determined in the criminal case in any subsequent civil case based on the same conduct.

Section 2 of the bill makes it a Class E felony to willfully discharge or attempt to discharge a firearm from within any kind of enclosure towards persons not within the enclosure.

Section 3 of the bill amends the law related to pretrial release of defendants to create a rebuttable presumption against allowing pretrial release if there is reasonable cause to believe that the person committed the offense in connection with criminal street gang activity, while on pretrial release for another offense and if the person had been convicted of a gang related offense within five years.

Section 4 of the bill amends the Structured Sentencing law to provide that evidence used to prove a case under G.S. 14-50.19 may not be used to prove an aggravating factor.

Section 5 authorizes enhanced sentences if the defendant is convicted of a serious felony that was committed for the benefit of gang activity and either possessed, displayed, or discharged a firearm. The enhancement for possession is an additional 60 months, for displaying, an additional 84 months and for discharging, an additional 120 months. This section applies even if the gun is incapable of firing. Also, the court cannot suspend a sentence imposed under this section.

Sections 6 and 7 are technical and conforming changes.

HOUSE BILL 50

Page 3

Section 8 appropriates \$150,000 to the State Bureau of Investigation to purchase software to create a statewide criminal street gang member database, which is substantially similar to the Gang Net Program currently being used in Durham County.

Section 9 appropriates \$20 million to the Governor's Crime Commission to provide grants for street gang violence prevention and intervention programs. The grants shall include a 25% matching requirement. The Governor's Crime Commission is directed to report to the Appropriations Subcommittees on Justice and Public Safety and the Fiscal Research Division on the uses of the funds by April 1, 2006.

Section 10 makes the two appropriations effective July 1, 2005 and the remainder of the act effective December 1, 2005, at which time it will only be applicable to offenses committed on or after that date.

INSTITUTE OF GOVERNMENT'S ANALYSIS OF THE PCS CHANGES TO THE
ORIGINAL BILL:

March 29, 2005

H 50. STREET GANG PREVENTION ACT. Intro. 2/3/05. House committee substitute makes the following changes to 1st edition. Modifies proposed new GS 14-34.9 to clarify that section prohibits the discharge of or attempt to discharge a firearm as a part of a pattern of criminal gang activity and to make technical changes.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ House Committee Substitute for

SB 223 A BILL TO BE ENTITLED AN ACT TO RESTORE PUBLIC CONFIDENCE IN THE ELECTION PROCESS BY REQUIRING THAT THE STATE BOARD OF ELECTIONS, THROUGH THE DEVELOPMENT OF A REQUEST FOR PROPOSAL, ENSURE THAT ALL VOTING SYSTEMS GENERATE EITHER A PAPER BALLOT OR A PAPER RECORD BY WHICH VOTERS MAY VERIFY THEIR VOTES BEFORE CASTING THEM AND WHICH PROVIDES A BACKUP MEANS OF COUNTING THE VOTE THAT THE VOTER CASTS; BY PROVIDING STATUTORY GUIDANCE AS TO COUNTING; BY STANDARDIZING PURCHASING OF VOTING SYSTEMS IN NORTH CAROLINA, INCLUDING A REVIEW OF SOURCE CODE FOR SOFTWARE RELATED TO THOSE VOTING SYSTEMS AND AUTHORIZATION TO ESTABLISH THE ROLE OF THE STATE BOARD OF ELECTIONS AND COUNTY BOARD OF ELECTIONS RELATED TO TRAINING AND SUPPORT OF VOTING SYSTEMS; BY REQUIRING POSTELECTION TESTING OF VOTING SYSTEMS, INCLUDING A PAPER SAMPLE-COUNT; BY EXPANDING THE RIGHT TO A HAND-TO-EYE RECOUNT OF PAPER BALLOTS; AND BY PERMITTING A PILOT PROGRAM TO EXPERIMENT WITH NONPAPER MEANS OF VOTER VERIFICATION AND BALLOT BACKUP.

☒ With a favorable report as amended.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on _____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 223
Judiciary I Committee Substitute Adopted 7/26/05
Appropriations/Base Budget Committee Substitute Adopted 7/27/05
House Committee Substitute Favorable 8/10/05

Short Title: Public Confidence in Elections.

(Public)

Sponsors:

Referred to:

February 28, 2005

A BILL TO BE ENTITLED

AN ACT TO RESTORE PUBLIC CONFIDENCE IN THE ELECTION PROCESS BY
REQUIRING THAT THE STATE BOARD OF ELECTIONS, THROUGH THE
DEVELOPMENT OF A REQUEST FOR PROPOSAL, ENSURE THAT ALL
VOTING SYSTEMS GENERATE EITHER A PAPER BALLOT OR A PAPER
RECORD BY WHICH VOTERS MAY VERIFY THEIR VOTES BEFORE
CASTING THEM AND WHICH PROVIDES A BACKUP MEANS OF
COUNTING THE VOTE THAT THE VOTER CASTS; BY PROVIDING
STATUTORY GUIDANCE AS TO COUNTING; BY STANDARDIZING
PURCHASING OF VOTING SYSTEMS IN NORTH CAROLINA, INCLUDING
A REVIEW OF SOURCE CODE FOR SOFTWARE RELATED TO THOSE
VOTING SYSTEMS AND AUTHORIZATION TO ESTABLISH THE ROLE OF
THE STATE BOARD OF ELECTIONS AND COUNTY BOARD OF
ELECTIONS RELATED TO TRAINING AND SUPPORT OF VOTING
SYSTEMS; BY REQUIRING POSTELECTION TESTING OF VOTING
SYSTEMS, INCLUDING A PAPER SAMPLE-COUNT; BY EXPANDING THE
RIGHT TO A HAND-TO-EYE RECOUNT OF PAPER BALLOTS; AND BY
PERMITTING A PILOT PROGRAM TO EXPERIMENT WITH NONPAPER
MEANS OF VOTER VERIFICATION AND BALLOT BACKUP.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Effective August 1, 2005, and applicable to any voting
systems upgraded or acquired on or after that date and to all voting systems used in the
State during any election during or after 2006, G.S. 163-165.7 reads as rewritten:

"§ 163-165.7. Voting systems: powers and duties of State Board of Elections.

(a) ~~The State Board of Elections shall have authority to approve types, makes,~~
~~and models of voting systems for use in elections and referenda held in this State. Only~~
~~voting systems that have been approved by the State Board shall be used to conduct~~

1 ~~elections under this Chapter, and the approved systems shall be valid in any election or~~
2 ~~referendum held in any county or municipality. The State Board may, upon request of a~~
3 ~~local board of elections, authorize the use of a voting system not approved for general~~
4 ~~use. Only voting systems that have been certified by the State Board of Elections in~~
5 ~~accordance with the procedures and subject to the standards set forth in this section and~~
6 ~~that have not been subsequently decertified shall be permitted for use in elections in this~~
7 ~~State. Those certified voting systems shall be valid in any election held in the State or in~~
8 ~~any county, municipality, or other electoral district in the State. Subject to all other~~
9 ~~applicable rules adopted by the State Board of Elections and, with respect to federal~~
10 ~~elections, subject to all applicable federal regulations governing voting systems, paper~~
11 ~~ballots marked by the voter and counted by hand shall be deemed a certified voting~~
12 ~~system. The State Board of Elections shall certify optical scan voting systems, optical~~
13 ~~scan with ballot markers voting systems, and direct record electronic voting systems if~~
14 ~~any of those systems meet all applicable requirements of federal and State law. The~~
15 ~~State Board may certify additional voting systems only if they meet the requirements of~~
16 ~~the request for proposal process set forth in this section and only if they generate either~~
17 ~~a paper ballot or a paper record by which voters may verify their votes before casting~~
18 ~~them and which provides a backup means of counting the vote that the voter casts.~~
19 ~~Those voting systems may include optical scan and direct record electronic (DRE)~~
20 ~~voting systems. In consultation with the Office of Information Technology Services, the~~
21 ~~State Board shall develop the requests for proposal subject to the provisions of this~~
22 ~~Chapter and other applicable State laws. Among other requirements, the request for~~
23 ~~proposal shall require at least all of the following elements:~~

- 24 (1) That the vendor post a bond or letter of credit to cover damages
25 resulting from defects in the voting system. Damages shall include,
26 among other items, any costs of conducting a new election attributable
27 to those defects.
- 28 (2) That the voting system comply with all federal requirements for voting
29 systems.
- 30 (3) That the voting system must have the capacity to include in precinct
31 returns the votes cast by voters outside of the voter's precinct as
32 required by G.S. 163-132.5G.
- 33 (4) With respect to electronic voting systems, that the voting system
34 generate a paper record of each individual vote cast, which paper
35 record shall be maintained in a secure fashion and shall serve as a
36 backup record for purposes of any hand-to-eye count, hand-to-eye
37 recount, or other audit. Electronic systems that employ optical scan
38 technology to count paper ballots shall be deemed to satisfy this
39 requirement.
- 40 (5) With respect to DRE voting systems, that the paper record generated
41 by the system be viewable by the voter before the vote is cast
42 electronically, and that the system permit the voter to correct any
43 discrepancy between the electronic vote and the paper record before
44 the vote is cast.

- 1 (6) With respect to all voting systems using electronic means, that the
2 vendor provide access to all of any information required to be placed
3 in escrow by a vendor pursuant to G.S. 163-165.9A for review and
4 examination by the State Board of Elections; the Office of Information
5 Technology Services; the State chairs of each political party
6 recognized under G.S. 163-96; the purchasing county; and designees
7 as provided in subdivision (9) of subsection (d) of this section.
8 (7) That the vendor must quote a statewide uniform price for each unit of
9 the equipment.
10 (8) That the vendor must separately agree with the purchasing county that
11 if it is granted a contract to provide software for an electronic voting
12 system but fails to debug, modify, repair, or update the software as
13 agreed or in the event of the vendor having bankruptcy filed for or
14 against it, the source code described in G.S. 163-165.9A(a) shall be
15 turned over to the purchasing county by the escrow agent chosen under
16 G.S. 163-165.9A(a)(1) for the purposes of continuing use of the
17 software for the period of the contract and for permitting access to the
18 persons described in subdivision (6) of this subsection for the purpose
19 of reviewing the source code.

20 In its request for proposal, the State Board of Elections shall address the mandatory
21 terms of the contract for the purchase of the voting system and the maintenance and
22 training related to that voting system.

23 No voting system acquired or upgraded by a county before August 1, 2005, shall be
24 used in an election during or after 2006 unless the county can demonstrate to the State
25 Board of Elections compliance with the requirements in subdivisions (1) through (8) of
26 this subsection, where those requirements are applicable to the type of voting system
27 involved.

28 (b) The State Board may also, upon notice and hearing, disapprove-decertify
29 types, makes, and models of voting systems. Upon disapproving-decertifying a type,
30 make, or model of voting system, the State Board shall determine the process by which
31 the disapproved-decertified system is discontinued in any county. If a county makes a
32 showing that discontinuance would impose a financial hardship upon it, the county shall
33 be given up to four years from the time of State Board disapproval to replace the
34 system. A county may appeal a decision by the State Board concerning discontinuance
35 of a voting system the process by which the decertified system is discontinued in that
36 county to the superior court in that county or to the Superior Court of Wake County.
37 The county has 30 days from the time it receives notice of the State Board's decision on
38 discontinuance the process by which the decertified system is discontinued in that
39 county to make that appeal.

40 (c) Prior to certifying a voting system, the State Board of Elections shall review,
41 or designate an independent expert to review, all source code made available by the
42 vendor pursuant to this section and certify only those voting systems compliant with
43 State and federal law. At a minimum, the State Board's review shall include a review of
44 security, application vulnerability, application code, wireless security, security policy

1 and processes, security/privacy program management, technology infrastructure and
2 security controls, security organization and governance, and operational effectiveness,
3 as applicable to that voting system. Any portion of the report containing specific
4 information related to any trade secret as designated pursuant to G.S. 132-1.2 shall be
5 confidential and shall be accessed only under the rules adopted pursuant to subdivision
6 (9) of subsection (d) of this section. The State Board may hear and discuss the report of
7 any such review under G.S. 143-318.11(a)(1).

8 (d) Subject to the provisions of this Chapter, the State Board of Elections shall
9 prescribe rules for the adoption, handling, operation, and honest use of certified voting
10 systems, ~~including, but not limited to,~~ including all of the following:

11 (1) Procedures for county boards of elections to utilize when
12 recommending the purchase of a Types, makes, and models of
13 certified voting systems approved system for use in this Statethat
14 county.

15 (2) Form of official ballot labels to be used on voting systems.

16 (3) Operation and manner of voting on voting systems.

17 (4) Instruction of precinct officials in the use of voting systems.

18 (5) Instruction of voters in the use of voting systems.

19 (6) Assistance to voters using voting systems.

20 (7) Duties of custodians of voting systems.

21 (8) Examination and testing of voting systems in a public forum in the
22 county before and after use in an election.

23 (9) Notwithstanding G.S. 132-1.2, procedures for the review and
24 examination of any information placed in escrow by a vendor pursuant
25 to G.S. 163-165.9A by only the following persons:

26 a. State Board of Elections.

27 b. Office of Information Technology Services.

28 c. The State chairs of each political party recognized under
29 G.S. 163-96.

30 d. The purchasing county.

31 Each person listed in sub-subdivisions a. through d. of this subdivision
32 may designate up to three persons as that person's agents to review and
33 examine the information. No person shall designate under this
34 subdivision a business competitor of the vendor whose proprietary
35 information is being reviewed and examined. For purposes of this
36 review and examination, any designees under this subdivision and the
37 State party chairs shall be treated as public officials under G.S. 132-2.

38 (10) With respect to electronic voting systems, procedures to maintain the
39 integrity of both the electronic vote count and the paper record. Those
40 procedures shall at a minimum include procedures to protect against
41 the alteration of the paper record after a machine vote has been
42 recorded and procedures to prevent removal by the voter from the
43 voting enclosure of any paper record or copy of an individually voted
44 ballot or of any other device or item whose removal from the voting

1 enclosure could permit compromise of the integrity of either the
2 machine count or the paper record.

3 Any rules adopted under this subsection shall be in conjunction with procedures and
4 standards adopted under G.S. 163-182.1, are exempt from Chapter 150B of the General
5 Statutes, and are subject to the same procedures for notice and publication set forth in
6 G.S. 163-182.1.

7 (e) The State Board of Elections shall facilitate training and support of the voting
8 systems utilized by the counties."

9 **SECTION 1.(a1)** G.S. 163-166.7(c) reads as rewritten:

10 "(c) The State Board of Elections shall promulgate rules for the process of voting.
11 Those rules shall emphasize the appearance as well as the reality of dignity, good order,
12 impartiality, and the convenience and privacy of the voter. Those rules, at a minimum,
13 shall include procedures to ensure that all the following occur:

- 14 (1) The voting system remains secure throughout the period voting is
15 being conducted.
- 16 (2) Only properly voted official ballots or paper records of individual
17 voted ballots are introduced into the voting system.
- 18 (3) Except as provided by G.S. 163-166.9, no official ballots leave the
19 voting enclosure during the time voting is being conducted there. The
20 rules shall also provide that during that time no one shall remove from
21 the voting enclosure any paper record or copy of an individually voted
22 ballot or of any other device or item whose removal from the voting
23 enclosure could permit compromise of the integrity of either the
24 machine count or the paper record.
- 25 (4) All improperly voted official ballots or paper records of individual
26 voted ballots are returned to the precinct officials and marked as
27 spoiled.
- 28 (5) Voters leave the voting place promptly after voting.
- 29 (6) Voters not clearly eligible to vote in the precinct but who seek to vote
30 there are given proper assistance in voting a provisional official ballot
31 or guidance to another voting place where they are eligible to vote.
- 32 (7) Information gleaned through the voting process that would be helpful
33 to the accurate maintenance of the voter registration records is
34 recorded and delivered to the county board of elections.
- 35 (8) The registration records are kept secure.
- 36 (9) Party observers are given access as provided by G.S. 163-45 to current
37 information about which voters have voted.
- 38 (10) The voter, before voting, shall sign that voter's name on the pollbook,
39 other voting record, or voter authorization document. If the voter is
40 unable to sign, a precinct official shall enter the person's name on the
41 same document before the voter votes."

42 **SECTION 1.(b)** Section 11 of S.L. 2003-226, which would have made
43 amendment to G.S. 163-165.7 effective January 1, 2006, is repealed.

1 **SECTION 1.(c)** In order to carry forward the first of two amendments that
2 would have been made by Section 11 of S.L. 2003-226 to the old version of
3 G.S. 163-165.7, effective January 1, 2006, G.S. 163-165.7, as rewritten by subsection
4 (a) of this section, is amended by adding the following new subsection:

5 "(a1) Federal Assistance. – The State Board may use guidelines, information,
6 testing reports, certification, decertification, recertification, and any relevant data
7 produced by the Election Assistance Commission, its Standards Board, its Board of
8 Advisors, or the Technical Guidelines Development Committee as established in Title II
9 of the Help America Vote Act of 2002 with regard to any action or investigation the
10 State Board may take concerning a voting system. The State Board may use, for the
11 purposes of voting system certification, laboratories accredited by the Election
12 Assistance Commission under the provisions of section 231(2) of the Help America
13 Vote Act of 2002."

14 **SECTION 1.(d)** In order to carry forward the second of two amendments
15 that would have been made by Section 11 of S.L. 2003-226 to the old version of
16 G.S. 163-165.7, effective January 1, 2006, G.S. 163-165.7(d), as rewritten by subsection
17 (a) of this section, is amended by adding the following new subdivision:

18 "(11) Compliance with section 301 of the Help America Vote Act of 2002."

19 **SECTION 1.(e)** G.S. 163-132.5G reads as rewritten:

20 **"§ 163-132.5G. Voting data maintained by precinct.**

21 To the extent that it can do so without compromising the secrecy of an individual's
22 ballot, each county board of elections shall maintain voting data by precinct so that
23 precinct returns for each item on the ballot shall include the votes cast by residents of
24 the precinct who voted by provisional ballot and by absentee ballot, both mail and
25 one-stop. The county board shall not be required to report provisional and absentee
26 voting data by precinct until 60 days after the election. The State Board of Elections
27 shall adopt rules for the enforcement of this section with the goal that all voting data
28 shall be reported by precinct by the 2006 election. ~~Those rules shall provide for~~
29 ~~exemptions where the expense of compliance would place a financial hardship on a~~
30 ~~county. Those rules shall provide for compliance by 2004 for counties the State Board~~
31 ~~determines are capable of complying by that year."~~

32 **SECTION 1.(f)** G.S. 163-165.1(e) reads as rewritten:

33 "(e) Voted ballots and paper records of individual voted ballots shall be treated as
34 confidential, and no person other than elections officials performing their duties may
35 have access to voted ballots or paper records of individual voted ballots except by court
36 order or order of the appropriate board of elections as part of the resolution of an
37 election protest or investigation of an alleged election irregularity or violation. Voted
38 ballots and paper records of individual voted ballots shall not be disclosed to members
39 of the public in such a way as to disclose how a particular voter voted, unless a court
40 orders otherwise."

41 **SECTION 2.(a)** Part 2 of Article 14A of Chapter 163 of the General Statutes
42 is amended by adding a new section to read:

43 **"§ 163-165.9A. Voting systems: requirements for voting systems vendors; penalties.**

1 (a) Duties of Vendor. – Every vendor that has a contract to provide a voting
2 system in North Carolina shall do all of the following:

3 (1) The vendor shall place in escrow with an independent escrow agent
4 approved by the State Board of Elections all software that is relevant
5 to functionality, setup, configuration, and operation of the voting
6 system, including, but not limited to, a complete copy of the source
7 and executable code, build scripts, object libraries, application
8 program interfaces, and complete documentation of all aspects of the
9 system including, but not limited to, compiling instructions, design
10 documentation, technical documentation, user documentation,
11 hardware and software specifications, drawings, records, and data. The
12 State Board of Elections may require in its request for proposal that
13 additional items be escrowed, and if any vendor that agrees in a
14 contract to escrow additional items, those items shall be subject to the
15 provisions of this section. The documentation shall include a list of
16 programmers responsible for creating the software and a sworn
17 affidavit that the source code includes all relevant program statements
18 in low-level and high-level languages.

19 (2) The vendor shall notify the State Board of Elections of any change in
20 any item required to be escrowed by subdivision (1) of this subsection.

21 (3) The chief executive officer of the vendor shall sign a sworn affidavit
22 that the source code and other material in escrow is the same being
23 used in its voting systems in this State. The chief executive officer
24 shall ensure that the statement is true on a continuing basis.

25 (4) The vendor shall promptly notify the State Board of Elections and the
26 county board of elections of any county using its voting system of any
27 decertification of the same system in any state, of any defect in the
28 same system known to have occurred anywhere, and of any relevant
29 defect known to have occurred in similar systems.

30 (5) The vendor shall maintain an office in North Carolina with staff to
31 service the contract.

32 (b) Penalties. – Willful violation of any of the duties in subsection (a) of this
33 section is a Class G felony. Substitution of source code into an operating voting system
34 without notification as provided by subdivision (a)(2) of this section is a Class I felony.
35 In addition to any other applicable penalties, violations of this section are subject to a
36 civil penalty to be assessed by the State Board of Elections in its discretion in an amount
37 of up to one hundred thousand dollars (\$100,000) per violation. A civil penalty assessed
38 under this section shall be subject to the provisions of G.S. 163-278.34(e)."

39 **SECTION 2.(b)** This section applies with respect to purchase or upgrade of
40 any voting system on or after August 1, 2005.

41 **SECTION 3.** Effective August 1, 2005, G.S. 163-165.8 reads as rewritten:

42 "**§ 163-165.8. Voting systems: powers and duties of board of county**
43 **commissioners.**

1 The board of county commissioners, with the approval of the county board of
2 elections, may adopt and ~~purchase or lease~~ acquire only a voting system of a type,
3 make, and model ~~approved~~ certified by the State Board of Elections for use in some or
4 all voting places in the county at some or all elections.

5 The board of county commissioners may decline to adopt and ~~purchase or lease~~
6 acquire any voting system recommended by the county board of elections but may not
7 adopt and ~~purchase or lease~~ acquire any voting system that has not been approved by
8 the county board of elections. Article 8 of Chapter 143 of the General Statutes does not
9 apply to the purchase of a voting system certified by the State Board of Elections."

10 **SECTION 4.** Effective August 1, 2005, G.S. 163-165.9 reads as rewritten:

11 **"§ 163-165.9. Voting systems: powers and duties of county board of elections.**

12 (a) Before approving the adoption and ~~purchase or lease~~ acquisition of any
13 voting system by the board of county commissioners, the county board of elections shall
14 do all of the following:

15 (1) ~~Obtain a current financial statement from the proposed vendor or~~
16 ~~lessor of the voting system and send copies of the statement to the~~
17 ~~county attorney and the chief county financial officer.~~ Recommend to
18 the board of county commissioners which type of voting system
19 should be acquired by the county.

20 (2) Witness a demonstration, in that county or at a site designated by the
21 State Board of Elections, of the type of voting system to be
22 recommended by the proposed vendor or lessor and also witness a
23 demonstration of at least one other type of voting system ~~approved~~
24 certified by the State Board of Elections.

25 (3) Test, during an election, the proposed voting system in at least one
26 precinct in the county where the voting system would be used if
27 adopted.

28 (b) After the acquisition of any voting system, the county board of elections shall
29 comply with any requirements of the State Board of Elections regarding training and
30 support of the voting system."

31 **SECTION 5.(a)** G.S. 163-182.1(b) reads as rewritten:

32 "(b) Procedures and Standards. – The State Board of Elections shall adopt uniform
33 and nondiscriminatory procedures and standards for voting systems. The standards shall
34 define what constitutes a vote and what will be counted as a vote for each category of
35 voting system used in the State. The State Board shall adopt those procedures and
36 standards at a meeting occurring not earlier than 15 days after the State Board gives
37 notice of the meeting. The procedures and standards adopted shall apply to all elections
38 occurring in the State and shall be subject to amendment or repeal by the State Board
39 acting at any meeting where notice that the action has been proposed has been given at
40 least 15 days before the meeting. These procedures and standards shall not be
41 considered to be rules subject to Article 2A of Chapter 150B of the General Statutes.
42 However, the State Board shall publish in the North Carolina Register the procedures
43 and standards and any changes to them after adoption, with that publication noted as
44 information helpful to the public under G.S. 150B-21.17(a)(6). Copies of those

procedures and standards shall be made available to the public upon request or otherwise by the State Board. For optical scan and direct record electronic voting systems, and for any other voting systems in which ballots are counted other than on paper by hand and eye, those procedures and standards shall do both of the following:

(1) Provide for a sample hand-to-eye count of the paper ballots or paper records of a statewide ballot item in every county. The presidential ballot item shall be the subject of the sampling in a presidential election. If there is no statewide ballot item, the State Board shall provide a process for selecting district or local ballot items to adequately sample the electorate. The sample chosen by the State Board shall be of full precincts, full counts of absentee ballots, and full counts of one-stop early voting sites. The size of the sample of each category shall be chosen to produce a statistically significant result and shall be chosen after consultation with a statistician. The actual units shall be chosen at random. In the event of a material discrepancy between the electronic or mechanical count and a hand-to-eye count, the hand-to-eye count shall control, except where paper ballots or records have been lost or destroyed or where there is another reasonable basis to conclude that the hand-to-eye count is not the true count. If the discrepancy between the hand-to-eye count and the mechanical or electronic count is significant, a complete hand-to-eye count shall be conducted.

(2) ~~provide~~ Provide that if the voter selects votes for more than the number of candidates to be elected or proposals to be approved in a ballot item, the voting system shall do all the following:

- (1)a. Notify the voter that the voter has selected more than the correct number of candidates or proposals in the ballot item.
- (2)b. Notify the voter before the vote is accepted and counted of the effect of casting overvotes in the ballot item.
- (3)c. Provide the voter with the opportunity to correct the official ballot before it is accepted and counted."

SECTION 5.(b) G.S. 163-182.2 reads as rewritten:

"§ 163-182.2. Initial counting of official ballots.

(a) The initial counting of official ballots shall be conducted according to the following principles:

- (1) Vote counting at the precinct shall occur immediately after the polls close and shall be continuous until completed.
- (2) Vote counting at the precinct shall be conducted with the participation of precinct officials of all political parties then present. Vote counting at the county board of elections shall be conducted in the presence or under the supervision of board members of all political parties then present.
- (3) Any member of the public wishing to witness the vote count at any level shall be allowed to do so. No witness shall interfere with the

1 orderly counting of the official ballots. Witnesses shall not participate
2 in the official counting of official ballots.

- 3 (4) Provisional official ballots shall be counted by the county board of
4 elections before the canvass. If the county board finds that an
5 individual voting a provisional official ballot is not eligible to vote in
6 one or more ballot items on the official ballot, the board shall not
7 count the official ballot in those ballot items, but shall count the
8 official ballot in any ballot items for which the individual is eligible to
9 vote.

- 10 (5) Precinct officials shall provide a preliminary report of the vote
11 counting to the county board of elections as quickly as possible. The
12 preliminary report shall be unofficial and has no binding effect upon
13 the official county canvass to follow.

- 14 (6) In counties that use any certified mechanical or electronic voting
15 system, subject to the sample counts under G.S. 163-182.1 and
16 subdivision (1a) of subsection (b) of this section, and of a hand-to-eye
17 recount under G.S. 163-182.7 and G.S. 163-182.7A, a board of
18 elections shall rely in its canvass on the mechanical or electronic count
19 of the vote rather than the full hand-to-eye count of the paper ballots or
20 records. In the event of a material discrepancy between the electronic
21 or mechanical count and a hand-to-eye count or recount, the
22 hand-to-eye count or recount shall control, except where paper ballots
23 or records have been lost or destroyed or where there is another
24 reasonable basis to conclude that the hand-to-eye count is not the true
25 count.

26 (b) The State Board of Elections shall promulgate rules for the initial counting of
27 official ballots. All election officials shall be governed by those rules. In promulgating
28 those rules, the State Board shall adhere to the following guidelines:

- 29 (1) For each voting system used, the rules shall specify the role of precinct
30 officials and of the county board of elections in the initial counting of
31 official ballots.

- 32 (1a) For optical scan and direct record electronic voting systems, and for
33 any other voting systems in which ballots are counted other than on
34 paper by hand and eye, those rules shall provide for a sample
35 hand-to-eye count of the paper ballots or paper records of a sampling
36 of a statewide ballot item in every county. The presidential ballot item
37 shall be the subject of the sampling in a presidential election. If there is
38 no statewide ballot item, the State Board shall provide a process for
39 selecting district or local ballot items to adequately sample the
40 electorate. The sample chosen by the State Board shall be of full
41 precincts, full counts of absentee ballots, and full counts of one-stop
42 early voting sites. The size of the sample of each category shall be
43 chosen to produce a statistically significant result and shall be chosen
44 after consultation with a statistician. The actual units shall be chosen at

1 random. In the event of a material discrepancy between the electronic
2 or mechanical count and a hand-to-eye count, the hand-to-eye count
3 shall control, except where paper ballots or records have been lost or
4 destroyed or where there is another reasonable basis to conclude that
5 the hand-to-eye count is not the true count. If the discrepancy between
6 the hand-to-eye count and the mechanical or electronic count is
7 significant, a complete hand-to-eye count shall be conducted.

8 (2) The rules shall provide for accurate unofficial reporting of the results
9 from the precinct to the county board of elections with reasonable
10 speed on the night of the election.

11 (3) The rules shall provide for the prompt and secure transmission of
12 official ballots from the voting place to the county board of elections.

13 The State Board shall direct the county boards of elections in the application of the
14 principles and rules in individual circumstances."

15 **SECTION 5.(c)** G.S. 163-182.5 reads as rewritten:

16 **"§ 163-182.5. Canvassing votes.**

17 (a) The Canvass. – As used in this Article, the term "canvass" means the entire
18 process of determining that the votes have been counted and tabulated correctly,
19 culminating in the authentication of the official election results. The board of elections
20 conducting a canvass has authority to send for papers and persons and to examine them
21 and pass upon the legality of disputed ballots.

22 (b) Canvassing by County Board of Elections. – The county board of elections
23 shall meet at 11:00 A.M. on the seventh day after every election to complete the canvass
24 of votes cast and to authenticate the count in every ballot item in the county by
25 determining that the votes have been counted and tabulated correctly. If, despite due
26 diligence by election officials, the initial counting of all the votes has not been
27 completed by that time, the county board may hold the canvass meeting a reasonable
28 time thereafter. The canvass meeting shall be at the county board of elections office,
29 unless the county board, by unanimous vote of all its members, designates another site
30 within the county. The county board shall examine the returns from precincts, from
31 absentee official ballots, from the sample hand-to-eye paper ballot counts, and from
32 provisional official ballots and shall conduct the canvass.

33 (c) Canvassing by State Board of Elections. – After each general election, the
34 State Board of Elections shall meet at 11:00 A.M. on the Tuesday three weeks after
35 election day to complete the canvass of votes cast in all ballot items within the
36 jurisdiction of the State Board of Elections and to authenticate the count in every ballot
37 item in the county by determining that the votes have been counted and tabulated
38 correctly. After each primary, the State Board shall fix the date of its canvass meeting.
39 If, by the time of its scheduled canvass meeting, the State Board has not received the
40 county canvasses, the State Board may adjourn for not more than 10 days to secure the
41 missing abstracts. In obtaining them, the State Board is authorized to secure the
42 originals or copies from the appropriate clerks of superior court or county boards of
43 elections, at the expense of the counties."

44 **SECTION 5.(d)** This section becomes effective January 1, 2006.

SECTION 6.(a) G.S. 163-182.7 reads as rewritten:

"§ 163-182.7. Ordering recounts.

(a) Discretionary Recounts. – The county board of elections or the State Board of Elections may order a recount when necessary to complete the canvass in an election. The county board may not order a recount where the State Board of Elections has already denied a recount to the petitioner.

(b) Mandatory Recounts for Ballot Items Within the Jurisdiction of the County Board of Elections. -- In a ballot item within the jurisdiction of the county board of elections, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate is not more than one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item not more than one percent (1%) of the votes cast for those two candidates. The demand for a recount must be made in writing and must be received by the county board of elections by 5:00 P.M. on the first day after the canvass. The recount shall be conducted under the supervision of the county board of elections.

(c) Mandatory Recounts for Ballot Items Within the Jurisdiction of the State Board of Elections. – In a ballot item within the jurisdiction of the State Board of Elections, a candidate shall have the right to demand a recount of the votes if the difference between the votes for that candidate and the votes for a prevailing candidate are not more than the following:

(1) For a nonstatewide ballot item, one percent (1%) of the total votes cast in the ballot item, or in the case of a multiseat ballot item, one percent (1%) of the votes cast for those two candidates.

(2) For a statewide ballot item, one-half of one percent (0.5%) of the votes cast in the ballot item, ~~or in the case of a multiseat ballot item, one-half of one percent (0.5%) of the votes cast for those two candidates, or~~ 10,000 votes, whichever is less.

The demand for a recount must be in writing and must be received by the State Board of Elections by noon on the second Thursday after the election. If on that Thursday the available returns show a candidate not entitled to a mandatory recount, but the Executive Director determines subsequently that the margin is within the threshold set out in this subsection, the Executive Director shall notify the eligible candidate immediately and that candidate shall be entitled to a recount if that candidate so demands within 48 hours of notice. The recount shall be conducted under the supervision of the State Board of Elections.

(d) Rules for Conducting Recounts. – The State Board of Elections shall promulgate rules for conducting recounts. Those rules shall be subject to the following guidelines:

(1) The rules shall specify, with respect to each type of voting system, when and to what extent the recount shall consist of machine recounts and hand-to-eye recounts. Hand-to-eye recounts shall also be ordered as provided by G.S. 163-182.7A.

(2) The rules shall provide guidance in interpretation of the voter's choice.

(3) The rules shall specify how the goals of multipartisan participation, opportunity for public observation, and good order shall be balanced."

SECTION 6.(b) Article 15A of Chapter 163 of the General Statutes is amended by adding a new section to read:

"§ 163-182.7A. Additional provisions for hand-to-eye recounts.

(a) The rules promulgated by the State Board of Elections for recounts shall provide that if the initial recount is not hand-to-eye, and if the recount does not reverse the results, the candidate who had originally been entitled to a recount may, within 24 hours of the completion of the first recount, demand a second recount on a hand-to-eye basis in a sample of precincts. If the initial recount was not hand-to-eye and it reversed the results, the candidate who had initially been the winner shall have the same right to ask for a hand-to-eye recount in a sample of precincts.

That sample shall be all the ballots in three percent (3%) of the precincts casting ballots in each county in the jurisdiction of the office, rounded up to the next whole number of precincts. For the purpose of that calculation, each one-stop (early) voting site shall be considered to be a precinct. The precincts to be recounted by a hand-to-eye count shall be chosen at random within each county. If the results of the hand-to-eye recount differ from the previous results within those precincts to the extent that extrapolating the amount of the change to the entire jurisdiction (based on the proportion of ballots recounted to the total votes cast for that office) would result in the reversing of the results, then the State Board of Elections shall order a hand-to-eye recount of the entire jurisdiction in which the election is held. There shall be no cost to the candidate for that recount in the entire jurisdiction.

(b) Recounts under this section shall be governed by rules adopted under G.S. 163-182.7(d).

(c) No complete hand-to-eye recount shall be conducted under this section if one has already been done under another provision of law."

SECTION 6.(c) This section becomes effective January 1, 2006.

SECTION 7. G.S. 163-82.28 reads as rewritten:

"§ 163-82.28. The HAVA Election Fund.

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. HAVA and for purposes permitted by HAVA to comply with State law."

SECTION 7.1. Each county may receive a grant of up to twelve thousand dollars (\$12,000) per polling place and one-stop site from the Election Fund created under G.S. 163-82.28 for voting equipment that complies with the requirements of HAVA and this act. The grant may also include two backup units per county. Each county may also receive a grant equal to one dollar (\$1.00) per voter in the 2004 presidential election, but no less than ten thousand dollars (\$10,000) or more than one hundred thousand dollars (\$100,000), for central administrative software for tabulation.

SECTION 8. The State Board of Elections shall recommend a model code of ethics for members and employees of county boards of elections and of the State

1 Board of Elections. The code shall address the appropriate relations between those
2 members and staff and vendors who do business or seek to do business with boards of
3 elections in North Carolina. It shall address how to avoid both the reality and the
4 appearance of conflicts of interest and impropriety. The State Board shall report its
5 recommended code to the Joint Select Committee on Electronic Voting Systems and to
6 the Joint Legislative Commission on Governmental Operations no later than 60 days
7 after this act becomes law.

8 **SECTION 9.** The State Board of Elections may conduct, for primaries and
9 elections in 2006 only, experiments with voting systems that use a means in addition to
10 paper to fulfill the backup record and voter verification requirements of
11 G.S. 163-165.7(a)(4) and G.S. 163-165.7(a)(5), as enacted by this act. The pilot
12 program may be conducted in no more than nine counties. The county boards of
13 elections shall cooperate in conducting the pilot program. The pilot program shall be
14 conducted according to the following requirements:

- 15 (1) The experiment may be conducted in no more than two voting sites per
16 county. The voting sites may include election-day voting places or
17 one-stop sites.
- 18 (2) At each voting site in which the experiment is conducted, voters must
19 have a choice of voting on the experimental voting system or on a
20 voting system that is not part of the experiment.
- 21 (3) Each experimental voting system shall include an additional means for
22 the voter to verify the choices that the voter makes in the electronically
23 cast ballot, which means shall also provide for an additional count.
24 That additional means may utilize audio technology, digital scanners,
25 or some other material or technology that shall record the voters'
26 choices but shall not record any image of any part of the voter.
- 27 (4) On each voting machine or unit used in the experiment, the voting
28 system shall comply with all the applicable requirements of
29 G.S. 163-165.7, including the requirement in G.S. 163-165.7(a)(4) that
30 a DRE system must generate a paper backup record of each individual
31 vote cast electronically and the requirement in G.S. 163-165.7(a)(5)
32 that the paper record generated by the DRE system must be viewable
33 by the voter before the vote is cast electronically and that the system
34 allow the voter to correct any discrepancy between the electronic vote
35 and the paper record before the vote is cast. On every machine or unit,
36 the experimental means to fulfill those functions shall be used in
37 addition to, rather than instead of, the required paper means.
- 38 (5) For all votes cast on an experimental voting system under the pilot,
39 there shall be, in addition to an electronic count, a full hand-to-eye
40 paper count and a full comparison count of the experimental
41 verification technology.

42 The State Board of Elections shall report the results of the pilot program, together with
43 its recommendations, to the 2007 General Assembly and to the Joint Legislative
44 Commission on Governmental Operations by February 1, 2007.

1 **SECTION 10.** The requirement for testing a voting system in an election
2 provided in G.S. 163-165.9(a)(3), as enacted in Section 4 of this act, does not apply to
3 any voting system acquired before January 1, 2008, as long as the voting system is
4 demonstrated in a public forum in the county. Notwithstanding G.S. 163-132.5G, as
5 amended by this act, voting data by precinct shall be reported for the general elections
6 of 2006 by March 1, 2007, and for the primary elections of 2006 by May 1, 2007.
7 Except as otherwise provided in this act, the remainder of this act is effective when it
8 becomes law.



SENATE BILL 223: Public Confidence in Elections

BILL ANALYSIS

Committee:	House Election Law and Campaign Finance Reform	Date:	August 2, 2005
Introduced by:	Sen. Kinnaird	Summary by:	R. Erika Churchill
Version:	Third Edition		Committee Counsel

SUMMARY: *Senate Bill 223 would require, beginning August 1, 2005, that the State Board of Elections, through a request for proposal process, certify only voting systems that produce paper ballots or paper records that can be used as a backup means of counting and that the voters may use to verify their choices before they cast their votes. Any system, regardless of when purchased, would have to be submitted for compliance with the requirements of the process if the system is to be used in the 2006 elections. The bill also requires that, beginning in 2006, the State Board of Elections must provide for sample paper hand-to-eye counts in random precincts over the State. The bill would allow a limited experiment with voting systems that use non-paper means, in addition to paper means, of voter verification and ballot backup.*

[As introduced, this bill was identical to H238, as introduced by Reps. Insko, Preston, which is currently in House Election Law and Campaign Finance Reform.]

CURRENT LAW: Currently county commissioners are responsible for purchasing voting equipment. They may only purchase equipment that has been approved by the county board of elections. The county board of elections may approve only equipment that has been certified by the State Board of Elections. The State Board has broad rulemaking power over the approval and operation of voting systems. In addition to its authority to approve voting systems for purchase by counties, the State Board may disapprove systems already in use in a county. A county has four years to replace a voting system that has been disapproved.

BILL ANALYSIS:

Section 1 – State Board of Elections' Role in Purchasing. Effective with any upgrade or new voting system purchased beginning 8-1-05 and effective for any voting system used in the 2006 elections, the State Board of Elections is directed to develop a Request for Proposal (RFP). The RFP would have to include the following requirements:

- Posting a bond or letter of credit to cover damages from defects in its voting system, including the cost of a new election.
- Compliance with federal law.
- The capacity to include in precinct returns the votes cast by voters outside the voter's precinct as required by law.
- For electronic voting systems, the system must generate a paper record of each individual vote cast, which paper record shall be maintained in a secure fashion and serve as a backup record for purposes of hand-to-eye counts, hand-to-eye recounts, and other audits.
- For DREs, the paper record must be viewable by the voter before the vote is cast electronically, and the system must permit the voter to correct any discrepancy between the electronic summary of the vote and the paper record before the vote is cast.
- Review of source code by the county, the State Board of Elections, the NC Office of Information Technology, and the Chair of any legally recognized political party in NC. Those entities may designate up to 3 agents to assist in the review.
- A statewide price for each unit of the equipment.

Senate Bill 223

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- An agreement by the vendor that if it breaches the upkeep part of the contract or goes into bankruptcy, it will permit the software to be turned over to the county for continuing use during the term of the contract and for review by the people who have a right to review the source code.

The RFP would also address the mandatory terms of the contract for the purchase of voting system and the maintenance and training related to that voting system. The State Board would be given the duties of monitoring voting system contracts, and of facilitating training and support.

No voting system that was not certified through the RFP process could be acquired after 8-1-05 and no system, regardless of when purchased, may be used in elections during or after 2006 unless the State Board of Elections determines it complies with the RFP requirements.

The State Board is required to have procedures to maintain the integrity of both the paper record and the electronic count and to prevent removal from the voting enclosure of a paper record or other item whose removal would compromise the integrity of the paper record or the electronic count.

Section 1(e) adds the requirement that provisional votes must be reported by precinct, in addition to absentee and one-stop results. The section also removes the provision that counties be exempt from the requirement because of financial hardship. However, in Section 11, the bill gives boards of elections longer than the statutory 60 days for the 2006 elections --- The 2006 general election results must be reported by March 1, 2007, and the 2006 primary results must be reported by May 1, 2007. In subsequent years, all results must be reported within 60 days.

Section 2 – Requirements for Voting System Vendors. Effective with any upgrade or new voting system purchased beginning 8-1-05, vendors of voting systems in NC must:

- Escrow their relevant software.
- Keep the escrowed material up to date, and must swear that it is the code used in operating voting systems.
- Maintain an active office in NC.
- Promptly notify the State Board of any decertification of the voting system elsewhere or of any known defect in a voting system used in NC, even if the defect shows up outside NC.

Willful violation of any of the requirements is a Class G felony. Substitution of source code into a voting system without notifying the State Board is a Class I felony. Violations are also punishable by civil penalties of up to \$100,000.

Section 3 – County Commissioners' Role in Purchasing. Effective 8-1-05, county commissioners would continue to purchase voting equipment. But because of the State Board's new duties, counties would be exempt from the purchasing rules that normally apply to local governments.

Section 4 – County Board of Elections' Role in Purchasing. Effective 8-1-05, the county board of elections would have the duty to recommend to the county commissioners which type of voting system the county should purchase. Currently, the county chooses from a list of types, makes, and models approved by the State Board. The county board of elections would also be required to abide by State Board rules regarding training and support.

Section 5 – Sample Counts. Effective 1-1-06, State Board of Elections rules must require a hand-to-eye count of paper ballots in a sampling of precincts, early voting sites, or sets of mail absentee ballots in every county. The hand-to-eye sample counts would be of a sampling of statewide races, always including the presidential race when it is on the ballot. If there is no statewide race, then the State Board must have a plan for getting an adequate sample using district or local races. Unless there is clear evidence to believe otherwise, the hand-to-eye count will prevail. If the difference between the hand-to-eye and the electronic or machine count is significant, a complete hand-to-eye count will be conducted. This section states the general rule that, with optical scan and DRE systems, subject to sample hand counts and mandatory hand recounts, the boards of elections shall rely on an electronic or mechanical count. If there is a material discrepancy between electronic or mechanical counts and hand-to-eye

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Page 3

paper counts, the hand-to-eye prevails unless paper ballots have been lost or destroyed or there is another reason to conclude that the paper count is not the true count.

Section 6 -- Expansion of Right to Hand-to-Eye Recount. Effective 1-1-06, any candidate entitled to a recount under current law – that is, a candidate who was less than 1% behind in the initial count (or the lesser of 0.5% or 10,000 votes behind in a statewide race) – is entitled to a sample hand-to-eye recount. That sample would be of all the ballots in 3% of the precincts, randomly selected, in each county. If an extrapolation of the sample count to the whole count forecasts a reversal of the result, the candidate is entitled to a full hand-to-eye recount. This expanded right would not cost the candidate.

Section 7 -- Change in HAVA Fund Language. This section changes language of the statute that created, pursuant to federal law, the fund into which is placed federal money under the Help America Vote Act (HAVA) to clarify that the money may be used not only to comply with HAVA but for purpose permitted by HAVA to comply with State law.

Section 8 -- Code of Ethics. The State Board of Elections would be directed to recommend a code of ethics for members and employees of boards of elections at the county and State level. The code would address appropriate relations with voting system vendors. It would address how to avoid the reality and appearance of conflicts of interest and impropriety. The State Board would report to the Joint Select Committee on Electronic Voting Systems and to the Joint Legislative Commission on Governmental Operations within 60 days after the bill became law.

Section 9 - Pilot Program for Alternative Means of Voter Verification. – The State Board of Elections would be allowed to conduct an experiment, in no more than nine counties, with voting systems that use some means other than paper of letting the voter verify their electronic ballot and some non-paper backup. The pilot would have these limits:

- No more than 2 voting sites per county.
- At each voting site the voters would have a choice between a machine with only paper verification/backup and the experimental type of verification/backup.
- The experimental system must have some means for the voter to verify the electronically cast vote. Examples: audio technology, digital scanning. But no experimental system could be used that would record any image of any part of the voter.
- Even the experimental system must produce a paper record for recount purposes.
- There must be a full hand-to-eye paper count of all ballots cast on the experimental system. There would also be a comparison count of the paper to the alternative verification means.

Section 10 - Effective Date. The effective date section generally makes the bill effective when it becomes law, except as provided in internal sections. It also allows a longer-than-standard time for counties to report absentee and provisional votes by precinct in 2006, as noted in the summary of Section 1. And it relieves counties of the statutory duty to test a new voting system in an election, as long as the voting system is publicly demonstrated, until January 1, 2008.

S0223e3-SMST

Bill Gilkeson contributed substantially to this summary.

Fiscal Analysis of Amendment S223-AST-68[v.2]

COUNTY	Existing Equipment	Polling Places \$12K/Polling Place	Equipment Grants	2004 Voter Turnout \$1/Voter, \$10K min & \$100K max	Software Grants
Alamance	DREs	37	\$444,000	55,036	\$55,036
Alexander	O/S	16	\$192,000	15,983	\$15,983
Alleghany	DREs	7	\$84,000	5,006	\$10,000
Anson	O/S	11	\$132,000	9,365	\$10,000
Ashe	O/S	17	\$204,000	12,016	\$12,016
Avery	O/S	19	\$228,000	7,578	\$10,000
Beaufort	O/S	21	\$252,000	20,011	\$20,011
Bertie	DREs	12	\$144,000	8,256	\$10,000
Bladen	DREs	17	\$204,000	12,469	\$12,469
Brunswick	DREs	23	\$276,000	38,414	\$38,414
Buncombe	DREs	72	\$864,000	106,033	\$100,000
Burke	DREs	31	\$372,000	34,484	\$34,484
Cabarrus	P/C	42	\$504,000	61,989	\$61,989
Caldwell	O/S	24	\$288,000	31,918	\$31,918
Camden	O/S	3	\$36,000	3,931	\$10,000
Carteret	DREs	34	\$408,000	30,810	\$30,810
Caswell	DREs	11	\$132,000	9,683	\$10,000
Catawba	DREs	40	\$480,000	59,764	\$59,764
Chatham	O/S	24	\$288,000	26,316	\$26,316
Cherokee	DREs	16	\$192,000	11,427	\$11,427
Chowan	L/M	6	\$72,000	5,340	\$10,000
Clay	O/S	9	\$108,000	4,957	\$10,000
Cleveland	O/S	28	\$336,000	37,638	\$37,638
Columbus	O/S	26	\$312,000	21,386	\$21,386
Craven	DREs	26	\$312,000	37,931	\$37,931
Cumberland	O/S	65	\$780,000	97,511	\$97,511
Currituck	O/S	11	\$132,000	9,185	\$10,000
Dare	O/S	16	\$192,000	16,064	\$16,064
Davidson	DREs	42	\$504,000	60,611	\$60,611
Davie	DREs	14	\$168,000	16,893	\$16,893
Duplin	P/C	19	\$228,000	17,061	\$17,061
Durham	O/S	55	\$660,000	111,382	\$100,000
Edgecombe	O/S	21	\$252,000	21,313	\$21,313
Forsyth	P/C	102	\$1,224,000	140,354	\$100,000
Franklin	O/S	17	\$204,000	21,202	\$21,202
Gaston	DREs	46	\$552,000	64,703	\$64,703
Gates	O/S	5	\$60,000	4,278	\$10,000
Graham	P/B	4	\$48,000	4,040	\$10,000
Granville	O/S	14	\$168,000	18,881	\$18,881
Greene	DREs	10	\$120,000	6,615	\$10,000
Guilford	DREs	159	\$1,908,000	197,209	\$100,000
Halifax	O/S	30	\$360,000	19,734	\$19,734
Harnett	O/S	22	\$264,000	33,133	\$33,133
Haywood	O/S	29	\$348,000	26,390	\$26,390
Henderson	DREs	35	\$420,000	44,090	\$44,090
Hertford	DREs	13	\$156,000	8,229	\$10,000
Hoke	O/S	13	\$156,000	10,964	\$10,964
Hyde	P/B	7	\$84,000	2,306	\$10,000
Iredell	O/S	28	\$336,000	57,651	\$57,651
Jackson	DREs	18	\$216,000	13,912	\$13,912
Johnston	O/S	34	\$408,000	54,680	\$54,680
Jones	O/S	7	\$84,000	4,670	\$10,000

Fiscal Analysis of Amendment S223-AST-68[v.2]

COUNTY	Existing Equipment	Polling Places \$12K/Polling Place	Equipment Grants	2004 Voter Turnout \$1/Voter, \$10K min & \$100K max	Software Grants
Lee	DREs	13	\$156,000	19,787	\$19,787
Lenoir	DREs	22	\$264,000	23,671	\$23,671
Lincoln	O/S	29	\$348,000	30,206	\$30,206
Macon	DREs	15	\$180,000	15,487	\$15,487
Madison	DREs	12	\$144,000	9,606	\$10,000
Martin	O/S	13	\$156,000	10,740	\$10,740
McDowell	DREs	17	\$204,000	16,121	\$16,121
Mecklenburg	DREs	190	\$2,280,000	325,386	\$100,000
Mitchell	O/S	9	\$108,000	8,029	\$10,000
Montgomery	O/S	14	\$168,000	10,112	\$10,112
Moore	DREs	24	\$288,000	38,732	\$38,732
Nash	O/S	26	\$312,000	38,822	\$38,822
New Hanover	O/S	46	\$552,000	81,502	\$81,502
Northampton	O/S	18	\$216,000	9,030	\$10,000
Onslow	P/C	23	\$276,000	38,233	\$38,233
Orange	O/S	43	\$516,000	64,038	\$64,038
Pamlico	DREs	8	\$96,000	5,600	\$10,000
Pasquotank	DREs	13	\$156,000	13,771	\$13,771
Pender	DREs	17	\$204,000	17,346	\$17,346
Perquimans	DREs	7	\$84,000	5,042	\$10,000
Person	O/S	14	\$168,000	15,547	\$15,547
Pitt	DREs	38	\$456,000	53,997	\$53,997
Polk	DREs	9	\$108,000	9,488	\$10,000
Randolph	O/S	40	\$480,000	52,395	\$52,395
Richmond	O/S	16	\$192,000	16,538	\$16,538
Robeson	O/S	41	\$492,000	34,008	\$34,008
Rockingham	O/S	31	\$372,000	37,610	\$37,610
Rowan	O/S	46	\$552,000	52,438	\$52,438
Rutherford	DREs	24	\$288,000	24,914	\$24,914
Sampson	O/S	23	\$276,000	22,641	\$22,641
Scotland	L/M	10	\$120,000	11,706	\$11,706
Stanly	DREs	24	\$288,000	25,650	\$25,650
Stokes	O/S	20	\$240,000	20,064	\$20,064
Surry	DREs	29	\$348,000	26,719	\$26,719
Swain	L/M	5	\$60,000	4,926	\$10,000
Transylvania	DREs	18	\$216,000	15,827	\$15,827
Tyrrell	P/B	6	\$72,000	1,592	\$10,000
Union	DREs	46	\$552,000	61,938	\$61,938
Vance	P/C	16	\$192,000	16,141	\$16,141
Wake	O/S	183	\$2,196,000	353,902	\$100,000
Warren	DREs	14	\$168,000	6,318	\$10,000
Washington	O/S	6	\$72,000	5,572	\$10,000
Watauga	P/C	20	\$240,000	24,410	\$24,410
Wayne	O/S	30	\$360,000	41,066	\$41,066
Wilkes	O/S	29	\$348,000	28,151	\$28,151
Wilson	DREs	25	\$300,000	31,040	\$31,040
Yadkin	O/S	12	\$144,000	16,055	\$16,055
Yancey	O/S	11	\$132,000	9,733	\$10,000
Total		2,753	\$33,036,000	3,552,449	\$3,009,808

NORTH CAROLINA HAVA BUDGET AS REVISED APRIL 2005

HAVA Requirements Budget Based Allocation on Funding Source		Funding Source								M
		HAVA 101	HAVA 102	HAVA 252			State Match		Interest from Matching Fund**	
				2003	2004	Interest from 252 fund**	2003	2004		
Title III Requirements										
Appropriated Funding		\$7,877,740	\$893,822	\$23,431,708	\$42,046,100		\$1,232,508	\$2,211,625		\$1,791,936
Sect 301 Voting System***										
Accessible Equipment	\$11,000,000			\$11,000,000						
Voting Equipment	\$26,231,222					See Footnote **			See Footnote **	
			\$893,822		\$24,463,404			\$873,996		
Sub Total	\$37,231,222		\$893,822	\$11,000,000	\$24,463,404			\$873,996		
Sect 302 Provisional Voting & Voting Information Requirements										
Informational Signs	\$300,000			\$300,000						
1-800 Help Desk	\$100,000			\$25,000	\$75,000					
Videos/TV/Teleconference/Public TV Access Channels	\$150,000			\$150,000						
WEB Site	\$100,000			\$100,000						
PSAs & Voter Outreach	\$1,000,000			\$1,000,000						
Sub Total	\$1,650,000			\$1,575,000	\$75,000					
Sec 303 Statewide Computer system & requirements for voters registering by mail ***										
SEIMS	\$5,000,000	\$4,977,740								
Verification Confirmation and List maintenance mailings	\$2,000,000				\$2,000,000					
Subtotal	\$7,000,000	\$4,977,740			\$2,000,000	See Footnote **			See Footnote **	
Subtotal	\$45,863,898	\$4,977,740		\$12,575,000	\$12,594,404					
Other Election Reform Activities										
Funding to make polls accessible	\$1,000,000	\$1,000,000								
Focus group studies	\$50,000	\$25,000		\$25,000						
Polling place registry/Sample Ballot/Request for Service	\$75,000	\$75,000								
Additional one stop absentee voting sites	\$1,000,000				\$1,000,000					
Certification programs for election officials, support materials & media and non-partisan voter education programs	\$1,500,000	\$1,500,000								
Public computer terminals	\$300,000	\$300,000								
Electronic Records Access at Polling Place	\$10,000,000			\$10,000,000						
County Technology Improvements	\$2,000,000				\$349,596		\$1,130,000	\$520,404		
State Board of elections personnel for HAVA Activities	\$5,375,805									\$1,791,935
Subtotal	\$21,300,805	\$2,900,000		\$10,025,000	\$1,349,596		\$1,130,000	\$520,404		\$1,791,935
Total of Allocated Budgeted Items	\$67,164,703	\$7,877,740	\$893,822	\$22,600,000	\$27,963,000	**	\$1,130,000	\$1,394,400	**	\$1,791,935
				\$831,708***	\$14,083,100***					

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

DATE _____

S. B. No. 223

Amendment No. _____

COMMITTEE SUBSTITUTE _____

(to be filled in by
Principal Clerk)

Rep.) Insto

Sen.) _____

1 moves to amend the bill on page 13, line 5 36, 39 and

2 () WHICH CHANGES THE TITLE

3 by 40 by deleting "may" and

4 substituting "shall"

5 _____

6 _____

7 _____

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12 _____

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SIGNED Debra C Insko

ADOPTED _____ FAILED _____ TABLED _____

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute for

HB 1323 A BILL TO BE ENTITLED AN ACT TO ESTABLISH THE NORTH
CAROLINA INNOCENCE INQUIRY COMMISSION AS RECOMMENDED BY THE
NORTH CAROLINA ACTUAL INNOCENCE COMMISSION.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

2

HOUSE BILL 1323*
Committee Substitute Favorable 8/10/05

Short Title: Establish NC Innocence Inquiry Commission.

(Public)

Sponsors:

Referred to:

April 20, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA INNOCENCE INQUIRY
3 COMMISSION AS RECOMMENDED BY THE NORTH CAROLINA ACTUAL
4 INNOCENCE COMMISSION.

5 Whereas, postconviction review of credible claims of factual innocence
6 supported by verifiable evidence not previously presented at trial or at a hearing granted
7 through postconviction relief should be addressed expeditiously to ensure the innocent
8 as well as the guilty receive justice; and

9 Whereas, public confidence in the justice system is strengthened by thorough
10 and timely inquiry into claims of factual innocence; and

11 Whereas, factual claims of innocence, which are determined to be credible,
12 can most effectively and efficiently be evaluated through complete and independent
13 investigation and review of the same; Now, therefore,
14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** Chapter 15A of the General Statutes is amended by adding a
16 new article to read:

"Article 92.

"North Carolina Innocence Inquiry Commission.

19 "§ 15A-1460. Definitions.

20 The following definitions apply in this Article:

21 (1) "Claim of factual innocence" means a claim on behalf of a living
22 person convicted of a felony in the General Court of Justice of the
23 State of North Carolina, asserting the complete innocence of any
24 criminal responsibility for the felony for which the person was
25 convicted and for any other reduced level of criminal responsibility
26 relating to the crime, and for which there is some credible, verifiable
27 evidence of innocence that has not previously been presented at trial or
28 considered at a hearing granted through postconviction relief.

(2) "Commission" means the North Carolina Innocence Inquiry Commission established by this Article.

(3) "Director" means the Director of the North Carolina Innocence Inquiry Commission.

(4) "Victim" means the victim of the crime, or if the victim of the crime is deceased, the next of kin of the victim.

"§ 15A-1461. Purpose of Article.

This Article establishes an extraordinary procedure to investigate and determine credible claims of factual innocence that shall require an individual to voluntarily waive rights and privileges as described in this Article.

"§ 15A-1462. Commission established.

(a) There is established the North Carolina Innocence Inquiry Commission. The North Carolina Innocence Inquiry Commission shall be an independent commission under the Judicial Department for administrative purposes.

(b) The Administrative Office of the Courts shall provide administrative support to the Commission as needed. The Director of the Administrative Office of the Courts shall not reduce or modify the budget of the Commission or use funds appropriated to the Commission without the approval of the Commission.

"§ 15A-1463. Membership; chair; meetings; quorum.

(a) The Commission shall consist of eight voting members as follows:

(1) One shall be a superior court judge.

(2) One shall be a prosecuting attorney.

(3) One shall be a victim advocate.

(4) One shall be engaged in the practice of criminal defense law.

(5) One shall be a public member who is not an attorney and who is not an officer or employee of the Judicial Department.

(6) One shall be a sheriff holding office at the time of his or her appointment.

(7) The vocations of the two remaining appointed voting members shall be at the discretion of the Chief Justice.

The Chief Justice of the North Carolina Supreme Court shall make the initial appointment for members identified in subdivisions (4) through (6) of this subsection. The Chief Judge of the Court of Appeals shall make the initial appointment for members identified in subdivisions (1) through (3) of this subsection. After an appointee has served his or her first three-year term, the subsequent appointment shall be by the Chief Justice or Chief Judge who did not make the previous appointment. Thereafter, the Chief Justice or Chief Judge shall rotate the appointing power, except for the two discretionary appointments identified by subdivision (7) of this subsection which shall be appointed by the Chief Justice.

(a1) The appointing authority shall also appoint alternate Commission members for the Commission members he or she has appointed to serve in the event of scheduling conflicts, conflicts of interest, disability, or other disqualification arising in a particular case. The alternate members shall have the same qualifications for appointment as the original member. In making the appointments, the appointing

1 authority shall make a good faith effort to appoint members with different perspectives
2 of the justice system. The appointing authority shall also consider geographical location,
3 gender, and racial diversity in making the appointments.

4 (b) The superior court judge who is appointed as a member under subsection (a)
5 of this section shall serve as Chair of the Commission. The Commission shall have its
6 initial meeting no later than January 31, 2006, at the call of the Chair. The Commission
7 shall meet a minimum of once every six months and may also meet more often at the
8 call of the Chair. The Commission shall meet at such time and place as designated by
9 the Chair. Notice of the meetings shall be given at such time and manner as provided by
10 the rules of the Commission. A majority of the members shall constitute a quorum. All
11 Commission votes shall be by majority vote.

12 **"§ 15A-1464. Terms of members; compensation; expenses.**

13 (a) The initial appointments shall be made within 30 days of the effective date of
14 this act. Of the initial members, two appointments shall be for one-year terms, three
15 appointments shall be for two-year terms, and three appointments shall be for three-year
16 terms. Thereafter, all terms shall be for three years. Members of the Commission shall
17 serve no more than two consecutive three-year terms plus any initial term of less than
18 three years. Unless provided otherwise by this act, all terms of members shall begin on
19 January 1 and end on December 31.

20 Members serving by virtue of elective or appointive office, except for the sheriff,
21 may serve only so long as the officeholders hold those respective offices. The Chief
22 Justice may remove members, with cause. Vacancies occurring before the expiration of
23 a term shall be filled in the manner provided for the members first appointed.

24 (b) The Commission members shall receive no salary for serving. All
25 Commission members shall receive necessary subsistence and travel expenses in
26 accordance with the provisions of G.S. 138-5 and G.S. 138-6, as applicable.

27 **"§ 15A-1465. Director and other staff.**

28 (a) The Commission shall employ a Director. The Director shall be an attorney
29 licensed to practice in North Carolina at the time of appointment and at all times during
30 service as Director. The Director shall assist the Commission in developing rules and
31 standards for cases accepted for review, coordinate investigation of cases accepted for
32 review, maintain records for all case investigations, prepare reports outlining
33 Commission investigations and recommendations to the trial court, and apply for and
34 accept on behalf of the Commission any funds that may become available from
35 government grants, private gifts, donations, or bequests from any source.

36 Subject to the approval of the Chair, the Director shall employ such other staff and
37 shall contract for services as is necessary to assist the Commission in the performance
38 of its duties, and as funds permit.

39 The Commission may, with the approval of the Legislative Services Commission,
40 meet in the State Legislative Building or the Legislative Office Building, or may meet
41 in an area provided by the Director of the Administrative Office of the Courts. The
42 Director of the Administrative Office of the Courts shall provide office space for the
43 Commission and the Commission staff.

44 **"§ 15A-1466. Duties.**

1 The Commission shall have the following duties and powers:

- 2 (1) To establish the criteria and screening process to be used to determine
3 which cases shall be accepted for review.
4 (2) To conduct inquiries into claims of factual innocence, with priority to
5 be given to those cases in which the convicted person is currently
6 incarcerated solely for the crime for which he or she claims factual
7 innocence.
8 (3) To coordinate the investigation of cases accepted for review.
9 (4) To maintain records for all case investigations.
10 (5) To prepare written reports outlining Commission investigations and
11 recommendations to the trial court at the completion of each inquiry.
12 (6) To apply for and accept any funds that may become available for the
13 Commission's work from government grants, private gifts, donations,
14 or bequests from any source.

15 **"§ 15A-1467. Claims of innocence; waiver of defendant's procedural safeguards**
16 **and privileges; formal inquiry; notification of the crime victim.**

17 (a) A claim of factual innocence may be referred to the Commission by any
18 court, person, or agency. The determination of whether to grant a formal inquiry
19 regarding a claim of factual innocence is in the discretion of the Commission. The
20 Commission may informally screen and dismiss a case summarily at its discretion.

21 (b) No formal inquiry into a claim of factual innocence shall be made by the
22 Commission unless the Director or the Director's designee first obtains a signed
23 agreement from the defendant in which the defendant agrees to waive his or her
24 procedural safeguards and privileges to the extent necessary for inquiry into the
25 defendant's claim of innocence, agrees to cooperate with the Commission, and agrees to
26 provide full disclosure regarding all inquiry requirements of the Commission. The
27 defendant shall have the right to advice of counsel prior to the execution of the
28 agreement and, if a formal inquiry is granted, throughout the formal inquiry. If counsel
29 represents the defendant, then the defendant's counsel must be present at the signing of
30 the agreement. If counsel does not represent the defendant, the Commission Chair shall
31 determine the defendant's indigency status and, if appropriate, enter an order for the
32 appointment of counsel for the purpose of advising on the agreement.

33 (c) If a formal inquiry regarding a claim of factual innocence is granted, the
34 Director shall use all due diligence to notify the victim in the case and explain the
35 inquiry process. The Commission shall give the victim notice that the victim has the
36 right to present his or her views and concerns throughout the Commission's
37 investigation.

38 (d) The Commission may use any measure provided in Chapter 15A of the
39 General Statutes and the Rules of Civil Procedure as set out in G.S. 1A-1 to obtain
40 information necessary to its inquiry. The Commission may also do any of the following:
41 issue process to compel the attendance of witnesses and the production of evidence,
42 administer oaths, petition the Superior Court of Wake County or of the original
43 jurisdiction for enforcement of process or for other relief, and prescribe its own rules of
44 procedure. All challenges with regard to the Commission's authority or the

1 Commission's access to evidence shall be heard by the Commission Chair in the Chair's
2 judicial capacity, including any in camera review required by G.S. 15A-908.

3 (e) While performing duties for the Commission, the Director or the Director's
4 designee may serve subpoenas or other process issued by the Commission throughout
5 the State in the same manner and with the same effect as an officer authorized to serve
6 process of the General Court of Justice.

7 (f) All State discovery and disclosure statutes in effect at the time of formal
8 inquiry shall be enforceable as if the defendant were currently being tried for the charge
9 for which the defendant is claiming innocence.

10 (g) If, at any point during an inquiry, the defendant refuses to comply with
11 requests of the Commission or is otherwise deemed to be uncooperative by the
12 Commission, the Commission shall discontinue the inquiry.

13 **"§ 15A-1468. Commission proceedings.**

14 (a) At the completion of a formal inquiry, all relevant evidence shall be presented
15 to the full Commission. As part of its proceedings, the Commission may conduct public
16 hearings. The determination as to whether to conduct public hearings is solely in the
17 discretion of the Commission. Any public hearing held in accordance with this section
18 shall be subject to the Commission's rules of operation.

19 (b) The Director shall use all due diligence to notify the victim at least 30 days
20 prior to any proceedings of the full Commission held in regard to the victim's case. The
21 Commission shall notify the victim that the victim is permitted to attend proceedings
22 otherwise closed to the public, subject to any limitations imposed by this Article. If the
23 victim plans to attend proceedings otherwise closed to the public, the victim shall notify
24 the Commission at least 10 days in advance of the proceedings of his or her intent to
25 attend. If the Commission determines that the victim's presence may interfere with the
26 investigation, the Commission may close any portion of the proceedings to the victim.

27 (c) After hearing the evidence, the full Commission shall vote to establish further
28 case disposition as provided by this subsection. All eight voting members of the
29 Commission shall participate in that vote.

30 If five or more of the eight voting members of the Commission conclude there is
31 sufficient evidence of factual innocence to merit judicial review, the case shall be
32 referred to the senior resident superior court judge in the district of original jurisdiction
33 by filing with the clerk of court the opinion of the Commission with supporting findings
34 of fact, as well as the record in support of such opinion, with service on the district
35 attorney in noncapital cases and service on both the district attorney and Attorney
36 General in capital cases.

37 If less than five of the eight voting members of the Commission conclude there is
38 sufficient evidence of factual innocence to merit judicial review, the Commission shall
39 conclude there is insufficient evidence of factual innocence to merit judicial review. The
40 Commission shall document that opinion, along with supporting findings of fact, and
41 file those documents and supporting materials with the clerk of superior court in the
42 district of original jurisdiction, with a copy to the district attorney and the senior
43 resident superior court judge.

1 The Director of the Commission shall use all due diligence to notify immediately the
2 victim of the Commission's conclusion in a case.

3 (d) Evidence of criminal acts, professional misconduct, or other wrongdoing
4 disclosed through formal inquiry or Commission proceedings shall be referred to the
5 appropriate authority. Evidence favorable to the defendant disclosed through formal
6 inquiry or Commission proceedings shall be disclosed to the defendant and the
7 defendant's counsel, if the defendant has counsel.

8 (e) All proceedings of the Commission shall be recorded and transcribed as part
9 of the record. All Commission member votes shall be recorded in the record. All records
10 and proceedings of the Commission are confidential and are exempt from public record
11 and public meeting laws except that the supporting records for the Commission's
12 conclusion that there is sufficient evidence of factual innocence to merit judicial review,
13 including all files and materials considered by the Commission and a full transcript of
14 the hearing before the Commission, shall become public at the time of referral to the
15 superior court. Commission records for conclusions of insufficient evidence of factual
16 innocence to merit judicial review shall remain confidential, except as provided in
17 subsection (d) of this section.

18 **"§ 15A-1469. Postcommission three-judge panel.**

19 (a) If the Commission concludes there is sufficient evidence of factual innocence
20 to merit judicial review, the senior resident superior court judge in the district of
21 original jurisdiction shall request the Chief Justice to appoint a three-judge panel, not to
22 include any trial judge that has had substantial previous involvement in the case, and
23 issue commissions to the members of the three-judge panel to convene a special session
24 of the superior court of the original jurisdiction to hear evidence relevant to the
25 Commission's opinion. The Chief Justice shall then appoint the three-judge panel, and
26 the senior judge of the panel shall preside.

27 (b) The senior resident superior court judge shall enter an order setting the case
28 for hearing at the special session of superior court for which the three-judge panel is
29 commissioned and shall require the State to file a response to the Commission's opinion
30 within 60 days of the date of the order.

31 (c) The district attorney of the district of conviction, or the district attorney's
32 designee, shall represent the State at the hearing before the three-judge panel. The
33 district attorney or the district attorney's designee may request assistance from the State
34 Bureau of Investigation. The extent of assistance shall be determined by the Attorney
35 General.

36 (d) The senior resident superior court judge shall determine the defendant's
37 indigency status and, if appropriate, enter an order for the appointment of counsel. The
38 court may also enter an order relieving an indigent defendant of all or a portion of the
39 costs of the proceedings.

40 (e) The three-judge panel shall, after reviewing the Commission's opinion and
41 findings of fact and record, conduct an evidentiary hearing. At the hearing, the court
42 may compel the testimony of any witness, including the defendant. The defendant may
43 not assert any privilege or prevent a witness from testifying. The defendant has a right

1 to be present at the evidentiary hearing and to be represented by counsel. A waiver of
2 the right to be present shall be in writing.

3 (f) The clerk of court shall provide written notification to the victim 30 days
4 prior to any case-related hearings.

5 (g) Upon the motion of either party or upon the senior judge's own motion, the
6 senior judge of the panel may direct the attorneys for the parties to appear before him or
7 her for a conference on any matter in the case.

8 (h) The three-judge panel shall determine whether the defendant has proved, by
9 clear and convincing evidence, that the defendant is factually innocent of the charges.
10 Such a determination shall require a unanimous vote. If the vote is unanimous, the panel
11 shall enter dismissal of all or any of the charges. If the vote is not unanimous, the panel
12 shall deny relief, however, if two of the judges have determined that the defendant is
13 factually innocent of the charges, then the decision of the panel must be reviewed by the
14 Supreme Court according to the procedures set out in subsections (i) and (j) of this
15 section. Any decision of the three-judge panel must be accompanied by findings of fact
16 and conclusions of law.

17 (i) If only two of the judges have determined that the defendant is factually
18 innocent of the charges, the case must be reviewed by the Supreme Court. In that event,
19 the clerk of court in the district of original jurisdiction shall, within 30 days from the
20 decision of the three-judge panel, forward to the Supreme Court the decision of the
21 panel, together with the panel's findings of fact and conclusions of law and the record of
22 proceedings before the panel, which shall include the Commission's opinion, supporting
23 findings of fact, and supporting record.

24 (j) The Supreme Court shall consider the record before it and may hear oral
25 arguments on any issue it deems appropriate. The Court shall determine whether the
26 defendant has established factual innocence before the three-judge panel by clear and
27 convincing evidence and remand the case to the three-judge panel for action consistent
28 with the Court's decision.

29 **"§ 15A-1470. No right to further review of decision by Commission or three-judge
30 panel; defendant retains right to other postconviction relief.**

31 (a) Unless otherwise authorized by this Article, the decisions of the Commission
32 and of the three-judge panel are final and are not subject to further review by appeal,
33 certification, writ, motion, or otherwise.

34 (b) A claim of factual innocence asserted through the Innocence Inquiry
35 Commission shall not adversely affect the defendant's rights to other postconviction
36 relief."

37 **SECTION 2.** G.S. 15A-1401 reads as rewritten:

38 **"§ 15A-1401. Post-trial motions and appeal.**

39 Relief from errors committed in criminal trials and proceedings and other post-trial
40 relief may be sought by:

41 (1) Motion for appropriate relief, as provided in Article 89.

42 (1a) Motion for innocence claim inquiry as provided in Article 92 of
43 Chapter 15A of the General Statutes.

(2) Appeal and trial de novo in misdemeanor cases, as provided in Article 90.

(3) Appeal, as provided in Article 91."

SECTION 3. G.S. 15A-1417(a) reads as rewritten:

"(a) The following relief is available when the court grants a motion for appropriate relief:

(1) New trial on all or any of the charges.

(2) Dismissal of all or any of the charges.

(3) The relief sought by the State pursuant to G.S. 15A-1416.

(3a) For claims of factual innocence, referral to the North Carolina Innocence Inquiry Commission established by Article 92 of Chapter 15A of the General Statutes.

(4) Any other appropriate relief."

SECTION 4. G.S. 15A-1411 reads as rewritten:

"§ 15A-1411. Motion for appropriate relief.

(a) Relief from errors committed in the trial division, or other post-trial relief, may be sought by a motion for appropriate relief. Procedure for the making of the motion is as set out in G.S. 15A-1420.

(b) A motion for appropriate relief, whether made before or after the entry of judgment, is a motion in the original cause and not a new proceeding.

(c) The relief formerly available by motion in arrest of judgment, motion to set aside the verdict, motion for new trial, post-conviction proceedings, coram nobis and all other post-trial motions is available by motion for appropriate relief. The availability of relief by motion for appropriate relief is not a bar to relief by writ of habeas corpus.

(d) A claim of factual innocence asserted through the North Carolina Innocence Inquiry Commission does not constitute a motion for appropriate relief and does not impact rights or relief provided for in this Article."

SECTION 5. G.S. 15A-1418(b) reads as rewritten:

"(b) When a motion for appropriate relief is made in the appellate division, the appellate court must decide whether the motion may be determined on the basis of the materials before it, ~~or whether it is necessary to remand the case to the trial division for taking evidence or conducting other proceedings.~~ proceedings, or, for claims of factual innocence, whether to refer the case for further investigation to the North Carolina Innocence Inquiry Commission established by Article 92 of Chapter 15A of the General Statutes. If the appellate court does not remand the case for proceedings on the motion, it may determine the motion in conjunction with the appeal and enter its ruling on the motion with its determination of the case."

SECTION 6. G.S. 143-318.18 is amended by adding a new subdivision to read:

"(3a) The North Carolina Innocence Inquiry Commission."

SECTION 7. G.S. 132-1.4 reads as rewritten:

"§ 132-1.4. Criminal investigations; intelligence information ~~records-records;~~
Innocence Inquiry Commission records.

1 (a) Records of criminal investigations conducted by public law enforcement
2 ~~agencies or agencies~~, records of criminal intelligence information compiled by public
3 law enforcement ~~agencies~~agencies, and records of investigations conducted by the
4 North Carolina Innocence Inquiry Commission, are not public records as defined by
5 G.S. 132-1. Records of criminal investigations conducted by public law enforcement
6 agencies or records of criminal intelligence information may be released by order of a
7 court of competent jurisdiction.

8"

9 **SECTION 8.** Beginning January 1, 2007, and annually thereafter, the North
10 Carolina Innocence Inquiry Commission shall report on its activities to the Joint
11 Legislative Corrections, Crime Control, and Juvenile Justice Oversight Committee and
12 the State Judicial Council. The report may contain recommendations of any needed
13 legislative changes related to the activities of the Commission. The report shall
14 recommend the funding needed by the district attorney and the State Bureau of
15 Investigation in order to meet their responsibilities under this act.

16 **SECTION 9.** The State Judicial Council shall report to the General
17 Assembly and the Chief Justice no later than December 31, 2008, regarding the
18 implementation of this act and shall include in its report the statistics regarding inquiries
19 and any recommendations for changes.

20 **SECTION 10.** This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

AP Rotation

8-11-05

Name of Committee

Date _____

6:30 p

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE ASSISTANT

NAME	FIRM OR AGENCY
Colleen Kochanek	NCACP/NCLEOA
Ans Kella	Self-Help
Crystal Hopson	Covenant with NC's Children
Monica Mason	~~Capital Budget~~
Geandra Skinner	NCCPS
Perry Woods	NCCUVE
Justin Moore	NCCUV
J. B. Lebo	Supreme Court
Chris Mammola	Insurance Commission
Erin Kinney	NC Contribution Network
~~W. J. P. P.~~	~~W. J. P. P.~~
Elizabeth Ouzel	NCPIC
Oran Ouzel	BPMH
Eddie Caldwell	NC Seniors Assn.
Rean Mills	NCLM
Susan Conrad	NCDOT
Bruce Thompson	PARKER POE
Elizabeth Sir	State Arb
Tom Maynard	EPM & Associates
James Doe	James Doe, Inc.
Bill Rouse	NC Justice Center

REVISED NOTICE TO ADD SB 911

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **APPROPRIATIONS** will meet as follows:

DAY & DATE: Monday, August 22, 2005

TIME: 3:00 p.m.

LOCATION: 643

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

HB 535 Teachers Convert Personal Leave to Sick Leave - Rep. Jeffus

SB 148 Death Benefit for Part-Time Law Enforcement - Sen. D. Berger

SB 868 Bill Lee Multi-Jurisdiction Industrial Park - Sen. D. Berger

SB 911 Class Actions and Unpaid Residuals - Senator Hagan *****

Respectfully,

Representatives Clary, Crawford, Earle, Nye,
Owens, Sherrill
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at
11:30 A.M. on August 22, 2005.

____Principal Clerk
____Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

HOUSE APPROPRIATIONS COMMITTEE

August 22, 2005

Room 643

3:00 P.M.

Representative Beverly Earle opened the meeting at 3:05 p.m. She introduced the Pages to the committee. She also stated that she hopes that everyone is rested and ready to work for the next few days.

These are the three bills on the agenda:

HB535

A BILL TO BE ENTITLED
AN ACT TO GIVE TEACHERS CREDIT FOR THE EXCESS
PERSONAL LEAVE TIME THAT THEY EARN AND TO ENSURE
THAT TEACHERS CAN TAKE PERSONAL LEAVE WITH FIVE
DAYS' NOTICE.

SB148

A BILL TO BE ENTITLED
AN ACT TO EXTEND THE LAW ENFORCEMENT OFFICERS',
FIREMEN'S, RESCUE SQUAD WORKERS', AND CIVIL AIR PATROL
MEMBERS' DEATH BENEFIT TO PERMANENT PART-TIME AND
TEMPORARY LAW ENFORCEMENT OFFICERS AND DETENTION
OFFICERS.

SB868

A BILL TO BE ENTITLED
AN ACT TO AMEND THE ENTERPRISE TIER STRUCTURE UNDER
THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION
ACT.

Senator Berger presented SB868 to the committee. A few questions were asked by the committee members and answered by staff. Representative Crawford moved to give the bill a favorable report. Representative Stam had more questions. The bill passed with a favorable report and recommendation that the bill be re-referred to the Committee on FINANCE. (See Attachment II).

The second bill on the agenda was SB148 (See Attachment III). This bill would provide an exception to the tier designation formula under Article 3A of the Chapter 105 of the General Statutes (the Bill Lee Act). It would allow certain industrial parks located in higher-tiered counties to be treated as if they were located in an enterprise tier one area.

Senator Berger introduced the bill to the committee. He stated that SB148 would extend the law enforcement officers, firemen's, rescue squad workers, and civil air patrol members death benefit to permanent part-time, temporary and volunteer law enforcement officers and detention officers. This eliminates the requirement that only full-time employees are eligible for this benefit. Representative Sherrill offered an amendment that passed. (See Attachment IV). Representative Tolson moved to give the bill a favorable report with the amendment rolled in. The bill passed with a favorable report as amended.

Third bill on the agenda was HB535. Representative Jeffus presented the bill. Cecil Bain, Director of SEAN also helped to explain the bill.

Questions were asked and answered by staff. A motion was made to give the bill a favorable report. The bill passed with a favorable report. (See Attachment V).

HB716 was added to the agenda.

HB716

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR THE MEDIATION OF STATE EMPLOYEE GRIEVANCES UNDER THE STATE PERSONNEL ACT AND RELATING TO THE TIME FRAME FOR CONTESTED CASES UNDER G.S. 126-34.1.

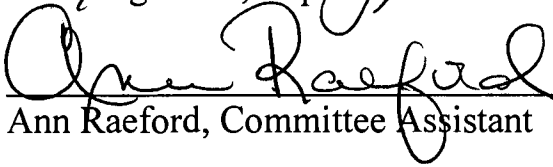
Representative Coleman presented the bill to the committee. (See Attachment VI). The first edition of the bill, introduced on March 2005 provided that the internal grievance procedure of each State agency, department, institution, and UNC shall include mediation as the first step of the procedure. It added a new section to indicate the Office of Administrative Hearings must conduct a contested case hearing and render a decision on cases filed under that section on later than 210 days from the date the case was filed. Questions were asked and answered by staff. Representative Sherrill moved to give the bill a favorable report.

The bill passed with a favorable report as the committee substitute bill 2, which changes the title, unfavorable as to Committee Substitute Bill 1.

The meeting adjourned.



Presiding Chair, Representative Beverly Earle



Ann Raeford, Committee Assistant

Representative Jim Crawford, Representative Edd Nye, Representative Bill Owens, Representative Wilma Sherrill, and Representative Debbie Clary

Attachments

Attachment I
Attachment II
Attachment III
Attachment IV
Attachment V
Attachment VI
Attachment VII
Attachment VIII

Agenda
SB868 and Summary
SB148 and Summary
Amendment #1
HB535 and Summary
HB716
Visitors Registration
Attendance Sheet

STATE OF NORTH CAROLINA
NORTH CAROLINA GENERAL ASSEMBLY
RALEIGH, NORTH CAROLINA 27601



HOUSE APPROPRIATIONS COMMITTEE
AGENDA
Monday, August 22, 2005
3:00 p.m.

Representative Beverly Earle, Presiding

Chair's Comments

Bills

HB 535 Teachers Convert Personal Leave to Sick Leave - Rep. Jeffus
SB 148 Death Benefit for Part-Time Law Enforcement - Sen. D. Berger
SB 868 Bill Lee Multi-Jurisdiction Industrial Park - Sen. D. Berger

Adjourn

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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2

SENATE BILL 868
Finance Committee Substitute Adopted 8/12/05

Short Title: Bill Lee – Multi-Jurisdiction Indus. Park.

(Public)

Sponsors:

Referred to:

March 23, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE ENTERPRISE TIER STRUCTURE UNDER THE
3 WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 105-129.3 is amended by adding a new subsection to
6 read:

7 "(d1) Exception for Certain Multi-Jurisdictional Industrial Park. – For the purpose
8 of this Article, an eligible industrial park created by interlocal agreement under
9 G.S. 158-7.4 has the lowest enterprise tier designation of the designations of the
10 counties in which it is located if all of the following conditions are satisfied:

- 11 (1) The industrial park is located, at one or more sites, in four or more
12 contiguous counties.
13 (2) At least two of the counties in which the industrial park is located are
14 enterprise tier one areas.
15 (3) The industrial park is owned by four or more units of local government
16 or a nonprofit corporation owned or controlled by four or more units of
17 local government.
18 (4) In each county in which the industrial park is located, the park has at
19 least 300 developable acres. For the purposes of this subdivision,
20 'developable acres' includes acreage that is owned directly by the
21 industrial park or its owners or that is the subject of a development
22 agreement between the industrial park or its owners and a third-party
23 owner.
24 (5) The total population of all of the counties in which the industrial park
25 is located is less than 200,000.
26 (6) In each county in which the industrial park is located, at least sixteen
27 percent (16%) of the population was Medicaid eligible as of January 1,
28 2005."

1 **SECTION 2.** This act is effective for taxable years beginning on or after
2 January 1, 2005.



SENATE BILL 868: Bill Lee – Multi-Jurisdiction Indus. Park

BILL ANALYSIS

Committee: House Appropriations
Introduced by: Sen. Berger of Franklin
Version: Second Edition

Date: August 22, 2005
Summary by: Canaan Huie
Staff Attorney

SUMMARY: *This act would provide an exception to the tier designation formula under Article 3A of the Chapter 105 of the General Statutes (the Bill Lee Act). It would allow certain industrial parks located in higher-tiered counties to be treated as if they were located in an enterprise tier one area.*

CURRENT LAW: The William S. Lee Quality Jobs and Business Expansion Act (hereinafter Bill Lee Act) was enacted in 1996, effective beginning with the 1996 tax year with a 2002 sunset. The Act is a package of State tax incentives and has been modified in each subsequent year. The incentives are primarily in the form of tax credits for investment in machinery and equipment and real property, for job creation, for worker training, and for research and development. Counties are divided into five economic distress tiers based on the unemployment rate, per capita income, and population growth of the county. For many of the credits, the lower the tier of a county, the more favorable the incentive. The Act requires the Department of Commerce and the Department of Revenue to report periodically on the credits allowed by the Act.

Before 1996, North Carolina had made little use of tax incentives to lure businesses to the State. Even without incentives, North Carolina was consistently one of the top states in attracting industry. The array of credits authorized by the Bill Lee Act was viewed as an experiment, to be evaluated in five years to determine whether the incentives were cost effective and actually affected behavior, or merely provided tax reductions to businesses that would have located or expanded in any case. In 2000, the General Assembly extended the sunset on the Act until January 1, 2006. In 2005, the General Assembly again voted to extend the sunset on the Act until January 1, 2008,¹ but stated that its intent was to revamp the act before the beginning of 2007.

By December 31 of each year, the Department of Commerce is required to assign a tier designation to each of the 100 counties in the State. In order to make these assignments, the Department of Commerce must rank all 100 counties based on the following three factors: the rank of the county in a ranking of counties by average rate of unemployment over the preceding 12 months from lowest to highest, the rank of the county in a ranking of counties by average per capita income over the proceeding 12 months from highest to lowest, and the rank of the county in a ranking of counties by percentage growth in

¹ There are several exceptions to the 2008 sunset date. Interstate air couriers are eligible to claim the credits for business activity that occurs on or before January 1, 2010, provided that the interstate air courier entered into a real estate lease on or before January 1, 2006 with an airport authority that provides for the lease of at least 100 acres of land for a term of at least 15 years. "Eligible major industries" that qualify as such before January 1, 2006, are also allowed to claim credits for business activity that occurs on or before January 1, 2010. A taxpayer is an eligible major industry if it will invest at least \$100 million in acquiring, constructing, and equipping a facility and it is engaged in bioprocessing, the manufacture or distribution of pharmaceuticals or medicines, aircraft manufacturing, computer manufacturing, motor vehicle manufacturing, and semiconductor manufacturing. Finally, for certain projects that locate in development zones before January 1, 2006, the Act does not expire until January 1, 2010. In order to qualify for this extension, the taxpayer must (a) sign a letter of commitment with the Department of Commerce promising to create at least 300 new jobs and to invest at least \$10 million in real property and machinery and equipment over a three year period and (b) create at least 20 new jobs and invest at least \$4 million before January 1, 2006.

Senate Bill 868

Page 2

population over the preceding 12 months from highest to lowest.² Each of these factors is given equal weight. The Secretary of Commerce is required to use the latest data available in making these calculations. Counties with one of the 10 highest rankings are designated enterprise tier one, the next 15 counties are enterprise tier two, the next 25 counties are enterprise tier 3, the next 25 counties are enterprise tier 4, and the remaining counties are enterprise tier 5. There are numerous exceptions to this formula. A county designated as enterprise tier one or two may not be designated a higher tier until it has been at its current tier for at least two consecutive years. Certain lower-population counties also enjoy exceptions that could result in those counties receiving a lower tier designation. Finally, certain industrial parks that are located at one site in two or more counties receive the tier designation of the lower-ranked county.

BILL ANALYSIS: This bill would create an additional exception to the Bill Lee Act tier designation formula. Under this bill, sites within certain industrial parks would be able to qualify for enterprise tier one status. In order to take advantage of this exception, all the following conditions would have to be satisfied:

- The site is located in an industrial park created by interlocal agreement pursuant to G.S. 158-7.4.
- The industrial park is located, at one or more site, in at least four contiguous counties.
- At least two of the counties in which the industrial park is located are designated as enterprise tier one areas.
- Four or more units of local government, or a nonprofit corporation owned and controlled by four or more units of local government, own the industrial park.
- In each county in which the industrial park is located, the park has at least 300 developable acres.
- The total population of all the counties in which the industrial park is located is less than 200,000.
- In each county in which the industrial park is located, at least 16% of the population was Medicaid eligible as of January 1, 2005.

EFFECTIVE DATE: This bill would become effective for taxable years beginning on or after January 1, 2005.

BACKGROUND: At the present time, the only industrial park that meets the criteria specified in this bill is an industrial park in the Kerr-Tar region. It is possible that other counties could enter into similar agreements in order to take advantage of this exception in the future, but the restrictions are so stringent as to make it unlikely that a significant number of high-tiered counties could qualify under this provision. The four counties involved in the Kerr-Tar industrial park project are Franklin, Granville, Vance, and Warren. In 2005, Franklin County was an enterprise tier five area; Granville County was an enterprise tier three area; and Vance and Warren Counties were enterprise tier one areas.

S0868e2-SMLY

Prior to the designations for the 2005 calendar year, these rankings were based on longer time periods. Unemployment and per capita income were averaged over three years rather than 12 months. There was no time period specified for measuring population growth, but it was the practice of the Department of Commerce to measure population growth by comparing the most recent estimates of population in the county with the figures derived from the last decennial federal census.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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3

SENATE BILL 148

Pensions & Retirement and Aging Committee Substitute Adopted 6/1/05
House Committee Substitute Favorable 7/13/05

Short Title: Death Benefit for Part-Time Law Enforcement.

(Public)

Sponsors:

Referred to:

February 16, 2005

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE LAW ENFORCEMENT OFFICERS', FIREMEN'S, RESCUE SQUAD WORKERS', AND CIVIL AIR PATROL MEMBERS' DEATH BENEFIT TO PERMANENT PART-TIME AND TEMPORARY LAW ENFORCEMENT OFFICERS AND DETENTION OFFICERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-166.2(d) reads as rewritten:

"(d) The term "law-enforcement officer", "officer", or "fireman" shall mean a sheriff and all law-enforcement officers employed ~~full-time~~ full-time, permanent part-time, or temporarily by a sheriff, the State of North Carolina or any county or municipality thereof, whether paid or unpaid; and all full-time custodial employees and probation and parole officers of the North Carolina Department of ~~Correction~~ Correction; and all full time institutional and full-time, permanent part-time, and temporary detention employees of the Department of Juvenile Justice and ~~Delinquency Prevention. Prevention and full-time, permanent part-time, and temporary~~ detention officers employed by any sheriff, county or municipality, whether paid or unpaid. The term "firemen" shall mean both "eligible fireman"; or "fireman" as defined in G.S. 58-86-25 and all full-time, permanent part-time and temporary employees of the North Carolina Division of Forest Resources, Department of Environment and Natural Resources, during the time they are actively engaged in fire-fighting activities; and shall mean all full-time employees of the North Carolina Department of Insurance during the time they are actively engaged in fire-fighting activities, during the time they are training fire fighters or rescue squad workers, and during the time they are engaged in activities as members of the State Emergency Response Team, when the Team has been activated. The term "rescue squad worker" shall mean a person who is dedicated to the purpose of alleviating human suffering and assisting anyone who is in difficulty or who is injured or becomes suddenly ill by providing the proper and efficient care or emergency medical services. In addition, this person must belong to an organized rescue

squad which is eligible for membership in the North Carolina Association of Rescue Squads, Inc., and the person must have attended a minimum of 36 hours of training and meetings in the last calendar year. Each rescue squad belonging to the North Carolina Association of Rescue Squads, Inc., must file a roster of those members meeting the above requirements with the State Treasurer on or about January 1 of each year, and this roster must be certified to by the secretary of said association. In addition, the term "rescue squad worker" shall mean a member of an ambulance service certified by the Department of Health and Human Services pursuant to Article 7 of Chapter 131E of the General Statutes. The Department of Health and Human Services shall furnish a list of ambulance service members to the State Treasurer on or about January 1 of each year. The term "Civil Air Patrol members" shall mean those senior members of the North Carolina Wing-Civil Air Patrol 18 years of age or older and currently certified pursuant to G.S. 143B-491(a). The term "fireman" shall also mean county fire marshals when engaged in the performance of their county duties. The term "rescue squad worker" shall also mean county emergency services coordinators when engaged in the performance of their county duties."

SECTION 2. This act becomes effective November 1, 2004, and applies to all deaths occurring on or after that date.



SENATE BILL 148: Death Benefit for Part-Time Law Enforcement

BILL ANALYSIS

Committee:	House Appropriations	Date:	August 22, 2005
Introduced by:	Sen. Berger of Franklin	Summary by:	Karen Cochrane-Brown
Version:	Third Edition		Staff Attorney

SUMMARY: *Senate Bill 148 would extend the law enforcement officers', firemen's, rescue squad workers', and civil air patrol members' death benefit to permanent part-time, temporary and volunteer law enforcement officers and detention officers.*

The Third Edition includes a technical change that clarifies that employees of a sheriff are also eligible for the death benefit. Sheriff's employees have been eligible to receive this benefit because they were deemed to be county employees for this purpose. The amendment clarifies that these law enforcement officers are employees of the sheriff.

CURRENT LAW:

Under current law, full-time law enforcement officers, firemen, correction officers, detention officers, rescue squad workers, and civil air patrol members employed by the State or any county or municipality are eligible to receive a \$50,000 death benefit if they are killed in the line of duty. The benefit is generally paid to the surviving spouse by the Industrial Commission.

BILL ANALYSIS:

Senate bill 148 eliminates the requirement that only full-time employees are eligible for this benefit. It extends the death benefit to part-time, temporary, and volunteer law enforcement officers, firemen, State correction officers, and State and local detention officers.

EFFECTIVE DATE:

This bill would become effective November 1, 2004, and apply to all deaths of eligible members occurring on or after that date.

S0148e3-SMRO

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Actuarial Note

RETIREMENT

BILL NUMBER: Senate Bill 148 (Second Edition)

SHORT TITLE: Death Benefit for Part-Time Law Enforcement.

SPONSOR(S): Senator Berger of Franklin

FUNDS AFFECTED: General Fund

SYSTEM OR PROGRAM AFFECTED: Law-Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefit

EFFECTIVE DATE: November 1, 2004

BILL SUMMARY: Extends the line-of-duty death benefit of \$50,000 to permanent part-time or temporary law enforcement officers and to all full-time, permanent part-time or temporary detention officers employed by any county or municipality, whether paid or unpaid.

ESTIMATED IMPACT ON STATE: Both the Plan's actuary, Mellon, and the General Assembly's actuary, Hartman & Associates, LLC, agree that the cost to cover these members under the death benefit would cost an additional \$100,000 per year. However, the bill was changed from introduction to be effective November 1, 2004. This could possibly include two additional deaths that occurred between November 1, 2004 and June 30, 2005, so the estimated cost is \$200,000.

ASSUMPTIONS AND METHODOLOGY: There would be an estimated 14,700 additional persons covered by the Plan. The estimated cost is based on the experience of the Plan over period of time. The experience is shown as follows.

**\$50,000 Death Benefit for Law Enforcement Officers,
Firemen Rescue Squad Workers, Civil Air Patrol
Members & State Forestry Employees
(G. S. 143, Article 12A)**

Fiscal Year	Beginning Claims Payable	New Claims No. Amount		Total Claims Payable	Claims Paid	Ending Claims Payable
75-76	160,000	25	325,000	485,000	265,000	220,000
76-77	220,000	18	242,500	462,500	262,500	200,000
77-78	200,000	22	250,000	450,000	225,000	225,000
78-79	225,000	14	345,000	570,000	307,150	262,850
79-80	262,850	11	275,000	537,850	332,850	205,000
80-81	205,000	7	175,000	380,000	250,000	130,000
81-82	130,000	9	225,000	355,000	255,350	99,650
82-83	99,650	3	75,000	174,650	84,650	90,000
83-84	90,000	5.5	137,500	227,500	147,500	80,000
84-85	80,000	7.2	180,000	260,000	145,000	115,000
85-86	115,000	9	225,000	340,000	235,000	105,000
86-87	105,000	9	225,000	330,000	195,000	135,000
87-88	135,000	6	150,000	285,000	180,000	105,000
88-89	105,000	5	125,000	230,000	115,000	115,000
89-90	115,000	3	75,000	190,000	110,000	80,000
90-91	80,000	3	75,000	155,000	80,000	75,000
91-92	75,000	9	225,000	300,000	165,000	135,000
92-93	135,000	8	200,000	335,000	180,000	155,000
93-94	155,000	6	150,000	305,000	200,000	105,000
94-95	105,000	5	125,000	230,000	140,000	90,000
95-96	90,000	7	175,000	265,000	150,000	115,000
96-97	115,000	6	150,000	265,000	160,000	105,000
97-98	105,000	4	100,000	205,000	100,000	105,000
98-99	105,000	9	225,000	330,000	120,000	210,000
99-00	210,000	12	300,000	510,000	250,000	260,000
00-01	260,000	7	175,000	435,000	210,000	225,000
01-02	225,000	6	150,000	375,000	180,000	195,000
02-03	195,000	12	300,000	495,000	270,000	225,000
03-04	225,000	14	550,000	775,000	370,000	405,000
04-05	405,000					

2004-05 Estimated Coverage

Law Officers	
(State & Local Gov't.)	20,575
Firemen (Paid & Volunteer)	42,864
Rescue Squad Workers	22,798
Correctional Custody Officers	13,528
Forest Firefighters	700
CAP Senior Members	863
Dept. of Insurance Employees	26
TOTAL	101,354

SOURCES OF DATA: System Actuary - Mellon
General Assembly Actuary - Hartman & Associates, LLC

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910. The above information is provided in accordance with North Carolina General Statute 120-114 and applicable rules of the North Carolina Senate and House of Representatives.

PREPARED BY: Stanley Moore

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



DATE: August 22, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices



March 9, 2005

Mr. J. Brett Joyal
Policy Director
Retirement Systems Division
Department of State Treasurer
325 North Salisbury Street
Raleigh, NC 27603-1385

Senate Bill 148

Dear Mr. Joyal:

We have received your letter of March 4 regarding Senate Bill 148, which affects the Law Enforcement Officers', Firemen's, Rescue Squad Workers', and Civil Air Patrol Members' Death Benefits Act.

This legislation appears to amend the provisions of G.S. 143-166.2(d) by extending the list of personnel eligible to receive a Death Benefit of fifty thousand (\$50,000) dollars to include permanent part-time and temporary law enforcement officers and certain correctional employees.

This legislation would become effective upon ratification and applies to death benefits awarded on or after that date.

It is our understanding that the Industrial Commission of North Carolina actually administers this benefit and sends the payments to the Retirement Systems Division for disbursement.

Since this is not a pre-funded plan, any additional cost due to this legislation, would result in the need for increased appropriations to cover additional death benefits. Based on the data we received, there are approximately 15,000 additional employees who would be covered by this death benefit due to this legislation. The estimated additional appropriation in the first year would be \$100,000.

If we can be of further assistance with regard to this legislation, please do not hesitate to contact us.

Sincerely,

Edward A. Macdonald
Principal, Consulting Actuary

EAM:sh

P:\North Carolina Fire & Rescue\2005\Retirement\Correspondence\Senate Bill 148.doc
1950 RET03-013

HARTMAN & ASSOCIATES, LLC

ACTUARIAL CONSULTING

MARK V. HARTMAN, FSA, MAAA, MCA, EA

Phone: (336) 731-4038

Fax: (336) 731-2583

668 Link Road
Lexington, NC 27295

February 22, 2005

Mr. Stanley Moore
Fiscal Research Division
North Carolina General Assembly
300 N. Salisbury Street
Raleigh, NC 27603-5925

Re: Senate Bill 148: An Act to Extend the Death Benefit Act to
Certain Part-time and Temporary Officers

Dear Mr. Moore:

This bill amends G.S. 143-166.2(d) to include permanent part-time and temporary law enforcement officers and full-time, permanent part-time and temporary detention officers in the Law Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act. This act is effective July 1, 2005 and applies to all deaths occurring on or after that date.

The Death Benefits Act provides a benefit for members killed in the line of duty. The benefit is an initial payment of \$20,000 plus \$10,000 per year until total payments equal \$50,000. Based on current plan experience and the data you provided on the number of additional positions covered, I estimate the average additional annual deaths will be approximately two and the annual cost will be approximately \$100,000.

This estimate is based on an analysis of the historical data regarding the number of death claims paid by the Plan and coverage of approximately 14,700 additional law enforcement officers and detention officers.

If you have any questions, let me know.

Sincerely,



Mark V. Hartman, FSA, MAAA, MCA, EA
Consulting Actuary

MVH/mt

EDITION No. 3

H. B. No. _____

DATE _____

S. B. No. 148

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Sherrill
Sen.) _____

1 moves to amend the bill on page 2, lines 16-17

2 () WHICH CHANGES THE TITLE

3 by inserting between those lines the following:

4 _____
5 "SECTION 2. There is appropriated from the
6 General Fund to the Department of State Treasurer
7 the sum of two hundred thousand dollars (\$200,000)
8 for the 2005-2006 fiscal year and the sum of
9 two hundred thousand dollars (\$200,000) for the
10 2006-2007 fiscal year to implement the provisions
11 of this act.";

12 _____
13 and by renumbering the subsequent section
14 accordingly.

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED A. Sherrill

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

2

HOUSE BILL 535
Committee Substitute Favorable 3/29/05

Short Title: Teachers Convert Personal Leave to Sick Leave.

(Public)

Sponsors:

Referred to:

March 9, 2005

A BILL TO BE ENTITLED

AN ACT TO GIVE TEACHERS CREDIT FOR THE EXCESS PERSONAL LEAVE
TIME THAT THEY EARN AND TO ENSURE THAT TEACHERS CAN TAKE
PERSONAL LEAVE WITH FIVE DAYS' NOTICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-302.1(d) reads as rewritten:

"(d) Personal Leave. – Teachers earn personal leave at the rate of .20 days for each full month of employment not to exceed two days per year. Personal leave may be accumulated ~~to a maximum of five days without any applicable maximum~~ until June 30 of each year. A teacher may carry forward to July 1 a maximum of five days of personal leave; the remainder of the teacher's personal leave shall be converted to sick leave on June 30. At the time of retirement, a teacher may also convert accumulated personal leave to sick leave for creditable service towards retirement.

Personal leave may be used only upon the authorization of the teacher's immediate supervisor, ~~but supervisor~~. A teacher shall not take personal leave on the first day the teacher is required to report for the school year, on a required teacher workday, on days scheduled for State testing, or on the day before or the day after a holiday or scheduled vacation day, unless the request is approved by the principal. On all other days, if the request is made at least five days in advance, the request shall be automatically granted subject to the availability of a substitute teacher, and the teacher cannot be required to provide a reason for the request. ~~Unless approved by the principal, a teacher shall not take personal leave on the first day the teacher is required to report for the school year, on required teacher workdays, or on the day before or the day after holidays or scheduled vacation days.~~ Teachers may transfer personal leave days between local school administrative units. The local school administrative unit shall credit a teacher who has separated from service and is reemployed within 60 months from the date of separation with all personal leave accumulated at the time of separation. Local school administrative units shall not advance personal leave. Teachers using personal leave receive full salary less the required substitute deduction."

1

SECTION 2. This act becomes effective July 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

2

HOUSE BILL 716
Committee Substitute Favorable 6/1/05

Short Title: Mediate State Employee Grievance/Time Frame.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED
AN ACT PROVIDING FOR THE MEDIATION OF STATE EMPLOYEE
GRIEVANCES UNDER THE STATE PERSONNEL ACT AND RELATING TO
THE TIME FRAME FOR CONTESTED CASES UNDER G.S. 126-34.1.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-34 reads as rewritten:

"§ 126-34. Grievance appeal for career State employees.

Unless otherwise provided in this Chapter, any career State employee having a grievance arising out of or due to the employee's employment and who does not allege unlawful harassment or discrimination because of the employee's age, sex, race, color, national origin, religion, creed, handicapping condition as defined by G.S. 168A-3, or political affiliation shall ~~first discuss the problem or grievance with the employee's supervisor and~~ follow the grievance procedure established by the employee's department or agency. The internal grievance procedure of each State agency, department, institution, and The University of North Carolina shall include mediation as the first step of the procedure. An independent third party who is not employed by the same agency as the employee having the grievance shall conduct the mediation. Any State employee having a grievance arising out of or due to the employee's employment who alleges unlawful harassment because of the employee's age, sex, race, color, national origin, religion, creed, or handicapping condition as defined by G.S. 168A-3 shall submit a written complaint to the employee's department or agency. The department or agency shall have 60 days within which to take appropriate remedial action. If the employee is not satisfied with the department or agency's response to the complaint, the employee shall have the right to appeal directly to the State Personnel Commission."

SECTION 2. G.S. 126-34.1 is amended by adding a new subsection to read:

"(f) The Office of Administrative Hearings must conduct a contested case hearing and render a decision on cases filed under this section no later than 210 days from the date the case was filed with the Office of Administrative Hearings. If the Office of Administrative Hearings fails to complete the contested case hearing process in 210

1 days of the date filed, then a party may petition the State Personnel Commission Chair
2 to appoint an experienced personnel law attorney to complete the administrative hearing
3 decision-making process and certify an official record within 60 days at the expense of
4 the Office of Administrative Hearings."

5 **SECTION 3.** This act is effective when it becomes law and applies to State
6 employee grievances that arise on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 716
Committee Substitute Favorable 6/1/05
PROPOSED COMMITTEE SUBSTITUTE H716-CSRO-47 [v.1]

8/22/2005 3:19:49 PM

Short Title: Study Emp'ee Mediation/OAH Time Frame.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE LEGISLATIVE STUDY COMMISSION ON THE
STATE EMPLOYEE GRIEVANCE PROCESS AND TO SET A TIME LIMIT
FOR THE OFFICE OF ADMINISTRATIVE HEARINGS IN DISPOSING OF
CONTESTED CASES UNDER G.S. 126-34.1.

The General Assembly of North Carolina enacts:

SECTION 1.1. There is established the Legislative Study Commission on the State Employee Grievance Process. The Study Commission shall study the use of mediation as a means of resolving and streamlining the review of grievances filed by State employees and applicants for State employment. In conducting the study, the Commission shall consider the following issues:

- (1) The results of the pilot mediation program conducted by the Office of State Personnel.
- (2) The use of mediation as a dispute resolution mechanism by State agencies in non-personnel cases, the court system, and other states.
- (3) The effectiveness of the current internal grievance process in resolving employee disputes and preventing grievances from being appealed.
- (4) The use of mediation either in lieu, of or in addition to, any of the existing steps in the current grievance process to streamline the process.
- (5) The establishment of time limits for the grievance process, with and without mediation, and the qualifications and selection of mediators.
- (6) The productivity costs associated with the current grievance process and whether mediation is an effective method of reducing those costs.
- (7) The extent to which employees perceive the current system as fair and neutral.

(8) The number of State employee grievance cases appealed to the Office of Administrative Hearings and the causes of any delays in the process of hearing and deciding those cases.

(9) Any other issues the Commission considers relevant.

SECTION 1.2. The Commission shall consist of 16 members appointed 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 Office of State Personnel or his designee.

(4) The Chief Administrative Law Judge and Director of the Office of Administrative Hearings or his designee.

(5) A representative of the State Employees Association of North Carolina appointed by the Speaker of the House of Representatives.

(6) A representative of the Department of Justice appointed by the President Pro Tempore of the Senate upon the recommendation of the Attorney General.

(7) A representative of a Historically Black State University appointed by the Speaker of the House of Representatives.

(8) A representative of The University of North Carolina appointed by the President Pro Tempore of the Senate.

(9) A representative of a local government appointed by the Speaker of the House of Representatives upon the recommendation of the Association of County Commissioners.

(10) A representative of a State agency or department appointed by the President Pro Tempore of the Senate upon the recommendation of the Governor.

SECTION 1.3. The Speaker of the House of Representative shall designate a cochair, and the President Pro Tempore of the Senate shall designate 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 1.4. While in the discharge of its official duties, the Commission 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 1.5. 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 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. Members of the

1 Commission shall receive subsistence and travel expenses at the rates set forth in G.S.
2 120-3.1, 138-5, or 138-6, as appropriate.

3 **SECTION 1.6.** The Commission shall submit a final report of its findings
4 and recommendations, including any legislative recommendations, to the 2005 General
5 Assembly upon the convening of the 2006 Regular Session. Upon the filing of its final
6 report the Commission shall terminate.

7 **SECTION 1.7.** From the funds appropriated to the General Assembly, the
8 Legislative Services Commission shall allocate funds for the expenses of the
9 Commission established by this act.

10 **SECTION 2.** G.S. 126-34.1 is amended by adding a new subsection to read:
11 "(f) The Office of Administrative Hearings must conduct a contested case hearing
12 and render a decision on cases filed under this section no later than 210 days from the
13 date the case was filed with the Office of Administrative Hearings."

14 **SECTION 3.** This act is effective when it becomes law and applies to State
15 employee grievances that arise on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Fiscal Note

BILL NUMBER: House Bill 716 (Second Edition)

SHORT TITLE: Mediate State Employee Grievance/Time Frame.

SPONSOR(S): Representative Coleman

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
REVENUES	\$0	\$0	\$0	\$0	\$0
EXPENDITURES					
Office of State Personnel	\$0	\$0	\$0	\$0	\$0
Office of Administrative Hearings	[For explanation of the RANGE, refer to Assumptions & Methodology]				
Recurring	\$147,948 – \$230,400	\$147,948 – \$230,400	\$147,948 – \$230,400	\$147,948 – \$230,400	\$147,948 – \$230,400
Non-Recurring	\$13,600	\$0	\$0	\$0	\$0
TOTAL	\$161,548 – \$230,400	\$147,948 – \$230,400	\$147,948 – \$230,400	\$147,948 – \$230,400	\$147,948 – \$230,400
POSITIONS (cumulative):	[Refer to Assumptions and Methodology]				
	2 FTE	2 FTE	2 FTE	2 FTE	2 FTE
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:	Office of State Personnel (OSP) and Office of Administrative Hearings (OAH)				
EFFECTIVE DATE:	When it becomes law and applies to State employee grievances that arise on or after that date.				

BILL SUMMARY: The first edition of the bill, introduced on March 17, 2005, amended GS 126-34 to provide that the internal grievance procedure of each State agency, department, institution, and UNC shall include mediation as the first step of the procedure. It added a new section, GS 126-34.1(f) to indicate the Office of Administrative Hearings must conduct a contested case

hearing and render a decision on cases filed under that section no later than 210 days from the date the case was filed. If the Office fails to complete the contested case hearing process in 210 days, the petitioner who filed the case may petition the Superior Court of Wake County for a hearing de novo. On June 1, 2005 a House committee substitute changed the first edition as follows: 1) amends GS 126-34 to require that an independent third party who is not employed by the same agency as the employee filing the grievance conduct the mediation of the grievance; and 2) modifies proposed GS 126-34.1(f) to provide that if the Office of Administrative Hearings fails to complete a contested case hearing within 210 days, a party may petition the State Personnel Commission Chair to appoint an experienced personnel law attorney to complete the administrative hearing process and certify an official record within 60 days, expenses to be paid by the Office of Administrative Hearings (was, party may petition the Wake County Superior Court for a hearing de novo).

Source: Bill Digest H.B. 716 (03/17/0200) and (06/01/0200).

ASSUMPTIONS AND METHODOLOGY:

Office of State Personnel (OSP)

Section 1 of the bill amends G.S. 126-34 to institute two additional requirements in regard to employee grievances. First, it supports an internal grievance procedure for all State agencies, departments, institutions and the University of North Carolina that requires mediation as the first step of the procedure. The Office of State Personnel (OSP) fully supports mediation and funding was appropriated in the 2002 Session for OSP to provide mediation training. Additionally, the Senate and proposed House versions of SB622 – 2005 Appropriations Act – includes \$21,600 that would train 27 new mediators. As a result of the training initiative, there are currently 124 State employees. Of that number, 28 are employed by OSP and the balance serves as mediators within State agencies. Therefore, requiring mediation as a first step in the grievance procedure would not require additional resources. To date 19 cases have been mediated in the following grievance/issue categories: 6 or 31.5% - discrimination; 5 or 26.3% - dismissal; 4 or 21% - suspensions without pay; 3 or 15.8% - supervisory conflict (work-relationships); and 1 or 5.2% - demotion.

Additionally, Section 1 stipulates that an independent third party, who is not employed by the same agency of the aggrieved employee, should conduct the mediation. According to OSP, mediation is the responsibility of the group of State employees, who have been trained for this purpose. Thus, the only cost associated with independent third party mediation would be the loss of productivity of the mediator from their primary job function. If productivity appears to present a problem in handling cases, OSP can assign the case to one of its 28 mediators. Another option is for OSP to incorporate mediation responsibility into the duties of the HR Partner, who is assigned to handle other Human Resources needs of the aggrieved employee's agency.

There is no anticipated cost to OSP to meet the requirements of the legislation.

Office of Administrative Hearings (OAH)

Section 2 requires that the Office of Administrative Hearings (OAH) dispose of contested personnel cases filed under G.S. 126 within 210 days of being filed. OAH's average personnel case disposal time is 300 days for cases closed in 2005. That is in contrast to OAH's current average disposal time of 194 days for all administrative law cases it closed in 2005. OAH reports that personnel cases require additional disposal time because many of the cases result in the

discharge of state employees and such cases rarely settle by mediation. After the conclusion of hearing a case, additional time is needed for the hearing transcript to be prepared, for the attorneys representing the parties of the case to submit their proposals for decision, and for the administrative law judge to review the proposal submissions and issue a decision.

OAH projects that it would reduce the personnel case disposition time from an average of 300 to the required 210 days with the addition of two (2) positions (an Administrative Law Judge and an Administrative Officer II). OAH states that the additional administrative law judge, increasing the current 8 to 9 judges, would permit the Chief Administrative Law Judge to assume greater managerial oversight of case management. Furthermore, OAH projects that the addition of an Administrative Officer II, acting as a trial court administrator, would permit daily monitoring and intervention in the docketing of contested cases to ensure the 210-day time period is met. OAH estimates that these positions, including fringe and operating expenses, would cost \$161,548 in FY 2005-06 and would annually cost \$147,948 for fiscal years 2006-07 through 2009-10.

Estimated OAH recurring expense

Salaries for 2 positions	\$117,726
Total fringe benefits	\$21,972
Operating costs (travel, telephone, office supplies, employee education)	\$8,250
<i>Subtotal</i>	\$147,948

Estimated OAH non-recurring expense

Office furniture and equipment	\$4,200
Computer equipment	\$9,400
<i>Subtotal</i>	\$13,600

TOTAL OAH Expense for FY 2005-06	\$161,548

Section 2 also directs that if OAH does not complete the contested case hearing process within the 210-day disposition timeframe, then one of the parties to the case may petition the State Personnel Commission Chair to appoint an experienced personnel law attorney to complete the hearing process within 60 days. The bill directs OAH to pay the costs for the appointed attorney to complete the hearing process. *OAH estimates that without the authorization and funding of the additional two staff outlined above, OAH will not be able to close approximately 24 (11% or the difference between the distribution of the caseload among 8 instead of 9 judges) of the average 214 personnel case petitions filed annually within the 210-day required time frame. If OAH fails to close the contested personnel cases in 210 days, OAH estimates that the cost for the appointed attorneys to handle 24 cases would be \$230,400 per year.* OAH estimates that each of the 24 cases would require 48 billable attorney hours at \$200 per hour. The estimate of 48 hours includes an average of three (3) days to hear a case and an average of three (3) days after the hearing to render a decision. This estimate does not include travel, per diem, facility costs, or overhead costs.

SOURCES OF DATA: Office of State Personnel and Office of Administrative Hearings

TECHNICAL CONSIDERATIONS: It appears that for OAH to be able to dispose of personnel cases within the 210-day time period as required by the bill, statutory changes may be required to drastically reduce or eliminate pre-trial procedures such as discovery, motions, and the provision for permitting continuances.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Michele Nelson and Kathie Austin

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



DATE: June 6, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices

VISITOR REGISTRATION SHEET

Appropriations

Name of Committee

August 22, 2005

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Cam Cover

12 PM HL

Karen Johnson

Sumita Anderson

Tim Wenn

Hopper & Hicks, LLP for
Granville County/ Ten Tar COG

John M. Killian

Nelson Mullins

Paul Schul

NBA

VISITOR REGISTRATION SHEET

Appropriations

August 22, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

<i>Julian Morris</i>	<i>DAH</i>
<i>Joe Phil</i>	<i>School of Gov't</i>
<i>Smith</i>	<i>the office</i>
<i>Carl Hedges</i>	<i>OSD</i>
<i>Bill Rowe</i>	<i>NC Justice Center</i>
<i>John M. Jett</i>	<i>NC PBA</i>
<i>Ben Hitchings</i>	<i>NCAPA</i>
<i>Robert E. Anderson</i>	<i>Robert E. Anderson</i>
<i>Andy Ellen</i>	<i>NCRMA</i>
<i>Brian Lewis</i>	<i>Covenant w/ NC's children</i>
<i>Wanda Z</i>	<i>NCDs & NCPMA</i>

VISITOR REGISTRATION SHEET

Appropriations

August 22, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Beverly	LBA
Orin Carlton	alt
Fred Bone	Bone & Assoc.
Melissa Trankler	NCAAC
Ed Regan	NCRSEA
John M. Hays	Gov Office
Melissa Lovell	NCDOT
Eddie Caldwell	NC Sheriffs' Assn.
TERRY MANGUM	NC FRATERNAL ORDER OF POLICE
Colleen Kochanek	NCACT / NCLEOA
Lop Parry - Bill	NC DPI

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute for

SB 868 A BILL TO BE ENTITLED AN ACT TO AMEND THE ENTERPRISE TIER
STRUCTURE UNDER THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS
EXPANSION ACT.

☒ With a favorable report and recommendation that the bill be re-referred to the Committee on
FINANCE.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ The bill/resolution is re-referred to the Committee on _____.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ House Committee Substitute for

SB 148 A BILL TO BE ENTITLED AN ACT TO EXTEND THE LAW
ENFORCEMENT OFFICERS', FIREMEN'S, RESCUE SQUAD WORKERS', AND CIVIL AIR
PATROL MEMBERS' DEATH BENEFIT TO PERMANENT PART-TIME AND
TEMPORARY LAW ENFORCEMENT OFFICERS AND DETENTION OFFICERS.

☒ With a favorable report as amended.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute for

HB 535 A BILL TO BE ENTITLED AN ACT TO GIVE TEACHERS CREDIT FOR
THE EXCESS PERSONAL LEAVE TIME THAT THEY EARN AND TO ENSURE THAT
TEACHERS CAN TAKE PERSONAL LEAVE WITH FIVE DAYS' NOTICE.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute # 1 for

HB 716 A BILL TO BE ENTITLED AN ACT PROVIDING FOR THE MEDIATION
OF STATE EMPLOYEE GRIEVANCES UNDER THE STATE PERSONNEL ACT AND
RELATING TO THE TIME FRAME FOR CONTESTED CASES UNDER G.S. 126-34.1.

☒ With a favorable report as to the committee substitute bill 2, which changes the title,
unfavorable as to Committee Substitute Bill 1.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution
(No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____)
is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the
Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute
Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **APPROPRIATIONS** will meet as follows:

DAY & DATE: Tuesday, August 23, 2005

TIME: Immediately after session

LOCATION: 1228

The following bills will be considered (Bill # & Short Title & Bill Sponsor):

SB 671 Real Property Electronic Recording-Senator Hartsell

SB 725 NCNGuard-Tuition Assistance Program Changes-Senator Thomas

SB 804 Public Health Task Force/Accred. Recommends.-Senator Hartsell

Respectfully,

Representatives Clary, Crawford, Earle, Nye,
Owens, Sherrill
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at
6:00 pm on August 23, 2005.

____Principal Clerk
____Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

**MINUTES
HOUSE COMMITTEE ON APPROPRIATIONS
AUGUST 23, 2005**

The House Committee on Appropriations met on Tuesday, August 23, 2005, in Room 1228 of the Legislative Building at 6:50 p.m. Chairman Jim Crawford convened the meeting. There were 31 House members present as well as staff to the Appropriations Committee. A visitor registration is attached and made a part of these minutes.

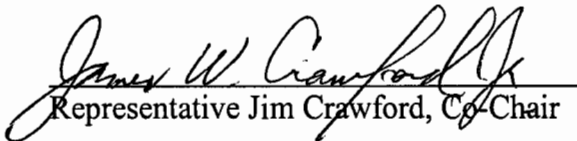
SB 725 NCNGUARD – TUITION ASSISTANCE PROGRAM CHANGES

Chairman Crawford recognized Representative Owens to explain the bill. Representative Pate moved to give the bill a favorable report and the motion carried.

SB 804 PUBLIC HEALTH TASK FORCE/ACCRED.RECOMMEND.

Representative Insko presented the bill and offered an amendment. She moved for adoption of the amendment, and the motion carried. Representative Sherrill moved to give the bill a favorable report as amended and the motion carried.

The meeting adjourned at 7:00 pm.


Representative Jim Crawford, Co-Chair


Linda Winstead, Committee Assistant

Representative Debbie Clary
Representative Beverly Earle
Representative Edd Nye
Representative Bill Owens
Representative Wilma Sherrill

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute for

SB 725 A BILL TO BE ENTITLED AN ACT TO MODIFY THE TUITION
ASSISTANCE PROGRAM FOR MEMBERS OF THE NORTH CAROLINA NATIONAL
GUARD.

☒ With a favorable report.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

S

2

SENATE BILL 725

Education/Higher Education Committee Substitute Adopted 5/4/05

Short Title: NCNGuard-Tuition Assistance Program Changes.

(Public)

Sponsors:

Referred to:

March 22, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE TUITION ASSISTANCE PROGRAM FOR MEMBERS
3 OF THE NORTH CAROLINA NATIONAL GUARD.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 127A-193 reads as rewritten:

6 "§ 127A-193. Benefit.

7 The benefit provided under this Article shall consist of a monetary educational
8 assistance grant not to exceed ~~two thousand dollars (\$2,000) per academic year the~~
9 highest amount charged by a State educational institution per academic year or a lesser
10 amount, as prescribed by the Secretary, to remain within the funds appropriated, to
11 qualifying members of the North Carolina national guard. Benefits shall be payable for
12 a period of one academic year at a time, renewable at the option of the Secretary for a
13 maximum of eight thousand dollars (\$8,000). Secretary."

14 SECTION 2. G.S. 127A-195(c) reads as rewritten:

15 "(c) All tuition benefit disbursements shall be made to the business or trade school
16 or State or private educational institution concerned, for credit to the tuition account of
17 each recipient."

18 SECTION 3. G.S. 127A-195 is amended by adding a new subsection to
19 read:

20 "(f) Any balance of the monetary educational assistance grant up to the maximum
21 for the academic year remaining after tuition is paid pursuant to subsection (c) of this
22 section may be disbursed to the recipient as reimbursement for required course books
23 and materials. The manner of obtaining the reimbursement payment for these required
24 books and materials shall be as prescribed by the Secretary."

25 SECTION 4. This act becomes effective July 1, 2005.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

Legislative Fiscal Note

BILL NUMBER: Senate Bill 725 (Second Edition)

SHORT TITLE: NCNGuard-Tuition Assistance Program Changes.

SPONSOR(S): Senator Thomas

FISCAL IMPACT					
	Yes ()	No (X)	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
REVENUES:					
EXPENDITURES:		No fiscal impact			
POSITIONS (cumulative):					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Crime Control and Public Safety, National Guard Division					
EFFECTIVE DATE: July 1, 2005					

BILL SUMMARY:

Amends GS 127A-193 as title indicates to increase monetary educational assistance grant from \$2,000 to the highest amount charged per academic year by a State educational institution or a lesser amount as set by the Secretary of Crime Control and Public Safety. Deletes cap of \$8,000 on total amount of tuition grants for which each recipient qualifies. Enacts new GS 127A-195(f) authorizing Secretary to reimburse grant recipient for the cost of books and materials if grant funds remain after tuition payment is made. Makes technical changes. Effective July 1, 2005

Source: Bill Digest S.B. 725 (03/22/0200).

ASSUMPTIONS AND METHODOLOGY: The FY 2004-05 continuation budget for the National Guard includes \$1,814,288 for the Tuition Assistance Program (TAP). Senate Bill 622, increased the budget by \$200,000 for a total of \$2,014,000. Current statute limits the annual benefit to \$2,000 for tuition and fees, with a lifetime cap of \$8,000. The proposed legislation would increase the benefit available to eligible members of the NC National Guard, appropriates

no additional funds. The proposal increases the annual benefit to the highest amount charged by a State educational institution per academic year and removes the lifetime cap. In addition, TAP benefits could be used for required course books and materials. For the 2005-06 school year, the amount of tuition and fees charged by state educational institutions would range from \$2,492 at Elizabeth City State to \$4,515 at UNC-Chapel Hill.

Because no additional funds are appropriated, there would be no increased program costs from this bill. However, by increasing the benefit amount, there would be a fiscal impact in that the program would potentially serve fewer eligible applicants. In past years, prior to the large deployments to Afghanistan and Iraq, program funds were depleted by the third quarter of the fiscal year. As a result, tuition reimbursement requests would be placed on backlog until the beginning of the next fiscal year. With the expected return of currently deployed guard members combined with increased recruitment efforts, this bill has the potential to create even greater backlogs in future years.

SOURCES OF DATA: UNC General Administration; NC National Guard Division

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Denise Thomas

APPROVED BY: James D. Johnson, Director
Fiscal Research Division

Official
Fiscal Research Division
Publication

DATE: August 12, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☐ Committee Substitute for

SB 804 A BILL TO BE ENTITLED AN ACT TO IMPROVE THE PUBLIC HEALTH
INFRASTRUCTURE BY ESTABLISHING AN ACCREDITATION SYSTEM FOR LOCAL
HEALTH DEPARTMENTS, AS RECOMMENDED BY THE PUBLIC HEALTH TASK
FORCE 2004, AND TO APPROPRIATE FUNDS TO IMPLEMENT THIS ACT.

☒ With a favorable report as amended.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

S

1

SENATE BILL 804

Short Title: Public Health Task Force/Accred. Recommend.

(Public)

Sponsors: Senator Hartsell.

Referred to: Education/Higher Education.

March 23, 2005

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE PUBLIC HEALTH INFRASTRUCTURE BY
ESTABLISHING AN ACCREDITATION SYSTEM FOR LOCAL HEALTH
DEPARTMENTS, AS RECOMMENDED BY THE PUBLIC HEALTH TASK
FORCE 2004, AND TO APPROPRIATE FUNDS TO IMPLEMENT THIS ACT.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 130A-2 is amended by adding the following new
subdivision in alphabetical order to read:

"§ 130A-2. Definitions.

The following definition shall apply throughout this Chapter unless otherwise
specified:

...

(01) "Accreditation board" or "Board" means the Local Health Department
Accreditation Board."

SECTION 1.(b) Part 1 of Article 2 of Chapter 130A of the General Statutes
is amended by adding a new section to read:

"§ 130A-34.1. Accreditation of local health departments; board established.

(a) The Local Health Department Accreditation Board is established within the
North Carolina Institute for Public Health. The Board shall be composed of 17 members
appointed by the Secretary of the Department of Health and Human Services as follows:

(1) Four shall be county commissioners recommended by the North
Carolina Association of County Commissioners, and four shall be
members of a local board of health as recommended by the
Association of North Carolina Boards of Health.

(2) Three local health directors.

(3) Two staff members from the Division of Public Health, Department of
Health and Human Services.

(4) One staff member from the Division of Environmental Health,
recommended by the Secretary of Environment and Natural Resources.

1 (5) Three at large.

2 (b) Members shall serve four-year terms except that initial terms shall be
3 staggered such that three members are appointed for one year, four members are
4 appointed for two years, four members are appointed for three years, and six members
5 are appointed for four years. An appointment to fill a vacancy on the Board created by
6 the resignation, dismissal, ineligibility, death, or disability of any member shall be made
7 for the balance of the unexpired term. The Secretary may remove any member for
8 misfeasance, malfeasance, or nonfeasance. The chair shall be designated by the
9 Secretary and shall designate the times and places at which the Board shall meet. The
10 Board shall meet as often as necessary to carry out its duty to develop and review
11 periodically accreditation standards, to engage in activities necessary to assign
12 accreditation status to local health departments, and to engage in other activities
13 necessary to implement this section.

14 (c) Members of the Board who are not officers or employees of the State shall
15 receive reimbursement for travel and subsistence expenses at the rates specified in
16 G.S. 138-5. Members of the Board who are officers or employees of the State shall
17 receive reimbursement for travel and subsistence at the rate set out in G.S. 138-6.

18 (d) The Board shall assign an accreditation status to each local health department
19 that applies for initial accreditation, reaccreditation, or relief from conditional
20 accreditation. The Board shall assign the appropriate accreditation status, as follows:

21 (1) Accredited, which means that the local health department has satisfied
22 the accreditation standards adopted by the Board and applicable rules
23 adopted by the Commission.

24 (2) Conditionally accredited, which means that the local health department
25 has failed to meet one or more accreditation standards and has
26 therefore been granted short-term accreditation subject to conditions
27 specified by the Board.

28 (3) Unaccredited, which means that the local health department has
29 continued to fail to meet one or more accreditation standards after a
30 period of conditional accreditation.

31 (e) The Commission shall, after reviewing standards developed by and
32 consulting with the Board, adopt rules establishing accreditation standards for local
33 health departments. The accreditation standards shall include at least all of the
34 following:

35 (1) An accreditation process that consists of the following components:

36 a. A self-assessment conducted by the local health department
37 seeking accreditation.

38 b. A site visit by a team of experts to clarify, verify, and amplify
39 the information in the self-assessment.

40 c. Final action by the Board on the local health department's
41 accreditation status.

42 (2) The local health department's capacity to provide the essential public
43 health services, as follows:

- a. Monitoring health status to identify community health problems.
 - b. Diagnosing and investigating health hazards in the community.
 - c. Informing, educating, and empowering people about health issues.
 - d. Mobilizing community partnerships to identify and solve health problems.
 - e. Developing policies and plans that support individual and community health efforts.
 - f. Enforcing laws and regulations that protect health and ensure safety.
 - g. Linking people to needed personal health care services and assuring the provision of health care when otherwise unavailable.
 - h. Assuring a competent public health workforce and personal health care workforce.
 - i. Evaluating effectiveness, accessibility, and quality of personal and population-based health services.
 - j. Conducting research.
- (3) The local health department's facilities and administration.
 - (4) The local health department's staff competencies and training procedures or programs.
 - (5) The local health department's governance and fiscal management; and
 - (6) Informal procedures for reviewing Board decisions.
- (f) All local health departments shall obtain and maintain accreditation in accordance with this section. The Board shall implement accreditation over a period of eight years, beginning January 1, 2006. The Board shall establish a schedule specifying when each local health department shall apply for initial accreditation and ensuring that all local health departments have applied for initial accreditation by December 1, 2014.
- (g) The Board shall assign the following accreditation status, as applicable:
- (1) "Accredited" to a local health department that satisfies the accreditation standards. The initial period of accreditation shall expire four calendar years after initial accreditation is granted.
 - (2) "Conditionally accredited" to a local health department that, in its initial accreditation application, fails to satisfy the accreditation standards. The period of conditional accreditation shall expire two calendar years after conditional accreditation is granted. The Board shall provide to the local health department a written statement of the conditions that must be satisfied in order for the local health department to be accredited. At any time during the two-year period, the local health department may request that its status be reviewed and changed from "conditionally accredited" to "accredited." If the Board finds that the conditions have been met, the Board shall change the local health department's status to "accredited" with the accreditation

1 period to expire four calendar years after the conditional accreditation
2 was initially granted. If the Board finds that the conditions have not
3 been satisfied, the local health department shall continue under its
4 grant of conditional accreditation. During the conditional accreditation
5 period, the local health department may apply again for accreditation
6 in accordance with rules adopted by the Commission.

7 (h) Each accredited local health department shall apply for reaccreditation in
8 accordance with rules adopted by the Commission.

9 (i) When the Board assigns the status "unaccredited" to a local health
10 department, the Board shall send written notification of that status to the local health
11 department and to the Secretary.

12 (j) The Commission shall adopt rules to implement this section."

13 **SECTION 2.** There is appropriated from the General Fund to the
14 Department of Health and Human Services the sum of one million two hundred fifty
15 thousand dollars (\$1,250,000) for the 2005-2006 fiscal year. These funds shall be
16 allocated to the Local Health Department Accreditation Board to carry out the purposes
17 of this act.

18 **SECTION 3.** Section 1 of this act becomes effective October 1, 2005. The
19 remainder of this act becomes effective July 1, 2005.



SENATE BILL 804: Public Health Task Force/Accred. Recommend

BILL ANALYSIS

Committee: House Appropriations
Introduced by: Sen. Hartsell
Version: PCS to First Edition
S804-CSSQ-48

Date: August 23, 2005
Summary by: Shawn Parker
Legislative Analyst

SUMMARY: *Senate Bill 804 establishes an accreditation system for local health departments as recommended by the Public Health Task Force 2004.*

CURRENT LAW: Local public health services are provided by counties. A county may operate a county health department, establish a consolidated human services agency pursuant to G.S. 153A-77 (counties with a population in excess of 425,000), participate in a district health department, or contract with the State for the provision of health services.¹

Currently there are 85 public health departments operating in North Carolina.

BILL ANALYSIS: Senate Bill 804 establishes the Local Health Department Accreditation Board, and authorizes the Secretary of the Department of Health and Human Services to appoint 17 members to this Board. The bill also requires the Board to implement accreditation of local health departments over an eight-year period starting January 1, 2006 and ensure that all local health departments shall apply for initial accreditation by December 1, 2014. The Commission for Health Services will adopt rules establishing accreditation standards for local health departments. The process for accreditation must consist of the following components:

- A self-assessment by the local health department.
- A site visit by a team of experts.
- A final action by the Board on the local health department's accreditation status.

EFFECTIVE DATE: This act becomes effective October 1, 2005.

BACKGROUND: In the 1990's there was a growing awareness among some public health leaders that significant adjustments were needed in the organization, financing, and provision of public health in North Carolina. At least eight major studies were conducted to determine how local public health should adapt to meet the new challenges to protect the public's health. The proposed legislation is a recommendation from the Public Health Task Force 2004.

S0804e1-SMSQ-CSSQ-48

¹ G.S.130A-34



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 804

S804-ALN-54 [v.2]

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

Date _____, 2005

Comm. Sub. [NO]
Amends Title [~~YES~~]
First Edition

Representative Insko

1
2 Moves to amend the bill on page 1, line 5, by rewriting the line to read:

3
4 "FORCE 2004."; and

5
6 further moves to amend the bill on page 4, lines 13 through 19, by rewriting the lines to
7 read:

8 "SECTION 2. This act becomes effective October 1, 2005."
9

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____

VISITOR REGISTRATION SHEET

APPROPRIATIONS

August 23, 2005

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Steve Woodson

NC Farm Bureau

Mark Benson

Coyote Dwyer

Suzanne Brasley

SEANC

ANN WALK

OVNS

Patricia J. Jones

APACNC/FR LTC/MOD

8/23/05
Date

1

FIRM OR AGENCY

NLSOS

NC SOS

Attorney / EDL

NCS D'A

KCL17

Содерж к розфегбтс снмр

Hyatt

MINUTES
HOUSE COMMITTEE ON APPROPRIATIONS
AUGUST 23, 2005 #2
Called Meeting Around Chairs Desk

The House Committee on Appropriations met on Tuesday, August 23, 2005, at 11:50 p.m. around Chairman Crawford's desk in chamber.

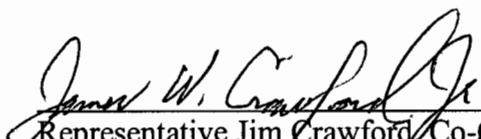
SB 671 REAL PROP. ELECTRONIC RECORDING/NOTARY ACT

Representative Nye moved for consideration of the proposed committee substitute, and the motion carried. Representative Weiss explained the bill and deferred to staff to explain the changes contained in the proposed substitute bill. Representative Crawford offered an amendment to change the dollars to recurring, and the motion carried. Secretary of State Elaine Marshall spoke in favor of the bill as considered. Representative Goforth moved to give the proposed committee substitute bill as amended a favorable report and unfavorable as to the original bill. The motion carried.

HB 575 INCREASE COMM. COLL. FACULTY SALARIES

Representative Sherrill moved to consider a proposed committee substitute that changed the title. Representative Coleman explained the changes contained in the substitute that would give state employees an additional \$150 dollars. Chairman Crawford said that without objection, the proposed committee substitute would be considered. A show of hands resulted in failure of the proposed committee substitute by a vote of 17 nays and 14 yeas.

The meeting adjourned at 12a.m.


Representative Jim Crawford, Co-Chair


Linda Winstead, Committee Assistant

Representative Debbie Clary
Representative Beverly Earle
Representative Edd Nye
Representative Bill Owens
Representative Wilma Sherrill

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ House Committee Substitute for

SB 671 A BILL TO BE ENTITLED AN ACT TO ENACT THE UNIFORM REAL
PROPERTY ELECTRONIC RECORDING ACT, AS RECOMMENDED BY THE GENERAL
STATUTES COMMISSION, TO REPEAL CHAPTER 10A OF THE GENERAL STATUTES
REGARDING THE REGULATION OF NOTARIES PUBLIC, AND TO ENACT CHAPTER
10B RELATING TO NOTARIES.

☒ With a favorable report as to House committee substitute bill #3, as amended, unfavorable as
to House committee substitute bill #2.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution
(No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____)
is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the
Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute
Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

S

D

SENATE BILL 671*

Judiciary II Committee Substitute Adopted 5/4/05

House Committee Substitute Favorable 8/22/05

PROPOSED HOUSE COMMITTEE SUBSTITUTE S671-PCS15267-LR-43

Short Title: Real Prop. Electronic Recording/Notary Act.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO ENACT THE UNIFORM REAL PROPERTY ELECTRONIC RECORDING ACT, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION, TO REPEAL CHAPTER 10A OF THE GENERAL STATUTES REGARDING THE REGULATION OF NOTARIES PUBLIC, AND TO ENACT CHAPTER 10B RELATING TO NOTARIES.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 47 of the General Statutes is amended by adding a new Article to read:

"Article 1A.

"Uniform Real Property Electronic Recording Act.

"§ 47-16.1. Short title.

This Article may be cited as the Uniform Real Property Electronic Recording Act.

"§ 47-16.2. Definitions.

In this Article:

(1) "Document" means information that is:

- a. Inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form; and
- b. Eligible to be recorded in the land records maintained by the register of deeds.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic document" means a document that is received by the register of deeds in an electronic form.

(4) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

"§ 47-16.3. Validity of electronic documents.

(a) If a law requires, as a condition for recording, that a document be an original, be on paper or another tangible medium, or be in writing, the requirement is satisfied by an electronic document satisfying this Article.

(b) If a law requires, as a condition for recording, that a document be signed, the requirement is satisfied by an electronic signature.

(c) A requirement that a document or a signature associated with a document be notarized, acknowledged, verified, witnessed, or made under oath is satisfied if the electronic signature of the person authorized to notarize, acknowledge, verify, witness, or administer the oath, and all other information required to be included, is attached to or logically associated with the document or signature. A physical or electronic image of a stamp, impression, or seal need not accompany an electronic signature. Nothing in this act shall prohibit the North Carolina Board of Examiners for Engineers and Surveyors from requiring that the image of a seal accompany any plat or map that is presented electronically for recording.

"§ 47-16.4. Recording of documents.

(a) In this section, "paper document" means a document that is received by the register of deeds in a form that is not electronic.

(b) A register of deeds:

(1) Who implements any of the functions listed in this section shall do so in compliance with standards adopted by the Secretary of State.

(2) May receive, index, store, archive, and transmit electronic documents.

(3) May provide for access to, and for search and retrieval of, documents and information by electronic means.

(4) Who accepts electronic documents for recording shall continue to accept paper documents as authorized by law and shall place entries for both types of documents in the same index.

(5) May convert paper documents accepted for recording into electronic form.

(6) May convert into electronic form information recorded before the register of deeds began to record electronic documents.

(7) May accept electronically any fee or tax that the register of deeds is authorized to collect.

(8) May agree with other officials of this State or a political subdivision thereof on procedures or processes to facilitate the electronic satisfaction of conditions to recording and the electronic payment of fees and taxes.

1 **"§ 47-16.5. Administration and standards.**

2 (a) Standard-Setting Agency. – The Secretary of State shall adopt standards to
3 implement this Article upon recommendation of the Electronic Recording Council. The
4 Secretary of State may direct the Council to revise any portion of the recommended
5 standards the Secretary deems inadequate or inappropriate. Technological standards and
6 specifications adopted by the Secretary of State to implement this Article are
7 engineering standards for the purposes of G.S. 150B-2(8a)h.

8 (b) Electronic Recording Council Created. – The Electronic Recording Council is
9 created in the Department of the Secretary of State to advise and assist the Secretary of
10 State in the adoption of standards to implement this Article. The Council shall review
11 the functions listed in G.S. 47-16.4 and shall formulate and recommend to the Secretary
12 standards for recording electronic documents and implementing the other functions
13 listed in G.S. 47-16.4. The Council shall report its findings and recommendations to the
14 Secretary of State at least once each calendar year. The Council shall advise the
15 Secretary of State on a continuing basis of the need to adopt, amend, revise, or repeal
16 standards. The Council may advise the Secretary of State on any other matter the
17 Secretary refers to the Council.

18 (c) Council Membership, Terms, and Vacancies. – The Council shall consist of
19 13 members as follows:

20 (1) Seven members appointed by the North Carolina Association of
21 Registers of Deeds. It is the intent of the General Assembly that the
22 North Carolina Association of Registers of Deeds shall appoint as
23 members a representative selection of registers of deeds from large,
24 medium, and small counties, urban and rural counties, and the different
25 geographic areas of this State.

26 (2) One member appointed by the North Carolina Bar Association.

27 (3) One member appointed by the North Carolina Society of Land
28 Surveyors.

29 (4) One member appointed by the North Carolina Bankers Association.

30 (5) One member appointed by the North Carolina Land Title Association.

31 (6) One member appointed by the North Carolina Association of
32 Assessing Officers.

33 (7) The Secretary of Cultural Resources or the Secretary's designee.

34 In making appointments to the Council, each appointing authority shall select
35 appointees with the ability and commitment to fulfill the purposes of the Council.

36 Appointed members shall serve four-year terms, except that the initial appointments
37 by the North Carolina Bar Association, the North Carolina Bankers Association, the
38 North Carolina Association of Assessing Officers, and three of the initial appointments
39 by the North Carolina Association of Registers of Deeds shall be for two years. All
40 initial terms shall commence on the effective date of this Article. Members shall serve
41 until their successors are appointed. An appointing authority may reappoint a member
42 for successive terms. A vacancy on the Council shall be filled in the same manner in
43 which the original appointment was made, and the term shall be for the balance of the
44 unexpired term.

1 (d) Council Meetings and Officers. – The Secretary of State shall call the first
2 meeting of the Council. At the first meeting and biennially thereafter, the Council shall
3 elect from its membership a chair and a vice-chair to serve two-year terms. Meetings
4 may be called by the chair, the vice-chair, or the Secretary of State. Meetings shall be
5 held as often as necessary, but at least once a year.

6 (e) Council Compensation. – None of the members of the Council shall receive
7 compensation for serving on the Council, but Council members shall receive per diem,
8 subsistence, and travel expenses in accordance with G.S. 138-5 and G.S. 138-6, as
9 applicable.

10 (f) Staff and Other Assistance. – As soon as practicable and as needed thereafter,
11 the Council shall identify the information technology expertise it needs and report its
12 needs to the Secretary of State. The Council shall also report any other expertise needed
13 to fulfill its responsibilities. The Secretary of State shall provide professional and
14 clerical staff and other services and supplies, including meeting space, as needed for the
15 Council to carry out its duties in an effective manner. The Secretary of State may
16 appoint additional committees to advise and assist the Council in its work.

17 The Council shall consult with the North Carolina Local Government Information
18 Systems Association, and may consult with any other person the Council deems
19 appropriate, to advise and assist the Council in its work.

20 (g) Uniformity of Standards. – To keep the standards and practices of registers of
21 deeds in this State in harmony with the standards and practices of recording offices in
22 other jurisdictions that enact substantially this Article and to keep the technology used
23 by registers of deeds in this State compatible with technology used by recording offices
24 in other jurisdictions that enact substantially this Article, the Secretary of State and the
25 Council shall consider all of the following in carrying out their responsibilities under
26 this Article, so far as is consistent with its purposes, policies, and provisions:

27 (1) Standards and practices of other jurisdictions.

28 (2) The most recent standards adopted by national standard-setting bodies,
29 such as the Property Records Industry Association.

30 (3) The views of interested persons and other governmental officials and
31 entities.

32 (4) The needs of counties of varying size, population, and resources.

33 (5) Standards requiring adequate information security protection to ensure
34 that electronic documents are accurate, authentic, adequately
35 preserved, and resistant to tampering.

36 **"§ 47-16.6. Uniformity of application and construction.**

37 In applying and construing this Article, consideration shall be given to promoting
38 uniformity of interpretation of the Uniform Real Property Electronic Recording Act
39 among states that enact it.

40 **"§ 47-16.7. Relation to Electronic Signatures in Global and National Commerce**
41 **Act.**

42 This Article modifies, limits, and supersedes the federal Electronic Signatures in
43 Global and National Commerce Act (15 U.S.C. § 7001, et seq.) but does not modify,
44 limit, or supersede section 101(c) of that act (15 U.S.C. § 7001(c)) or authorize

1 electronic delivery of any of the notices described in section 103(b) of that act (15
2 U.S.C. § 7003(b))."

3 **SECTION 2.** The Revisor of Statutes shall cause to be printed along with
4 this act all relevant portions of the official comments to the Uniform Real Property
5 Electronic Recording Act and all explanatory comments of the drafters of this act as the
6 Revisor deems appropriate.

7 **SECTION 3.** Chapter 10A of the General Statutes is repealed.

8 **SECTION 4.** The General Statutes are amended by adding a new Chapter to
9 read:

10 **"Chapter 10B.**

11 **"Notaries.**

12 **"Article 1.**

13 **"Notary Public Act.**

14 **"Part 1. General Provisions.**

15 **"§ 10B-1. Short title.**

16 This act is the "Notary Public Act" and may be cited by that name.

17 **"§ 10B-2. Purposes.**

18 This Chapter shall be construed and applied to advance its underlying purposes,
19 which are the following:

- 20 (1) To promote, serve, and protect the public interests.
21 (2) To simplify, clarify, and modernize the law governing notaries.
22 (3) To prevent fraud and forgery.
23 (4) To foster ethical conduct among notaries.
24 (5) To enhance interstate recognition of notarial acts.
25 (6) To integrate procedures for traditional paper and electronic notarial
26 acts.

27 **"§ 10B-3. Definitions.**

28 The following definitions apply in this Chapter:

- 29 (1) "Acknowledgment" means a notarial act in which an individual, at a
30 single time and place:
31 a. Appears in person before the notary and presents a record; and
32 b. Is personally known to the notary or identified by the notary
33 through satisfactory evidence and indicates to the notary that
34 the signature on the record was voluntarily affixed by the
35 individual for the purposes stated within the record.
36 (2) "Affirmation" means a notarial act, or part thereof, which is legally
37 equivalent to an oath and in which an individual at a single time and
38 place:
39 a. Appears in person before the notary;
40 b. Is personally known to the notary or identified by the notary
41 through satisfactory evidence; and
42 c. Makes a vow of truthfulness on penalty of perjury, based on
43 personal honor and without invoking a deity or using any form
44 of the word "swear".

- (3) "Attest" or "attestation" means the act of completing the written evidence of a notarial act, to wit: completion of a certificate by a notary who has performed a notarial act by witnessing a signature or administering an oath or affirmation.
- (4) "Commission" means the empowerment to perform notarial acts and the written evidence of authority to perform those acts.
- (5) "Credible witness" means an honest, reliable, and impartial person who is personally known to the notary and takes an oath or affirmation from the notary to confirm a signer's identity.
- (6) "Department" means the North Carolina Department of the Secretary of State.
- (7) "Director" means the Division Director for the North Carolina Department of the Secretary of State Notary Public Section.
- (8) "Jurat" means a certification added to an affidavit or deposition that states when and before what authority an affidavit or deposition was made, to wit, "Subscribed and sworn to before me this the day of 20 ." The notary's signature and seal shall be affixed below the sworn or affirmed statement and signature of the affiant. In so doing, the notary shall certify the following:
- a. That the person signing the affidavit or deposition did so in the notary's presence and indicates the county in which the notarial act took place;
- b. That the signer appeared before the notary on the date indicated;
- c. That the notary administered an oath or affirmation to the signer, who swore to or affirmed the contents of the document.
- (9) "Moral turpitude" means conduct contrary to expected standards of honesty, morality, or integrity.
- (10) "Nickname" means a descriptive, familiar, or shortened form of a proper name.
- (11) "Notarial act," "notary act," and "notarization" mean the act of taking an acknowledgment, taking a verification or proof or administering an oath or affirmation that a notary is empowered to perform under this Chapter, as authorized by G.S. 10B-20.
- (12) "Notarial certificate" and "certificate" mean the portion of a notarized record that is completed by the notary, bears the notary's signature and seal, and states the facts attested by the notary in a particular notarization.
- (13) "Notary public" and "notary" mean a person commissioned to perform notarial acts under this Chapter. A notary is a public officer of the State of North Carolina and shall act in full and strict compliance with this act.
- (14) "Oath" means a notarial act, or part thereof, which is legally equivalent to an affirmation and in which an individual at a single time and place:

- a. Appears in person before a notary;
b. Is personally known to the notary or identified by the notary through satisfactory evidence; and
c. Makes a vow of truthfulness on penalty of perjury while invoking a deity or using any form of the word "swear".
- (15) "Official misconduct" means either of the following:
a. A notary's performance of a prohibited act or failure to perform a mandated act set forth in this Chapter or any other law in connection with notarization.
b. A notary's performance of a notarial act in a manner found by the Secretary to be negligent or against the public interest.
- (16) "Personal appearance" and "appear in person before a notary" mean an individual and a notary are in close physical proximity to one another so that they may freely see and communicate with one another and exchange records back and forth during the notarization process.
- (17) "Personal knowledge of identity" means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.
- (18) "Principal" means an individual whose signature is notarized; or an individual other than a credible witness, taking an oath or affirmation from the notary.
- (19) "Record" means information that is inscribed on a tangible medium and called a traditional or paper record.
- (20) "Regular place of work or business" means a location, office or other workspace, where an individual regularly spends all or part of the individual's work time.
- (21) "Revocation" means the cancellation of the notary's commission stated in the order of revocation.
- (22) "Satisfactory evidence of a signer's identity" means identification of an individual based on either of the following:
a. At least one current document issued by a federal, state, or federal or state-recognized tribal government agency bearing the photographic image of the individual's face and either the signature or a physical description of the individual.
b. The oath or affirmation of one credible witness unaffected by the record or transaction who is personally known to the notary and who personally knows the individual seeking to be identified.
- (23) "Seal" and "stamp" mean a device for affixing on a paper record an image containing a notary's name, the words "notary public," and other information as required in G.S. 10B-24.
- (24) "Secretary" means the North Carolina Secretary of State or the Secretary's designee.

- (25) "Signature" means the act of personally signing one's name in ink in hand.
- (26) "Subscribing witness" means a person who either watches another individual sign a record or takes that individual's acknowledgment of an already-signed record and appears before the notary on behalf of the principal. The subscribing witness must sign the document in addition to the principal, must be personally known by the notary or prove identity to the notary by satisfactory evidence, and must take an oath or affirmation stating that he or she witnessed the principal sign.
- (27) "Suspension" and "restriction" means the termination of a notary's commission for a period of time stated in an order of restriction or suspension. The terms "restriction" or "suspension" or a combination of both terms shall be used synonymously.
- (28) "Verification" or "proof" means a notarial act where a person certifies under oath or affirmation that the person witnessed the principal either execute, record, or acknowledge the principal's signature on an already-executed record.

"Part 2. Commissioning.

"§ 10B-4. Qualifications.

(a) Except as provided in subsection (d) of this section, the Secretary shall commission as a notary any qualified person who submits an application in accordance with this Chapter.

(b) A person qualified for a notarial commission shall meet all of the following requirements:

- (1) Be at least 18 years of age or legally emancipated as defined in Article 35 of Chapter 7B of the General Statutes.
- (2) Reside or have a regular place of work or business in this State.
- (3) Reside legally in the United States.
- (4) Speak, read, and write the English language.
- (5) Possess a high school diploma or equivalent.
- (6) Pass the course of instruction described in this Article, unless the person is a licensed member of the North Carolina State Bar.
- (7) Purchase and keep as a reference the most recent manual approved by the Secretary that describes the duties and authority of notaries public.
- (8) Submit an application containing no significant misstatement or omission of fact. The application form shall be provided by the Secretary and be available at the register of deeds office in each county. Every application shall include the signature of the applicant written with pen and ink, and the signature shall be acknowledged by the applicant before a person authorized to administer oaths. Except for any applicant who seeks to receive the oath of office from the register of deeds of a county where more than 15,000 active notaries public are on record on January 1 of the year when the application is filed, the applicant shall also obtain the recommendation of one

publicly elected official in North Carolina whose recommendation shall be contained on the application.

(c) The notary shall be commissioned in his or her county of residence, unless the notary is not a North Carolina resident, in which case he or she shall be commissioned in the county of his or her employment or business.

(d) The Secretary may deny an application for commission or recommission if any of the following apply to an applicant:

- (1) Submission of an incomplete application or an application containing material misstatement or omission of fact.
- (2) The applicant's conviction or plea of admission or nolo contendere to a felony or any crime involving dishonesty or moral turpitude. In no case may a commission be issued to an applicant within 10 years after release from prison, probation, or parole, whichever is later.
- (3) A finding or admission of liability against the applicant in a civil lawsuit based on the applicant's deceit.
- (4) The revocation, suspension, restriction, or denial of a notarial commission or professional license by this or any other state or nation. In no case may a commission be issued to an applicant within five years after the completion of all conditions of any disciplinary order.
- (5) A finding that the applicant has engaged in official misconduct, whether or not disciplinary action resulted.
- (6) An applicant knowingly using false or misleading advertising in which the applicant as a notary represents that the applicant has powers, duties, rights, or privileges that the applicant does not possess by law.
- (7) A finding by a state bar or court that the applicant has engaged in the unauthorized practice of law.

"§ 10B-5. Application for commission.

Every application for a notary commission shall be made on paper with original signatures, or in another form determined by the Secretary, and shall include all of the following:

- (1) A statement of the applicant's personal qualifications as required by this Chapter.
- (2) A certificate or signed statement by the instructor evidencing successful completion of the course of instruction as required by this Chapter.
- (3) A notarized declaration of the applicant, as required by this Chapter.
- (4) Any other information that the Secretary deems appropriate.
- (5) The application fee required by this Chapter.

"§ 10B-6. Statement of personal qualification.

(a) The application for a notary commission shall include at least all of the following:

- (1) The applicant's full legal name and the name to be used for commissioning, excluding nicknames.
- (2) The applicant's date of birth.

- (3) The mailing address for the applicant's residence, the street address for the applicant's residence, and the telephone number for the applicant's residence.
- (4) The applicant's county of residence.
- (5) The name of the applicant's employer, the street and mailing address for the applicant's employer, and telephone number for the applicant's employer.
- (6) The applicant's last four digits of the applicant's social security number.
- (7) The applicant's personal and business e-mail addresses.
- (8) A declaration that the applicant is a citizen of the United States or proof of the applicant's legal residency in this country.
- (9) A declaration that the applicant can speak, read, and writes in the English language.
- (10) A complete listing of any issuances, denials, revocations, suspensions, restrictions, and resignations of a notarial commission, professional license, or public office involving the applicant in this or any other state or nation.
- (11) A complete listing of any criminal convictions of the applicant, including any pleas of admission or nolo contendere, in this or any other state or nation.
- (12) A complete listing of any civil findings or admissions of fault or liability regarding the applicant's activities as a notary, in this or any other state or nation.

(b) The information contained in an application under this section is a public record as defined in G.S 132-1. The information contained in subdivisions (2), (3), (6) and (7) of subsection (a) of this section shall be considered confidential information and shall not be subject to disclosure except as provided in Chapter 132 of the General Statutes.

"§ 10B-7. Course of study and examination.

(a) Every applicant for an initial notary commission shall, within the three months preceding application, take a course of classroom instruction of not less than six hours approved by the Secretary and take a written examination approved by the Secretary. An applicant must answer at least eighty percent (80%) of the questions correctly in order to pass the exam. This subsection shall not apply to a licensed member of the North Carolina State Bar.

(b) Every applicant for recommissioning shall pass a written examination approved by and administered by or under the direction of the Secretary, unless the person is a licensed member of the North Carolina State Bar.

(c) The content of the course of instruction and the written examinations shall be notarial laws, procedures, and ethics.

(d) The Secretary may charge such fees as are reasonably necessary to pay the cost associated with developing and administering examinations permitted by this Chapter and for conducting the training of notaries and notary instructors.

1 **"§ 10B-8. Length of term and jurisdiction.**

2 A person commissioned under this Chapter may perform notarial acts in any part of
3 this State for a term of five years, unless the commission is earlier revoked or resigned.
4 No commissions shall be effective prior to the administration of the oath of office. Any
5 notarial acts performed before the administration of the oath of office, either the original
6 commissioning or recommissioning, are invalid.

7 **"§ 10B-9. Commission; oath of office.**

8 (a) If the Secretary grants a commission to an applicant, the Secretary shall
9 notify the appointee and shall instruct the appointee regarding the proper procedure for
10 taking the oath at the register of deeds office in the county of the appointee's
11 commissioning.

12 (b) The appointee shall appear before the register of deeds no later than 45 days
13 after commissioning and shall be duly qualified by taking the general oath of office
14 prescribed in G.S. 11-11 and the oath prescribed for officers in G.S. 11-7.

15 (c) The register of deeds shall then place the notary record in a book designated
16 for that purpose, or the notary record may be recorded in the Consolidated Document
17 Book and indexed in the Consolidated Real Property Index under the notary's name in
18 the grantor index. The notary record may be kept in electronic format so long as the
19 signature of the notary public may be viewed and printed. The notary record shall
20 contain the name and the signature of the notary as commissioned, the effective date
21 and expiration date of the commission, the date the oath was administered, and the date
22 of any restriction, suspension, revocation, or resignation. The record shall constitute the
23 official record of the qualification of notaries public.

24 (d) The register of deeds shall deliver the commission to the notary following
25 completion of the requirements of this section and shall notify the Secretary of the
26 delivery.

27 (e) If the appointee does not appear before the register of deeds within 45 days of
28 commissioning, the register of deeds must return the commission to the Secretary, and
29 the appointee must reapply for commissioning. If the appointee reapplies within one
30 year of the granting of the commission, the Secretary may waive the educational
31 requirements of this Chapter.

32 **"§ 10B-10. Recommissioning.**

33 (a) A commissioned notary may apply for recommissioning no earlier than 10
34 weeks prior to the expiration date of the notary's commission.

35 (b) A notary whose commission has not expired must comply with the following
36 requirements to be recommissioned:

37 (1) Submit a new application under G.S. 10B-5.

38 (2) Meet the requirements of G.S. 10B-4(b).

39 (3) Pass the written examination required under G.S. 10B-7, unless the
40 notary is a licensed member of the North Carolina State Bar.

41 (c) An individual may apply for recommissioning within one year after the
42 expiration of the individual's commission. The individual must comply with the
43 requirement of subsection (b) of this section. The individual must also fulfill the

educational requirement under G.S. 10B-7(a), unless the Secretary waives that requirement.

"§ 10B-11. Notarized declaration.

The application for a notary public commission shall contain the following declaration to be executed by each applicant under oath:

Declaration of Applicant

I, _____ (name of applicant), solemnly swear or affirm under penalty of perjury that the information in this application is true, complete, and correct; that I understand the official duties and responsibilities of a notary public in this State, as described in the statutes; and that I will perform to the best of my ability all notarial acts in accordance with the law.

(signature of applicant)

"§ 10B-12. Application fee.

Every applicant for a notary commission shall pay to the Secretary a nonrefundable application fee of fifty dollars (\$50.00).

"§ 10B-13. Instructor's certification.

(a) The course of study required by G.S. 10B-4(b) shall be taught by an instructor certified under rules adopted by the Secretary. An instructor must meet the following requirements to be certified to teach a course of study for notaries public:

- (1) Complete and pass an instructor certification course of not less than six hours taught by the Director or other person approved by the Secretary.
- (2) Have at least one year of active experience as a notary public.
- (3) Maintain a current commission as a notary public.
- (4) Possess the current notary public guidebook.
- (5) Pay a nonrefundable fee of fifty dollars (\$50.00).

(b) Certification to teach a course of study for notaries shall be effective for two years. A certification may be renewed by passing a recertification course taught by the Director or other person approved by the Secretary and by paying a nonrefundable fee of fifty dollars (\$50.00).

(c) The following individuals may be certified to teach a course of study for notaries public without paying the fee required by this section, and they may renew their certification without paying the renewal fee, so long as they remain actively employed in the capacities named:

- (1) Registers of deeds.
- (2) Clerks of court.
- (3) The Director and other duly authorized employees of the Secretary.

(d) Former registers of deeds and clerks of court who have been certified as notary public instructors must apply for commissioning as a notary public but are exempt from the education requirements of G.S. 10B-7 after successful completion of an examination administered by the Secretary.

(e) Assistant and deputy registers of deeds and assistant and deputy clerks of court must have a regular notary commission prior to receiving a certification or recertification as a notary public instructor.

(f) The Secretary may suspend or revoke the certification of a notary instructor for violating the provisions of this Chapter or any of the administrative rules implementing it.

"Part 3. Notarial Acts, Powers, and Limitations.

"§ 10B-14. Powers and limitations.

(a) A notary may perform any of the following notarial acts:

- (1) Acknowledgments.
- (2) Oaths and affirmations.
- (3) Execute jurats.
- (4) Verifications or proofs.

(b) A notarial act shall be attested by all of the following:

- (1) The signature of the notary, exactly as shown on the notary's commission.
- (2) The readable appearance of the notary's name, from the notary's typed or printed name near the signature.
- (3) The clear and legible appearance of the notary's stamp or seal.
- (4) A statement of the date the notary's commission expires.

(c) A notary is disqualified from performing a notarial act if any of the following apply:

- (1) The principal or subscribing witness is not in the notary's presence at the time the notarial act is to be performed; however, nothing in this Chapter shall require a notary to complete the certificate in the presence of the principal or subscribing witness.
- (2) The principal or subscribing witness is not personally known to the notary or identified by the notary through satisfactory evidence.
- (3) The principal or subscribing witness shows a demeanor that causes the notary to have a compelling doubt about whether the principal knows the consequences of the transaction requiring a notarial act.
- (4) The principal or subscribing witness, in the notary's judgment, is not acting of the principal's or the subscribing witness's own free will.
- (5) The notary is a signer of or is named, other than as a trustee in a deed of trust, in the document that is to be notarized.
- (6) The notary will receive directly from a transaction connected with the notarial act any commission, fee, advantage, right, title, interest, cash, property, or other consideration exceeding in value the fees specified in G.S. 10B-20, other than fees or other consideration paid for services rendered by a licensed attorney, a licensed real estate broker or salesperson, a motor vehicle dealer, or a banker.

(d) A notary may certify the affixation of a signature by mark on a record presented for notarization if:

- (1) The mark is affixed in the presence of the notary;

(2) The notary writes below the mark: "Mark affixed by (name of signer by mark) in presence of undersigned notary"; and

(3) The notary notarizes the signature by performing an acknowledgment, oath or affirmation, jurat, or verification or proof.

(e) If a principal is physically unable to sign or make a mark on a record presented for notarization, that principal may designate another person as his or her designee, who shall be a disinterested party, to sign on the principal's behalf pursuant to the following procedure:

(1) The principal directs the designee to sign the record in the presence of the notary and two witnesses unaffected by the record;

(2) The designee signs the principal's name in the presence of the principal, the notary, and the two witnesses;

(3) Both witnesses sign their own names to the record near the principal's signature;

(4) The notary writes below the principal's signature: "Signature affixed by designee in the presence of (names and addresses of principal and witnesses)"; and

(5) The notary notarizes the signature through an acknowledgment, oath or affirmation, jurat, or verification or proof.

(f) A notarial act performed in another jurisdiction in compliance with the laws of that jurisdiction is valid to the same extent as if it had been performed by a notary commissioned under this Chapter if the notarial act is performed by a notary public of that jurisdiction or by any person authorized to perform notarial acts in that jurisdiction under the laws of that jurisdiction, the laws of this State, or federal law.

(g) Commissioned officers on active duty in the United States armed forces who are authorized to perform notarial acts and other persons authorized by federal law or regulation to perform notarial acts may perform the acts for persons serving in or with the United States armed forces, their spouses, and their dependents.

(h) The Secretary and register of deeds in the county in which a notary qualified may certify to the commission of the notary.

(i) A notary public who is not an attorney licensed to practice law in this State who advertises the person's services as a notary public in a language other than English, by radio, television, signs, pamphlets, newspapers, other written communication, or in any other manner, shall post or otherwise include with the advertisement the notice set forth in this subsection in English and in the language used for the advertisement. The notice shall be of conspicuous size, if in writing, and shall state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF NORTH CAROLINA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If the advertisement is by radio or television, the statement may be modified but must include substantially the same message.

(j) A notary public who is not an attorney licensed to practice law in this State is prohibited from representing or advertising that the notary public is an "immigration consultant" or expert on immigration matters unless the notary public is an accredited representative of an organization recognized by the Board of Immigration Appeals

1 pursuant to Title 8, Part 292, section 2(a-e) of the Code of Federal Regulations (8 C.F.R.
2 § 292.2(a-e)).

3 (k) A notary public who is not an attorney licensed to practice law in this State is
4 prohibited from rendering any service that constitutes the unauthorized practice of law.
5 A nonattorney notary shall not assist another person in drafting, completing, selecting,
6 or understanding a record or transaction requiring a notarial act.

7 (l) A notary public required to comply with the provisions of subsection (g) of
8 this section shall prominently post at the notary public's place of business a schedule of
9 fees established by law, which a notary public may charge. The fee schedule shall be
10 written in English and in the non-English language in which the notary services were
11 solicited and shall contain the notice required in subsection (i) of this section, unless the
12 notice is otherwise prominently posted at the notary public's place of business.

13 (m) If notarial certificate wording is not provided or indicated for a record, a
14 nonattorney notary shall not determine the type of notarial act or certificate to be used.
15 This does not prohibit a notary from offering the selection of certificate forms
16 recognized in this Chapter or as otherwise authorized by law.

17 (n) A notary shall not claim to have powers, qualifications, rights, or privileges
18 that the office of notary does not provide, including the power to counsel on
19 immigration matters.

20 (o) Before signing a notarial certificate and except as provided in this subsection,
21 a notary shall cross out or mark through all blank lines or spaces in the certificate.
22 However:

23 (1) Notwithstanding the provisions of this section or G.S. 10B-22(b), a
24 notary shall not be required to complete, cross out, or mark through
25 blank lines or spaces in the notary certificate form provided for in
26 G.S. 47-43 indicating when and where a power of attorney is recorded
27 if that recording information is not known to the notary at the time the
28 notary completes and signs the certificate;

29 (2) A notary's failure to cross out or mark through blank lines or spaces in
30 a notarial certificate shall not affect the sufficiency, validity, or
31 enforceability of the certificate or the related record; and

32 (3) A notary's failure to cross out or mark through blank lines or spaces in
33 a notarial certificate shall not be grounds for a register of deeds to
34 refuse to accept a record for registration.

35 **"§ 10B-15. Notaries ex officio.**

36 (a) The clerks of the superior court may act as notaries public in their several
37 counties by virtue of their offices as clerks and may certify their notarial acts only under
38 the seals of their respective courts. Assistant and deputy clerks of superior court, by
39 virtue of their offices, may perform the following notarial acts and may certify these
40 notarial acts only under the seals of their respective courts:

41 (1) Oaths and affirmations.

42 (2) Verifications or proofs.

43 Upon completion of the course of study provided for in G.S. 10B-4(b), assistant and
44 deputy clerks of superior court may, by virtue of their offices, perform all other notarial

1 acts and may certify these notarial acts only under the seals of their respective courts. A
2 course of study attended only by assistant and deputy clerks of superior court may be
3 taught at any mutually convenient location agreed to by the Secretary and the
4 Administrative Office of the Courts.

5 (b) Registers of deeds may act as notaries public in their several counties by
6 virtue of their offices as registers of deeds and may certify their notarial acts only under
7 the seals of their respective offices. Assistant and deputy registers of deeds, by virtue of
8 their offices, may perform the following notarial acts and may certify these notarial acts
9 only under the seals of their respective offices:

10 (1) Oaths and affirmations.

11 (2) Verifications or proofs.

12 Upon completion of the course of study provided for in G.S. 10B-4(b), assistant and
13 deputy registers of deeds may, by virtue of their offices, perform all other notarial acts
14 and may certify these notarial acts only under the seals of their respective offices. A
15 course of study attended only by assistant and deputy registers of deeds may be taught
16 at any mutually convenient location agreed to by the Secretary and the North Carolina
17 Association of Registers of Deeds.

18 (c) The Director may act as a notary public by virtue of the Director's
19 employment in the Department of the Secretary and may certify a notarial act performed
20 in that capacity under the seal of the Secretary.

21 (d) Unless otherwise provided by law, a person designated a notary public by this
22 section may charge a fee for a notarial act performed in accordance with G.S. 10B-20.
23 The fee authorized by this section is payable to the governmental unit or agency by
24 whom the person is employed.

25 (e) Nothing in this section shall authorize a person to act as a notary public other
26 than in the performance of the official duties of the person's office unless the person
27 complies fully with the requirements of G.S. 10B-4.

28 **"§ 10B-16. False certificate.**

29 (a) A notary shall not execute a notarial certificate containing information known
30 or believed by the notary to be false.

31 (b) A notary shall not execute a certificate that is not written in the English
32 language. A notary may execute a certificate written in the English language that
33 accompanies a record written in another language, which record may include a
34 translation of the notarial certificate into the other language. In those instances, the
35 notary shall execute only the English language certificate.

36 **"§ 10B-17. Improper records.**

37 (a) A notary shall not notarize a signature on a record without a notarial
38 certificate indicating what type of notarial act was performed.

39 (b) A notary shall neither certify, notarize, nor authenticate a photograph. A
40 notary may notarize an affidavit regarding and attached to a photograph.

41 **"§ 10B-18. Testimonials.**

42 A notary shall not use the official notary title or seal in a manner intended to
43 endorse, promote, denounce, or oppose any product, service, contest, candidate, or other

1 offering. This section does not prohibit a notary public from performing a notarial act
2 upon a record executed by another individual.

3 "Part 4. Fees.

4 **"§ 10B-19. Imposition and waiver of fees.**

5 (a) For performing a notarial act, a notary may charge up to the maximum fee
6 specified in this Chapter.

7 (b) A notary shall not discriminatorily condition the fee for a notarial act on any
8 attribute of the principal that would constitute unlawful discrimination.

9 (c) Nothing in this Chapter shall compel a notary to charge a fee.

10 **"§ 10B-20. Fees for notarial acts.**

11 The maximum fees that may be charged by a notary for notarial acts are as follows:

12 (1) For acknowledgments, jurats, verifications or proofs, five dollars
13 (\$5.00) per principal signature.

14 (2) For oaths or affirmations without a signature, five dollars (\$5.00) per
15 person, except for an oath or affirmation administered to a credible
16 witness to vouch for a principal's identity.

17 **"§ 10B-21. Notice of fees.**

18 Notaries who charge for their notarial services shall conspicuously display in their
19 places of business, or present to each principal outside their places of business, an
20 English-language schedule of fees for notarial acts. No part of any notarial fee schedule
21 shall be printed in smaller than 10-point type.

22 "Part 5. Signature and Seal.

23 **"§ 10B-22. Official signature.**

24 (a) A notary shall keep an official seal or stamp (herein "seal") that is the
25 exclusive property of the notary. The notary shall keep the seal in a secure location that
26 is accessible only to the notary. A notary shall not allow another person to use or
27 possess the seal, and shall not surrender the seal to the notary's employer upon
28 termination of employment.

29 (b) The seal shall be affixed only after the notarial act is performed. The notary
30 shall place the image or impression of the seal near the notary's signature on every paper
31 record notarized. The seal and the signature shall appear on the same page.

32 (c) A notary shall do the following within 10 days of discovering that the notary's
33 seal has been stolen, lost, damaged, or otherwise rendered incapable of affixing a legible
34 image:

35 (1) Inform the appropriate law enforcement agency in the case of theft or
36 vandalism.

37 (2) Notify the appropriate register of deeds and the Secretary in writing
38 and signed in the official name in which he or she was commissioned.

39 (d) As soon as is reasonably practicable after resignation, revocation, or
40 expiration of a notary commission, or death of the notary, the seal shall be delivered to
41 the Secretary for disposal.

42 **"§ 10B-23. Official seal.**

43 (a) A notary shall keep an official seal or stamp (herein "seal") that is the
44 exclusive property of the notary. The notary shall keep the seal in a secure location that

1 is accessible only to the notary. A notary shall not allow another person to use or
2 possess the seal, and shall not surrender the seal to the notary's employer upon
3 termination of employment.

4 (b) The seal shall be affixed only after the notarial act is performed. The notary
5 shall place the image or impression of the seal near the notary's signature on every paper
6 record notarized. The seal and the signature shall appear on the same page.

7 (c) A notary shall do the following within 10 days of discovering that the notary's
8 seal has been stolen, lost, damaged, or otherwise rendered incapable of affixing a legible
9 image:

10 (1) Inform the appropriate law enforcement agency in the case of theft or
11 vandalism.

12 (2) Notify the appropriate register of deeds and the Secretary in writing
13 and signed in the official name in which he or she was commissioned.

14 (d) As soon as is reasonably practicable after resignation, revocation, or
15 expiration of a notary commission, or death of the notary, the seal shall be delivered to
16 the Secretary for disposal.

17 **"§ 10B-24. Seal image.**

18 (a) Near the notary's official signature on the notarial certificate of a paper
19 record, the notary shall place a sharp, legible, permanent, and photographically
20 reproducible image of the official seal.

21 (b) A notary's official seal shall include only the following elements:

22 (1) The notary's name exactly as commissioned;

23 (2) The words "Notary Public";

24 (3) The county of commissioning, including the word "County" or the
25 abbreviation "Co."; and

26 (4) The words "North Carolina" or the abbreviation "NC".

27 (c) The notary seal may be either circular or rectangular in shape. The circular
28 seal shall not be less than 1 1/2 inches, nor more than 2 inches in diameter. The
29 rectangular seal shall not be over 1 inch high and 2 1/2 inches long. The perimeter of the
30 seal shall contain a border that is visible when impressed.

31 (d) A notarial seal may contain the notary's commission expiration date;
32 however, a notarial act shall be invalid if the expiration date contained on the seal is
33 incorrect at that time that the notarial act is performed.

34 **"Part 6. Certificate Forms.**

35 **"§ 10B-25. Notarial certificates in general.**

36 (a) A notary shall not make or give a notarial certificate unless the notary has
37 either (i) personal knowledge of the identity of the principal or, if applicable, the
38 subscribing witness, or (ii) satisfactory evidence of a signer's identity.

39 (b) A notarial certificate for the acknowledgment of a principal who is an
40 individual acting in his or her own right or in a representative capacity taken by a notary
41 is sufficient and shall be accepted in this State if it is substantially in the form set forth
42 in G.S. 10B-26, if it is substantially in a form otherwise prescribed by the law of this
43 State, or if it:

44 (1) Identifies the state and county in which the acknowledgment occurred;

- (2) Names the principal who appeared in person before the notary;
- (3) States that the notary has either (i) personal knowledge of the identity of the principal or (ii) satisfactory evidence of the principal's identity, indicating the nature of that satisfactory evidence;
- (4) Indicates that the principal who appeared in person before the notary acknowledged that the signature on the record presented is his or her signature, that the principal voluntarily signed the record for the purpose stated therein;
- (5) States the date of the acknowledgment;
- (6) Contains the signature and seal or stamp of the notary who took the acknowledgment; and
- (7) States the notary's commission expiration date.

(c) A notarial certificate for the verification or proof of the signature of a principal by a subscribing witness taken by a notary is sufficient and shall be accepted in this State if it is substantially in the form set forth in G.S. 10B-27, if it is substantially in a form otherwise prescribed by the law of this State, or if it:

- (1) Identifies the state and county in which the verification or proof occurred;
- (2) Names the subscribing witness who appeared in person before the notary;
- (3) States that the notary has either (i) personal knowledge of the identity of the subscribing witness or (ii) satisfactory evidence of the subscribing witness's identity, indicating the nature of that satisfactory evidence;
- (4) Names the principal whose signature on the record is to be verified or proven;
- (5) Indicates that the subscribing witness certified to the notary under oath or by affirmation that the subscribing witness is not a named party to the record in question, has no interest in the transaction, signed the record as a subscribing witness, and either (i) witnessed the principal sign the record, or (ii) witnessed the principal acknowledge the principal's signature on the already-signed record;
- (6) States the date of the verification or proof;
- (7) Contains the signature and seal or stamp of the notary who took the verification or proof; and
- (8) States the notary's commission expiration date.

(d) A notarial certificate for an oath or affirmation taken by a notary is sufficient and shall be accepted in this State if it is substantially in the form set forth in G.S. 10B-28, if it is substantially in a form otherwise prescribed by the law of this State, or if it:

- (1) Identifies the state and county in which the oath or affirmation occurred;
- (2) Names the principal who appeared in person before the notary;

(3) States that the notary has either (i) personal knowledge of the identity of the principal or (ii) satisfactory evidence of the principal's identity, indicating the nature of that satisfactory evidence;

(4) Indicates that the principal who appeared in person before the notary signed the record in question and certified to the notary under oath or by affirmation as to the truth of the matters stated in the record;

(5) States the date of the oath or affirmation;

(6) Contains the signature and seal or stamp of the notary who took the oath or affirmation; and

(7) States the notary's commission expiration date.

(e) Any notarial certificate made in another jurisdiction shall be sufficient in this State if it is made in accordance with federal law or the laws of the jurisdiction where the notarial certificate is made.

(f) On records to be filed, registered, recorded, or delivered in another state or jurisdiction of the United States, a North Carolina notary may complete any notarial certificate that may be required in that other state or jurisdiction.

(g) Nothing in this Chapter shall be deemed to authorize the use of a notarial certificate authorized by this Part in place of or as an alternative to a notarial certificate required by any other provision of the General Statutes outside of Chapter 47 of the General Statutes that prescribes the specific form or content for a notarial certificate (including, but not limited to, G.S. 31-11.6, Chapter 32A of the General Statutes, and G.S. 90-321). However, any statute that permits or requires the use of a notarial certificate contained within Chapter 47 of the General Statutes may also be satisfied by the use of a notarial certificate permitted by this Part.

"§ 10B-26. Notarial certificate for an acknowledgment.

(a) When properly completed by a notary, a notarial certificate in substantially the following form may be used and shall be sufficient under the law of this State to satisfy the requirements for a notarial certificate for the acknowledgment of a principal who is an individual acting in his or her own right or in a representative capacity. The authorization of the form in this section does not preclude the use of other forms.

County, North Carolina

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: name(s) of principal(s).

Date: _____

(Official Seal)

Official Signature of Notary

Notary's printed or typed name, Notary Public

My commission expires: _____

(b) By signing a notarial certificate for the acknowledgment of a principal who is an individual acting in his or her own right or in a representative capacity substantially in the form set forth in subsection (a) of this section, the notary thereby certifies:

- (1) That the principal acknowledging his or her signature appeared in person before the notary on the date indicated;
- (2) That the principal stated to the notary that he or she voluntarily signed the record for the purpose stated therein;
- (3) That, if the principal signed the record in a representative capacity, the principal stated that he or she signed the record in the particular representative capacity; and
- (4) That the notary has either (i) personal knowledge of the identity of the principal or (ii) satisfactory evidence of the principal's identity.

"§ 10B-27. Notarial certificate for a verification or proof.

(a) When properly completed by a notary, a notarial certificate in substantially the following form may be used and shall be sufficient under the law of this State to satisfy the requirements for a notarial certificate for the verification or proof of the signature of a principal by a subscribing witness. The authorization of the form in this section does not preclude the use of other forms.

County, North Carolina

I certify that *name of subscribing witness* personally appeared before me this day and certified to me under oath or by affirmation that he or she is not a named party to the foregoing document, has no interest in the transaction, signed the foregoing document as a subscribing witness, and either (i) witnessed *name of principal* (the principal) sign the foregoing document or (ii) witnessed the principal acknowledge the principal's signature on the already-signed document.

Date: _____

Official Signature of Notary

Notary's printed or typed name, Notary Public

(Official Seal)

My commission expires:

(b) By signing a notarial certificate for the verification or proof of the signature of a principal by a subscribing witness substantially in the form set forth in subsection (a) of this section, the notary thereby certifies:

- (1) That the subscribing witness appeared in person before the notary on the date indicated;
- (2) That the subscribing witness certified to the notary under oath or by affirmation that the subscribing witness is not a named party to the record in question, has no interest in the transaction, signed the record as a subscribing witness, and either (i) witnessed the named principal sign the record, or (ii) witnessed the named principal acknowledge the principal's signature on the already-signed record; and

- (3) That the notary has either (i) personal knowledge of the identity of the subscribing witness or (ii) satisfactory evidence of the subscribing witness's identity.

"§ 10B-28. Notarial certificate for an oath or affirmation.

(a) When properly completed by a notary, a notarial certificate in substantially either of the following forms may be used and shall be sufficient under the law of this State to satisfy the requirements for a notarial certificate for an oath or affirmation. The authorization of the forms in this section does not preclude the use of other forms.

County, North Carolina

Signed and sworn to (or affirmed) before me this day by *name of principal*.

Date: _____

Official Signature of Notary

Notary's printed or typed name, Notary Public

(Official Seal)

My commission expires:

-OR-

County, North Carolina

Sworn to (or affirmed) and subscribed before me this day by *name of principal*.

Date: _____

Official Signature of Notary

Notary's printed or typed name, Notary Public

(Official Seal)

My commission expires:

(b) By signing a notarial certificate for an oath or affirmation substantially in the form set forth in subsection (a) of this section, the notary thereby certifies:

- (1) That the principal appeared in person before the notary on the date indicated;
- (2) That either (i) the notary witnessed the principal sign the record or (ii) the principal stated to the notary that he or she voluntarily signed the record for the purpose stated therein;
- (3) That the principal certified to the notary under oath or by affirmation as to the truth of the matters stated in the record; and
- (4) That the notary has either (i) personal knowledge of the identity of the principal or (ii) satisfactory evidence of the principal's identity.

"Part 7. Changes in Status.

"§ 10B-29. Change of address.

Within 45 days after the change of a notary's residence, business, or any mailing address or telephone number, the notary shall send to the Secretary by fax, e-mail, or

1 certified mail, return receipt requested, a signed notice of the change, giving both old
2 and new addresses or telephone numbers.

3 **"§ 10B-30. Change of name.**

4 (a) Within 45 days after the legal change of a notary's name, the notary shall send
5 to the Secretary by fax, e-mail, or certified mail, return receipt requested, a signed
6 notice of the change. The notice shall include both the notary's former name and the
7 notary's new name.

8 (b) A notary with a new name may continue to use the former name in
9 performing notarial acts until all of the following steps have been completed:

10 (1) The notary receives a confirmation of Notary's Name Change from the
11 Secretary.

12 (2) The notary obtains a new seal bearing the new name exactly as that
13 name appears in the confirmation from the Secretary.

14 (3) The notary appears before the register of deeds to which the
15 commission was delivered within 45 days of the effective date of the
16 change to be duly qualified by taking the general oath of office
17 prescribed in G.S. 11-11 and the oath prescribed for officers in
18 G.S. 11-7 under the new name and to have the notary public record
19 changed to reflect the new commissioned name.

20 (c) Upon completion of the requirements in subsection (b) of this section, the
21 notary shall use the new name.

22 **"§ 10B-31. Change of county.**

23 (a) A notary who has moved to another county in North Carolina remains
24 commissioned until the current commission expires, is not required to obtain a new seal,
25 and may continue to notarize without changing his or her seal.

26 (b) When a notary who has moved applies to be recommissioned, if the
27 commission is granted the, Secretary shall issue a notice of recommissioning. The
28 commission applicant shall then do all of the following:

29 (1) Obtain a new seal bearing the new county exactly as in the notice of
30 recommissioning.

31 (2) Appear before the register of deeds to which the commission was
32 delivered within 45 days of recommissioning, to be duly qualified by
33 taking the general oath of office prescribed in G.S. 11-11 and the oath
34 prescribed for officers in G.S. 11-7 under the new county and to have
35 the notary public record changed to reflect the new county name.

36 **"10B-32. Change of both name and county.**

37 (a) Within 45 days after the legal change of a notary's name, and if the notary has
38 also moved to a different county than as last commissioned, the notary shall submit to
39 the Secretary a recommissioning application and fee pursuant to this Chapter. The
40 notary may continue to perform notarial acts under the notary's previous name and seal
41 until all of the following steps have been completed:

42 (1) The notary receives a transmittal receipt of reappointment due to name
43 and county change from the Secretary.

(2) The notary obtains a new seal bearing the new name and county exactly as those items appear in the transmittal receipt.

(3) The notary appears before the register of deeds to which the commission was delivered within 45 days of recommissioning to be duly qualified by taking the general oath of office prescribed in G.S. 11-11 and the oath prescribed for officers in G.S. 11-7 under the new name and county and to have the notary public record changed to reflect the new name and county.

"§ 10B-33. Resignation.

(a) A notary who resigns the notary's commission shall send to the Secretary by fax, e-mail, or certified mail, return receipt requested, a signed notice indicating the effective date of resignation.

(b) Notaries who cease to reside in or to maintain a regular place of work or business in this State, or who become permanently unable to perform their notarial duties, shall resign their commissions and shall deliver their seals to the Secretary by certified mail, return receipt requested.

"§ 10B-34. Disposition of seal; death of notary.

(a) When a notary commission is resigned or revoked, the notary shall deliver the notary's seal to the Secretary within 45 days of the resignation or revocation. Delivery shall be accomplished by certified mail, return receipt requested. The Secretary shall destroy any seal received under this subsection.

(b) A notary whose commission has expired and whose previous commission or application was not revoked or denied by this State, is not required to deliver the seal to the Secretary as provided under subsection (a) of this section if the notary intends to apply to be recommissioned and is recommissioned within three months after the notary's commission expires.

(c) If a notary dies while commissioned or before fulfilling the disposition of seal requirements in this section, the notary's estate shall, as soon as is reasonably practicable and no later than the closing of the estate, notify the Secretary in writing of the notary's death and deliver the notary's seal to the Secretary for destruction.

"Part 8. Enforcement, Sanctions, and Remedies.

"§ 10B-35. Enforcement and penalties.

(a) The Secretary may warn, restrict, suspend, or revoke a notarial commission for a violation of this Chapter and on any ground for which an application for a commission may be denied under this Chapter. Any period of restriction, suspension, or revocation shall not extend the expiration date of a commission.

(b) Except as otherwise permitted by law, a person who commits any of the following acts is guilty of a Class 1 misdemeanor:

(1) Holding one's self out to the public as a notary if the person does not have a commission.

(2) Performing a notarial act if the person's commission has expired or been suspended.

(3) Performing a notarial act before the person had taken the oath of office.

1 (c) A notary shall be guilty of a Class 1 misdemeanor if the notary does any of
2 the following:

3 (1) Takes an acknowledgment, performs an oath, affirmation, or jurat
4 without the principal personally appearing before the notary;

5 (2) Takes a verification or proof of a subscribing witness without personal
6 knowledge of the subscribing witness's identity, or without satisfactory
7 evidence of the subscribing witness's identity;

8 (d) A notary shall be guilty of a Class I felony if the notary does any of the
9 following:

10 (1) Takes an acknowledgment, verification, proof, or jurat, or performs an
11 oath or affirmation if the notary knows it is false or fraudulent.

12 (2) Takes an acknowledgment, or jurat without the principal appearing if
13 the notary does so with the intent to commit fraud.

14 (3) Takes a verification or proof without the subscribing witness appearing
15 in person before the notary if the notary does so with the intent to
16 commit fraud.

17 (e) It is a Class I felony for any person to perform notarial acts in this State with
18 the knowledge that the person is not commissioned under this Chapter.

19 (f) Any person who without authority obtains, uses, conceals, defaces, or
20 destroys the seal or notarial records of a notary is guilty of a Class I felony.

21 (g) For purposes of enforcing this Chapter and Article 34 of Chapter 66 of the
22 General Statutes, the law enforcement agents of the Department of the Secretary of
23 State have statewide jurisdiction and have all of the powers and authority of law
24 enforcement officers. The agents have the authority to assist local law enforcement
25 agencies in their investigations and to initiate and carry out, on their own or in
26 coordination with local law enforcement agencies, investigations of violations.

27 (h) Resignation or expiration of a notarial commission does not terminate or
28 preclude an investigation into a notary's conduct by the Secretary, who may pursue the
29 investigation to a conclusion, whereupon it may be a matter of public record whether or
30 not the finding would have been grounds for disciplinary action.

31 (i) The Secretary may seek injunctive relief against any person who violates the
32 provisions of this Chapter. Nothing in this Chapter diminishes the authority of the North
33 Carolina State Bar.

34 (j) Any person who knowingly solicits, coerces, or in any material way
35 influences a notary to commit official misconduct, is guilty as an aider and abettor and
36 is subject to the same level of punishment as the notary.

37 (k) The sanctions and remedies of this Chapter supplement other sanctions and
38 remedies provided by law, including, but not limited to, forgery and aiding and abetting.

39 "Part 9. Validation of Notarial Acts.

40 "§ 10B-36. Acts of notaries public in certain instances validated.

41 (a) Any acknowledgment taken and any instrument notarized by a person prior to
42 qualification as a notary public but after commissioning or recommissioning as a notary
43 public, or by a person whose notary commission has expired, is hereby validated. The

1 acknowledgment and instrument shall have the same legal effect as if the person
2 qualified as a notary public at the time the person performed the act.

3 (b) All documents bearing a notarial seal and which contain any of the following
4 errors are validated and given the same legal effect as if the errors had not occurred:

5 (1) The date of the expiration of the notary's commission is stated,
6 whether correctly or erroneously.

7 (2) The notarial seal does not contain a readable impression of the notary's
8 name, contains an incorrect spelling of the notary's name, or does not
9 bear the name of the notary exactly as it appears on the commission, as
10 required under G.S. 10B-24.

11 (3) The notary's signature does not comport exactly with the name on the
12 notary commission or on the notary seal, as required by G.S. 10B-14.

13 (4) The notarial seal contains typed, printed, drawn, or handwritten
14 material added to the seal, fails to contain the words "North Carolina"
15 or the abbreviation "NC", or contains correct information except that
16 instead of the abbreviation for North Carolina contains the
17 abbreviation for another state.

18 (c) All deeds of trust in which the notary was named in the document as a trustee
19 only are validated.

20 (d) All notary acknowledgments performed before January 1, 1953, bearing a
21 notarial seal are hereby validated.

22 (e) This section applies to notarial acts performed on or before February 1, 2004.

23 **"§ 10B-37. Certain notarial acts validated.**

24 (a) Any acknowledgment taken and any instrument notarized by a person whose
25 notarial commission was revoked on or before January 30, 1997, is hereby validated.

26 (b) This section applies to notarial acts performed on or before August 1, 1998.

27 **"Article 2.**

28 **"Electronic Notary Act.**

29 **"Part 1. General Provisions.**

30 **"§ 10B-38. Short title.**

31 This act is the Electronic Notary Public Act and may be cited by that name.

32 **"§ 10B-39. Definitions.**

33 The following definitions apply in this Article:

34 (1) "Electronic" means relating to technology having electrical, digital,
35 magnetic, wireless, optical, electromagnetic, or similar capabilities.

36 (2) "Electronic Notary Public" and "Electronic Notary" mean a notary
37 public who has registered with the Secretary the capability of
38 performing electronic notarial acts in conformance with this Article.

39 (3) "Electronic Document" means information that is created, generated,
40 sent, communicated, received, or stored by electronic means.

41 (4) "Electronic Notarial Act" and "Electronic Notarization" mean an
42 official act by an electronic notary public that involves electronic
43 documents.

- (5) "Electronic Notary Seal" and "Electronic Seal" mean information within a notarized electronic document that includes the notary's name, jurisdiction, and commission expiration date, and generally corresponds to data in notary seals used on paper documents.
- (6) "Electronic Signatures" means an electronic symbol or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the document.
- (7) "Notary's Electronic Signature" means those forms of electronic signature which have been approved by the Secretary as authorized in G.S. 10B-49, as an acceptable means for an electronic notary to affix the notary's official signature to an electronic record that is being notarized.

"§ 10B-40. Scope of this Article.

Article 1 of this Chapter applies to all acts authorized under this Article unless the provisions of Article 1 directly conflict with the provisions of this Article, in which case provisions of Article 2 shall control.

"Part 2. Registration.

"§ 10B-41. Qualifications.

(a) A person qualified for electronic notary registration shall meet all of the following requirements:

- (1) Hold a valid commission as a notary public in the State of North Carolina.
- (2) Except as otherwise provided, abide by all the provisions of Article 1 of this Chapter.
- (3) Satisfy the requirements of G.S. 10B-43.
- (4) Submit an electronic registration form containing no significant misstatement or omission of fact.

(b) The Secretary may deny a registration as an electronic notary as authorized in G.S. 10B-4(d).

"§ 10B-42. Registration with the Secretary of State.

(a) Before performing notarial acts electronically, a notary shall register the capability to notarize electronically with the Secretary.

(b) The term of registration as an electronic notary shall coincide with the term of the notary's commission under Article 1 of this Chapter.

(c) An electronic notary shall reregister the capability to notarize electronically at the same time the notary applies for recommissioning under the requirements of Article 1 of this Chapter.

(d) An electronic form shall be used by an electronic notary in registering with the Secretary and it shall include, at least all of the following:

- (1) The applicant's full legal name and the name to be used for commissioning, excluding nicknames.
- (2) The state and county of commissioning of the registrant.
- (3) The expiration date of the registrant's notary commission.

(4) Proof of successful completion of the course of instruction on electronic notarization as required by this Article.

(5) A description of the technology the registrant will use to create an electronic signature in performing official acts.

(6) If the device used to create the registrant's electronic signature was issued or registered through a licensed certification authority, the name of that authority, the source of the license, the starting and expiration dates of the device's term of registration, and any revocations, annulments, or other premature terminations of any registered device of the registrant that was due to misuse or compromise of the device, with the date, cause, and nature of each termination explained in detail.

(7) The e-mail address of the registrant.

The information contained in a registration under this section is a public record as defined in G.S. 132-1, except for information contained in subsection (7), which shall be considered confidential information and shall not be subject to disclosure except as provided in Chapter 132 of the General Statutes or as provided by rule.

(e) The electronic registration form for an electronic notary shall be transmitted electronically to the Secretary and shall include any decrypting instructions, codes, keys, or software that allow the registration to be read.

(f) Within 10 business days after the change of any registration information required of an electronic notary, the notary shall electronically transmit to the Secretary a notice of the change of information signed with the notary's official electronic signature.

"§ 10B-43. Course of instruction.

(a) Before performing electronic notarial acts, a notary shall take a course of instruction of least three hours approved by the Secretary and pass an examination of this course, which shall be in addition to the educational requirements provided in Article 1 of this Chapter.

(b) The content of the course and the basis for the examination shall be notarial laws, procedures, technology, and ethics as they pertain to electronic notarization.

"§ 10B-44. Fees for registration.

The fee payable to the Secretary for registering or reregistering as an electronic notary is fifty dollars (\$50.00), which shall be in addition to the fee required in G.S. 10B-12. All funds received by the Secretary under this section shall be deposited into the General Fund.

"Part 3. Electronic Notarial Acts, Powers, and Limitations.

"§ 10B-45. Types of electronic notarial acts.

The following types of notarial acts may be performed electronically:

(1) Acknowledgments;

(2) Jurats;

(3) Verifications or proofs; and

(4) Oaths or affirmations.

"§ 10B-46. Prohibitions.

An electronic notarization shall not be performed if the signer of the electronic document:

- (1) Is not in the presence of the electronic notary at the time of notarization; and
- (2) Is not personally known to the notary or identified by the evidence in accordance with other provisions of this Chapter; or
- (3) For any reason set forth in G.S. 10B-14.

"§ 10B-47. Notarial components of electronic document.

In performing an electronic notarial act, all of the following components shall be attached to, or logically associated with, the electronic document by the electronic notary, all of which shall be immediately perceptible and reproducible in the electronic record to which the notary's electronic signature is attached:

- (1) The notary's name, state, and county of commissioning exactly as stated on the commission issued by the Secretary;
- (2) The words "Electronic Notary Public";
- (3) The words "State of North Carolina";
- (4) The expiration date of the commission;
- (5) The notary's electronic signature; and
- (6) The completed wording of one of the following notarial certificates:
 - a. Acknowledgment;
 - b. Jurat;
 - c. Verification or proof; or
 - d. Oath or affirmation.

"§ 10B-48. Maximum fees.

For performing electronic notarial acts, the maximum fees that may be charged by an electronic notary are as follows:

- (1) For acknowledgments, \$10.00 per signature.
- (2) For jurats, \$10.00 per signature.
- (3) For verifications or proofs, \$10.00 per signature.
- (4) For oaths or affirmations, \$10.00 per signature.

"Part 4. Electronic Notary Records, Maintenance, and Disposition.

"§ 10B-49. Electronic signature, electronic seal.

(a) The notary's electronic signature in combination with the electronic notary seal shall be used only for the purpose of performing electronic notarial acts.

(b) The Secretary shall adopt rules necessary to establish standards, procedures, practices, forms, and records relating to a notary's electronic signature and electronic seal. The notary's electronic seal and electronic signature shall conform to any standards adopted by the Secretary.

"§ 10B-50. Security measures.

(a) A notary shall safeguard the notary's electronic signature, the notary's electronic seal, and all other notarial records. Notarial records shall be maintained by the notary, and the notary shall not surrender or destroy the records except as required by a court order or as allowed under rules adopted by the Secretary.

1 (b) When not in use, the notary shall keep the notary's electronic signature,
2 electronic seal, and all other notarial records secure, under the exclusive control of the
3 notary, and shall not allow them to be used by any other notary or any other person.

4 (c) A notary shall do the following within 10 days of discovering that the notary's
5 electronic seal or electronic signature has been stolen, lost, damaged, or otherwise
6 rendered incapable of affixing a legible image:

7 (1) Inform the appropriate law enforcement agency in the case of theft or
8 vandalism.

9 (2) Notify the appropriate register of deeds and the Secretary in writing
10 and signed in the official name in which he or she was commissioned.

11 (d) The Secretary may adopt rules necessary to insure the integrity, security, and
12 authenticity of electronic notarizations.

13 (e) The Secretary may require an electronic notary to create and to maintain a
14 record, journal, or entry of each electronic notarial act. The rule-making authority
15 contained in this subsection shall become effective 18 months after the effective date of
16 this act.

17 (f) The failure of an electronic notary to produce within 10 days of the
18 Department's request any record required by a rule adopted under this section shall
19 result in the suspension of the electronic notary's power to act as a notary under the
20 provision of this Chapter until the Secretary reinstates the notary's commission.

21 (g) Upon resignation, revocation, or expiration of an electronic notary
22 commission, or death of the notary, all notarial records required by statute or rule shall
23 be delivered to the Secretary.

24 **"§ 10B-51. Maintenance of electronic device.**

25 (a) An electronic notary shall take reasonable steps to ensure that any registered
26 device used to create the notary's electronic signature is current and has not been
27 revoked or terminated by its issuing or registering authority.

28 (b) If the registration of the device used to create electronic signatures either
29 expires or is changed during the electronic notary's term of office, the notary shall cease
30 performing electronic notarizations until:

31 (1) A new device is duly issued or registered to the notary; and

32 (2) An electronically signed notice is sent to the Secretary that shall
33 include the starting and expiration dates of any new registration term
34 and any other new information at variance with information in the
35 most recently executed electronic registration form.

36 **"§ 10B-52. Disposition of records.**

37 (a) Upon compliance with G.S. 10B-51 and except as provided in subsection (b)
38 of this section, when an electronic notary's commission expires or is resigned or
39 revoked, or when an electronic notary dies, the notary or the notary's duly authorized
40 representative shall erase, delete, or destroy the coding, disk, certificate, card, software,
41 file, or program that enables electronic affixation of the notary's official electronic
42 signature.

43 (b) A former electronic notary whose previous commission or application was
44 not revoked or denied by the Secretary need not erase, delete, or destroy the coding,

1 disk, certificate, card, software, file, or program enabling electronic affixation of the
2 official electronic signature if he or she is recommissioned and reregistered as an
3 electronic notary using the same electronic signature within three months after
4 commission expiration.

5 "Part 5. Certificate Forms.

6 **"§ 10B-53. Validity of notarial certificates.**

7 The provisions contained in Article 1, Part 6, of this Chapter, with regard to notarial
8 certificate forms, are applicable for the purposes of this Article.

9 **"§ 10B-54. Form of evidence of authority of electronic notarial act.**

10 Electronic evidence of the authenticity of the official electronic signature and
11 electronic seal of an electronic notary of this State, if required, shall be attached to, or
12 logically associated with, a notarized electronic document transmitted to another state or
13 nation and shall be in the form of an electronic certificate of authority signed by the
14 Secretary in conformance with any current and pertinent international treaties,
15 agreements, and conventions subscribed to by the government of the United States.

16 **"§ 10B-55. Certificate of authority for electronic notarial act.**

17 (a) An electronic certificate of authority evidencing the authenticity of the
18 official electronic signature and electronic seal of an electronic notary of this State shall
19 contain substantially the following words:

20
21 Certificate of Authority for an Electronic Notarial Act

22 I, _____ (name, title, jurisdiction of commissioning official) certify that
23 (name of electronic notary), the person named as an electronic notary public in the
24 attached or associated document, was indeed registered as an electronic notary public
25 for the State of North Carolina and authorized to act as such at the time of the
26 document's electronic notarization.

27
28 To verify this Certificate of Authority for an Electronic Notarial Act, I have included
29 herewith my electronic signature this _____ day of _____, 20____.
30 (Electronic signature (and seal) of commissioning official)

31 (b) The Secretary may charge ten dollars (\$10.00) for issuing an electronic
32 certificate of authority.

33 "Part 6. Enforcement.

34 **"§ 10B-56. Restriction or revocation of registration.**

35 The Secretary or the Secretary's designee shall have the authority to warn, restrict,
36 suspend, or revoke an electronic notary registration for a violation of this Chapter and
37 on any ground for which electronic notary registration may be denied under this
38 Chapter.

39 **"§ 10B-57. Wrongful manufacture, distribution, or possession of software or**
40 **hardware.**

41 (a) Any person who knowingly creates, manufactures, or distributes software for
42 the purpose of allowing a person to act as an electronic notary without being
43 commissioned and registered in accordance with this act shall be guilty of a Class G
44 felony.

(b) Any person who wrongfully obtains, conceals, damages, or destroys the certificate, disk, coding, card, program, software, file, or hardware enabling an electronic notary to affix an official electronic signature is guilty of a Class I felony."

SECTION 5. G.S. 66-271 reads as rewritten:

"§ 66-271. Definitions.

The following definitions apply in this Article:

...
(5) Notary public. – Defined in ~~G.S. 10A-3~~. G.S. 10B-3.

...."

SECTION 6. G.S. 66-272 reads as rewritten:

"§ 66-272. Certificate of authentication.

To authenticate a document, the Secretary must compare the official's seal and signature on the document with a specimen of the official's seal and signature on file in the Department. If no specimen is on file in the Department, the Secretary must require that the document be authenticated by an official for whom the Department does have a specimen. The Secretary must also verify the official's authority to perform a particular act when the law of a foreign jurisdiction requires it to be verified before it will recognize the authenticity of the document. When the Secretary is able to authenticate the official's seal, signature, position, and authority, the Secretary shall sign and issue a certificate of authentication. ~~The certificate of authentication may be placed on the document itself, if space is available, or by appending it shall be appended to the document on a separate sheet.~~"

SECTION 7. G.S. 66-273 reads as rewritten:

"§ 66-273. Prerequisites for authentication.

All of the following conditions must be met before a document can be authenticated:

- (1) All seals and signatures must be originals.
- (2) All dates must follow in chronological order on all certifications.
- (3) All acknowledgments to be authenticated by the Secretary shall be in ~~English or accompanied by a certified or notarized English translation.~~ English and must comply with Chapter 10B of the General Statutes.
- (4) Whenever a copy is used, it must include a statement that it is a true and accurate copy.
- (5) Whenever a document is to be authenticated by the United States Department of State, it must comply with all applicable statutes, rules, and regulations of that office."

SECTION 8. G.S. 161-10(a) reads as rewritten:

"(a) Except as provided in G.S. 161-11.1 or 161-11.2, all fees collected under this section shall be deposited into the county general fund. While performing the duties of the office, the register of deeds shall collect the following fees which shall be uniform throughout the State:

- ...
(12) Notarial Acts. – For taking an acknowledgment, oath, or affirmation or performing any other notarial act the maximum fee set in ~~G.S. 10A-10.~~ G.S. 10B-20 or G.S. 10B-48 for electronic notarial acts. This fee shall

not be charged if the act is performed as a part of one of the services for which a fee is provided by this subsection; except that this fee shall be charged in addition to the fees for registering, filing, or recording instruments or plats as provided by subdivisions (1) and (3) of this subsection.

....
(17) Qualification of Notary Public. – For administering the oaths of office to a notary public and making the appropriate record entries as provided in ~~G.S. 10A-8~~ G.S. 10B-9 ten dollars (\$10.00).

..."

SECTION 9. Article 3 of Chapter 47 of the General Statutes is amended by adding a new section to read:

"§ 47-37.1. Other forms of proof.

(a) The proof and acknowledgment forms set forth in this Article are not exclusive. Without regard to whether an instrument presented for registration was signed by an individual acting in his or her own right or by an individual acting in a representative capacity, a notarial certificate that complies with the provisions of Part 6 of Article 1 of Chapter 10B (G.S. 10B-25 et. seq.) shall be deemed a sufficient form of probate or acknowledgment for purposes of this Chapter. Use of a notarial certificate that satisfies the requirements of Part 6 of Article 1 of Chapter 10B shall not be grounds for a register of deeds to refuse to accept a record for registration.

(b) When an instrument presented for registration purports to be signed by an individual in a representative capacity, the acknowledgment or proof of that individual's signature may, but is not required to:

(1) State that the individual signed the instrument in a representative capacity.

(2) State that the individual who signed the instrument in a representative capacity had due authority to do so.

(3) Identify the represented person or entity."

SECTION 10.(a) The Secretary of State may use the Department's internal information technology staff and may expend up to the sum of two hundred thousand dollars (\$200,000) for the 2005-2006 fiscal year from the Department of the Secretary of State E-Commerce Transaction Fund, pursuant to G.S. 66-58.12(c), for the implementation of this act.

SECTION 10.(b) There is appropriated from the General Fund to the Department of the Secretary of State the sum of one hundred thousand dollars (\$100,000) for the 2005-2006 fiscal year for the development of courses of instruction for notaries as provided by this act.

SECTION 11. As soon as practicable, or within 24 months of the effective date of this act, all North Carolina registers of deeds and clerks of superior court shall submit to the Department of the Secretary of State legible and reproducible copies of the pages contained in their "Records of Notaries Public" created prior to 1991 for archiving in permanent storage. The copies shall be reproduced pursuant to standards set by the Department to ensure the legibility of the copies and the compatibility with the

1 Department's existing systems. The Department shall be responsible for any expense
2 incurred relating to the shipment or transfer of these records. The original permanent
3 records shall be returned to the Register of Deeds if submitted to the Secretary for
4 copying.

5 **SECTION 12.** This act shall not affect any civil or criminal litigation
6 pending on the effective date of this act. Any act committed prior to the effective date of
7 this act which violated any provision of the statutes repealed or amended by this act
8 shall be subject to enforcement, prosecution, conviction, and punishment as if this act
9 had not been enacted. Any claim arising under any provisions of the statutes repealed or
10 amended by this act prior to the effective date of this act shall remain valid as if this act
11 had not been enacted.

12 **SECTION 13.** Sections 1, 2, 10, and 13 of this act are effective when they
13 become law. The remainder of the act becomes effective December 1, 2005, and
14 applies to notarial acts and applications for notary commissions and recommissions
15 made on or after that date. Notary commissions issued under Chapter 10A of the
16 General Statutes prior to December 1, 2005, shall remain valid unless otherwise revoked
17 or suspended by the Secretary until those commissions expire as provided in Chapter
18 10A. G.S. 10B-37 and G.S. 10B-59 apply to offenses committed on or after December
19 1, 2005, without regard to whether a commission was issued under Chapter 10A or
20 Chapter 10B of the General Statutes. Notary instructor certifications issued under
21 G.S. 10A-7 shall remain valid until the date of expiration provided for on the certificate,
22 and persons holding those certificates may provide instruction until their certificates
23 expire.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. PCS 15267-LR-43

H. B. No. _____

DATE 8/23/05

S. B. No. 671

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep. Crawford
Sen.)

1 moves to amend the bill on page 33, line 37

2 () WHICH CHANGES THE TITLE

3 by rewriting the line to read:

4 " (\$100,000) for the 2005-2006 fiscal

5 year and the sum of one hundred thousand

6 dollars for the 2006-2007 fiscal year

7 for the development of courses of instruction."

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED JW Crawford Jr

ADOPTED _____ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 575
PROPOSED COMMITTEE SUBSTITUTE H575-PCS30380-LR-44

Short Title: Lump-Sum Bonuses for Certain State Employees.

(Public)

Sponsors:

Referred to:

March 10, 2005

A BILL TO BE ENTITLED
AN ACT PROVIDING A COMPENSATION BONUS OF ONE HUNDRED FIFTY
DOLLARS FOR THE 2005-2006 FISCAL YEAR TO CERTAIN STATE
EMPLOYEES EARNING LESS THAN FIFTY THOUSAND DOLLARS PER
YEAR.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Except as provided by subsection (d) of this section, any employee (i) whose salary is set pursuant to the State Personnel Act or under Part 29 of S.L. 2005-276 and (ii) who was hired into a State-funded position on or before June 30, 2005, and is employed in that position on December 1, 2005, shall be awarded a one-time, lump-sum compensation bonus for the 2005-2006 fiscal year in the amount of one hundred fifty dollars (\$150.00). The compensation bonus shall be payable in the final December 2005 payroll. The compensation bonus shall be adjusted pro rata for permanent part-time employees.

SECTION 1.(b) There is appropriated from the General Fund to the Reserve for Compensation Increases the sum of twenty-one million dollars (\$21,000,000) for fiscal year 2005-2006 to implement this act. There is appropriated from the Highway Fund to the Reserve for Compensation Increases the sum of one million seven hundred thousand dollars (\$1,700,000) for fiscal year 2005-2006 to implement this act. Except as provided by subsection (d) of this section, the compensation bonus shall be awarded to eligible employees without regard to an employee's placement within the salary range, including employees at the top of the salary range.

SECTION 1.(c) Notwithstanding G.S. 135-1(7a), the compensation bonus provided by this act is not compensation under Article 1 of Chapter 135 of the General Statutes, the Teachers' and State Employees' Retirement System. The compensation bonus awarded by this act shall not be administered under G.S. 126-7.

SECTION 1.(d) The following employees shall not be eligible for the compensation bonus authorized by this section:

- 1 (1) Any public school employee or State employee paid on the Teacher
2 Salary Schedule or the School Based Administrator Salary Schedule.
3 (2) Any employee earning a salary of fifty thousand dollars (\$50,000) per
4 year or more on June 30, 2005.
5 (3) Any permanent part-time employee who would have earned a salary of
6 fifty thousand dollars (\$50,000) per year or more on June 30, 2005, if
7 the employee's position was full-time.

8 **SECTION 2.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

1

HOUSE BILL 575

Short Title: Increase Comm. Coll. Faculty Salaries. (Public)

Sponsors: Representatives Tolson, McLawhorn, Warren, Bordsen (Primary Sponsors); B. Allen, L. Allen, Carney, Cleveland, Cole, Coleman, Dickson, Dockham, England, Faison, Farmer-Butterfield, Fisher, Frye, Gibson, Gillespie, Glazier, Goforth, Goodwin, Holliman, Justice, Langdon, LaRoque, Luebke, McGee, Parmon, Rapp, Ray, Ross, Underhill, Wainwright, Walend, Weiss, Womble, and Wray.

Referred to: Appropriations.

March 10, 2005

A BILL TO BE ENTITLED
AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT THE SECOND YEAR OF
THE PLAN TO INCREASE THE SALARIES OF FULL-TIME, CURRICULUM
COMMUNITY COLLEGE FACULTY AND PROFESSIONAL STAFF.

Whereas, in 2004, the General Assembly reformed community college faculty salary policy by introducing a minimum salary and an incentive scale; and

Whereas, in 2004, the General Assembly appropriated funds for a 4.5% salary increase to implement the first year of a plan to increase the salaries of full-time, curriculum community college faculty; and

Whereas, as a result of the policy reforms and the appropriation, full-time, curriculum community college salaries increased 6.8% last year; and

Whereas, despite this increase, community college salaries in North Carolina are still among the lowest in the nation; Now, therefore,
The General Assembly of North Carolina enacts:

SECTION 1. There is appropriated from the General Fund to the Community Colleges System Office the sum of twenty-five million eight hundred seventy thousand two hundred seventy-seven dollars (\$25,870,277) for the 2005-2006 fiscal year and the sum of twenty-five million eight hundred seventy thousand two hundred seventy-seven dollars (\$25,870,277) for the 2006-2007 fiscal year to implement the second year of the plan to increase the salaries of full-time, curriculum community college faculty and professional staff.

SECTION 2.(a) The minimum salaries for community college faculty shall be based on the following education levels:

- (1) Vocational Diploma/Certificate or Less. – This education level includes faculty members who are high school graduates, have vocational diplomas, or have completed one year of college.
- (2) Associates Degree or Equivalent. – This education level includes faculty members who have an associates degree or have completed two or more years of college but have no degree.
- (3) Bachelors Degree.
- (4) Masters Degree or Education Specialist.
- (5) Doctoral Degree.

SECTION 2.(b) For the 2005-2006 school year, the minimum salaries for nine-month, full-time, curriculum community college faculty shall be as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	\$28,512
Associates Degree or Equivalent	\$28,944
Bachelors Degree	\$30,817
Masters Degree or Education Specialist	\$32,478
Doctoral Degree	\$34,874.

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

SECTION 2.(c)

- (1) It is the intent of the General Assembly to encourage community colleges to make faculty salaries a priority and to reward colleges that have taken steps to achieve the national average, therefore:
 - a. If the average faculty salary at a community college is one hundred percent (100%) or more of the national average community college faculty salary, the college may transfer up to eight percent (8%) of the State funds allocated to it for faculty salaries.
 - b. If the average faculty salary at a community college is at least ninety-five percent (95%) but less than one hundred percent (100%) of the national average community college faculty salary, the college may transfer up to six percent (6%) of the State funds allocated to it for faculty salaries.
 - c. If the average faculty salary at a community college is at least ninety percent (90%) but less than ninety-five percent (95%) of the national average community college faculty salary, the college may transfer up to five percent (5%) of the State funds allocated to it for faculty salaries.
 - d. If the average faculty salary at a community college is at least eighty-five percent (85%) but less than ninety percent (90%) of the national average community college faculty salary, the

college may transfer up to three percent (3%) of the State funds allocated to it for faculty salaries.

- e. If the average faculty salary at a community college is eighty-five percent (85%) or less of the national average community college faculty salary, the college may transfer up to two percent (2%) of the State funds allocated to it for faculty salaries.

Except as provided by subdivision (2) of this subsection, a community college shall not transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by this subsection.

- (2) With the approval of the State Board of Community Colleges, a community college at which the average faculty salary is eighty-five percent (85%) or less of the national average may transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by sub-subdivision e. of subdivision (1) of this subsection. The State Board shall approve the transfer only for purposes that directly affect student services.

The State Board of Community Colleges shall adopt rules to implement the provisions of this subdivision.

- (3) A local community college may use all State funds allocated to it except for Literacy Funds and Funds for New and Expanding Industries to increase faculty salaries.

SECTION 2.(d) As used in this section:

- (1) "Average faculty salary at a community college" means the total nine-month salary from all sources of all nine-month, full-time, curriculum faculty at the college, as determined by the North Carolina Community College System on October 1 of each year.
- (2) "National average community college faculty salary" means the nine-month, full-time, curriculum salary average, as published by the Integrated Postsecondary Education Data System (IPEDS), for the most recent year for which data are available.

SECTION 2.(e) The State Board of Community Colleges shall adopt rules to implement the provisions of this section.

SECTION 2.(f) The State Board of Community Colleges shall report to the appropriations subcommittees on education, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Fiscal Research Division, and the Office of State Budget and Management by December 1, 2005, and every year thereafter through December 1, 2009, on the implementation of this section.

SECTION 2.(g) 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. These funds shall not be transferred by the State Board or used for any other budget purpose by the community colleges.

SECTION 3. This act becomes effective July 1, 2005.

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **APPROPRIATIONS** will meet as follows:

DAY & DATE: **Wednesday, August 24, 2005**

TIME: **1:30 p.m.**

LOCATION: **1228**

The following bills will be considered (Bill # & Short Title & Bill Sponsor):
SB 1117 2005 MILITARY SUPPORT ACT

Respectfully,

Representatives Clary, Crawford, Earle, Nye,
Owens, Sherrill
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at
12:00 NOON on August 24, 2005.

____Principal Clerk
____Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

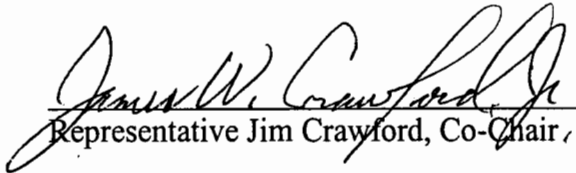
**MINUTES
HOUSE COMMITTEE ON APPROPRIATIONS
AUGUST 24, 2005**

The House Committee on Appropriations met on Tuesday, August 24, 2005, in Room 1228 of the Legislative Building at 1:30 p.m. Chairman Jim Crawford convened the meeting. There were 40 House members present as well as staff to the Appropriations Committee. A visitor registration is attached and made a part of these minutes.

SB 1117 2005 MILITARY SUPPORT ACT

Chairman Crawford recognized Representative Dickson to explain the bill. Representative Dickson offered an amendment deleting Part II dealing with military base gas tax and a study of a military liaison. The amendment was adopted. Amendment #2 was offered by Representative Dickson. Representative Stam offered a perfecting amendment that modified the effective date, subsequently perfecting that amendment to make a technical correction. The amendments were adopted. Representative Pate provided additional comments on the bill. Representative West moved for a favorable report on the bill as amended and the motion carried.

The meeting adjourned at 1:55 pm.


Representative Jim Crawford, Co-Chair,


Linda Winstead, Committee Assistant

Representative Debbie Clary
Representative Beverly Earle
Representative Edd Nye
Representative Bill Owens
Representative Wilma Sherrill

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute for

SB 1117 A BILL TO BE ENTITLED AN ACT TO ENACT THE 2005
SOLDIER, SAILOR, MARINE, AIRMEN, AND GUARDSMEN SUPPORT ACT.

☒ With a favorable report as amended.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the bill/resolution is placed on the Calendar of _____.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

3

SENATE BILL 1117

Rules and Operations of the Senate Committee Substitute Adopted 5/12/05
Appropriations/Base Budget Committee Substitute Adopted 7/27/05

Short Title: 2005 Military Support Act.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO ENACT THE 2005 SOLDIER, SAILOR, MARINE, AIRMEN, AND
GUARDSMEN SUPPORT ACT.

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 2nd 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% of the total military payroll, and 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; Now, therefore, The General Assembly of North Carolina enacts:

PART I. FINDINGS.

SECTION 1.1. 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 1.2. 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 1.3. The General Assembly has enacted several recent acts to accommodate the military and intends to continue:

- (1) S.L. 2004-203, Section 80 (deployed personnel get extension to renew occupational licenses).
- (2) S.L. 2004-130 (active duty personnel get in-State tuition rate at universities and community colleges; dependent relative continues to receive in-State rate if member reassigned; nonresident North Carolina National Guard members get in-State rate).
- (3) S.L. 2003-152 (DMV to have a military designation for drivers licenses; allow renewal by mail).
- (4) S.L. 2003-248 (allow redaction of personal identifying information from military discharges filed with register of deeds).
- (5) S.L. 2003-300 (extend drivers license to 90 days following end of deployment; waive civil penalties and fees for lapsed motor vehicle liability insurance; extend property tax filing deadline; extend property listing deadline; grant full refund of tuition and fees from UNC system and community colleges if deployed; waive repayment of North Carolina Legislative Tuition Grants if student called to active duty).

PART II. WAIVE 1/2 MILITARY BASE GAS TAX.

SECTION 2.1. Part 7 of Article 36C of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-449.128. Distribution of part of Highway Fund allocation to military installations and to the Conservation Grant Fund.

(a) Distributable Amount. – The Secretary must annually distribute for the purposes described in this section an amount equal to the amount of motor fuel sold within the military installation exchanges during the previous fiscal year, as reported pursuant to subsection (b) of this section, multiplied by the distribution rate. The distribution rate is one-half of the sum of the flat cents-per-gallon rate in effect during

1 the year for which the distribution is made and the average of the two variable
2 cents-per-gallon rates in effect during that year.

3 (b) Report. – Each military installation exchange in this State must report to the
4 Secretary by October 15 of each year the amount of motor fuel sold by the exchange
5 within the military installation during the previous fiscal year. The report must be in the
6 form required by the Secretary. No distribution will be made to a military installation
7 exchange under subsection (c) of this section for reports filed after the due date.

8 (c) Distribution to RLUAC. – On or before February 1 of each year, the
9 Secretary must distribute from the amount determined under subsection (a) of this
10 section the sum of thirty-five thousand dollars (\$35,000) to Fort Bragg/Pope Air Force
11 Base Regional Land Use Advisory Commission, Inc., a nonprofit corporation. The
12 Regional Land Use Advisory Commission must use the distribution for operating
13 expenses incurred while fostering compatible land use in areas impacted by both
14 proposed civilian development and military training activities around Fort Bragg and
15 Pope Air Force Base.

16 (d) Distribution of Remainder. – On or before February 1 of each year, the
17 Secretary must distribute the amount determined under subsection (a) of this section less
18 the amount distributable under subsection (c) of this section, as provided in this
19 subsection:

20 (1) Military installations. – The Secretary must distribute one-half of the
21 remaining distributable amounts to the military installation exchanges
22 that filed a timely report under subsection (b) of this section. The
23 amount distributed to each military installation exchange is its
24 proportionate share based upon the amount of motor fuel sold by the
25 exchange within the military installation during the previous fiscal
26 year. Funds distributed to a military installation exchange under this
27 subdivision must be deposited in the Military Morale, Recreation, and
28 Welfare Fund for that installation and used only for community
29 services and other expenditures to improve quality-of-life programs for
30 military members and their families in North Carolina.

31 (2) Conservation Grant Fund. – The Secretary must distribute one-half of
32 the remaining distributable amounts to the Conservation Grant Fund
33 established under G.S. 113A-232. Funds distributed to the
34 Conservation Grant Fund under this subdivision must be used for
35 compatible land use and conservation easement type acquisitions of
36 land adjacent to military bases and flyways."

37 **SECTION 2.2.** G.S. 105-449.62 reads as rewritten:

38 **"§ 105-449.62. Nature of tax.**

39 This Article imposes a tax on motor fuel to provide revenue for the State's
40 transportation ~~needs and needs~~, for the other purposes listed in Part 7 of this
41 ~~Article.~~Article, and for the purposes provided in G.S. 105-449.128. The tax is collected
42 from the supplier or importer of the fuel because this method is the most efficient way
43 to collect the tax. The tax is designed, however, to be paid ultimately by the person who

1 consumes the fuel. The tax becomes a part of the cost of the fuel and is consequently
2 paid by those who subsequently purchase and consume the fuel."

3 **SECTION 2.3.** This part becomes effective July 1, 2006, and applies to
4 motor fuel sold on or after that date. The first reports under G.S. 105-449.128, as
5 enacted by this act, are due by October 14, 2006.

6
7 **PART III. ENCOURAGE CERTAIN OCCUPATIONAL LICENSING BOARDS TO**
8 **DEVELOP POLICIES FOR EXPEDITING THE LICENSING PROCESS FOR**
9 **MILITARY SPOUSES.**

10 **SECTION 3.1.** Findings. – The General Assembly finds that:

- 11 (1) According to the Department of Defense, the unemployment rate of
12 military spouses is three times greater than the average American
13 spouse in the same age group;
14 (2) The mobile military lifestyle causes some military spouses to endure
15 long periods of unemployment and, thus, loss of income; and
16 (3) Professional licensing requirements often differ among states, which in
17 turn may limit career advancement or deter reentry into the workforce
18 for military families moving to new locations.

19 **SECTION 3.2.(a)** In an effort to support military personnel and their
20 families, each occupational licensing board in this State is encouraged to develop
21 policies that would make the licensing process for military spouses more efficient and
22 expedient. In expediting the licensing process, an occupational licensing board shall
23 review its current licensing process especially as it relates to military personnel. After
24 reviewing the licensing process, the licensing board may develop and implement
25 policies regarding licensure that provide for assistance to military spouses and
26 dependents to ensure a smooth process when military families move into this State or
27 are transferred out of this State. Implementation of these policies shall not apply to
28 occupational licensing boards regulating health care professionals.

29 **SECTION 3.2.(b)** This section does not apply to health professions or to
30 teaching.

31
32 **PART IV. NEIT/FIT.**

33 **SECTION 4.** G.S. 115D-5 is amended by adding a new subsection to read:

34 "(o) Notwithstanding any other provision of law, the State Board of Community
35 Colleges may adopt rules and guidelines that allow the New and Expanding Industry
36 Training Program and the Focused Industrial Training Program to use funds
37 appropriated for those programs to support training projects for the various branches of
38 the United States Armed Forces."

39
40 **PART V. ALLOWING MEMBERS OF THE ARMED FORCES TO TERMINATE**
41 **RENTAL AGREEMENTS EARLY WHEN BEING DEPLOYED.**

42 **SECTION 5.** G.S. 42-45(a) reads as rewritten:

43 **"(a)** Any member of the United States Armed Forces who (i) is required to move
44 pursuant to permanent change of station orders to depart 50 miles or more from the

1 location of the dwelling unit, ~~or~~ (ii) is prematurely or involuntarily discharged or
2 released from active duty with the United States Armed Forces, or (iii) is required to
3 move due to deployment may terminate his rental agreement for a dwelling unit by
4 providing the landlord with a written notice of termination to be effective on a date
5 stated in the notice that is at least 30 days after the landlord's receipt of the notice. The
6 notice to the landlord must be accompanied by either a copy of the official military
7 orders or a written verification signed by the member's commanding officer."
8

9 PART VI. DIRECTING THE DEPARTMENT OF PUBLIC INSTRUCTION TO
10 APPOINT A LIAISON TO THE MILITARY BASES IN NORTH CAROLINA.

11 SECTION 6. The Department of Public Instruction shall appoint an
12 employee to serve as its liaison to the military bases in North Carolina. It shall be the
13 responsibility of the liaison to facilitate communication and cooperation between (i)
14 military personnel and their families and the Department and (ii) military personnel and
15 their families and the North Carolina public schools.
16

17 PART VII. DIRECTING THE STATE BOARD OF EDUCATION AND THE BOARD
18 OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO REVIEW
19 AND REVISE THE POLICIES AND PROCEDURES REGARDING CREDIT FOR
20 HIGH SCHOOL COURSES TO ENSURE THAT ALL STUDENTS, ESPECIALLY
21 THE CHILDREN OF MILITARY PERSONNEL, RECEIVE CREDIT FOR
22 COURSES TAKEN OUT-OF-STATE.

23 SECTION 7. The State Board of Education shall review and revise the
24 policies and practices related to students receiving credit for high school courses to
25 ensure that all students, especially the highly mobile children of members of the armed
26 forces, receive credit in the North Carolina public schools for comparable courses taken
27 out-of-State. The State Board shall report the results of this review and any actions
28 taken as a result of the study to modify its policies and practices to the Joint Legislative
29 Education Oversight Committee prior to December 15, 2005.
30

31 PART VIII. ALLOWING IN-STATE TUITION AT STATE UNIVERSITIES AND
32 COMMUNITY COLLEGES FOR ARMED SERVICES PERSONNEL AND THEIR
33 DEPENDENTS.

34 SECTION 8. G.S. 116-143.3 reads as rewritten:

35 "**§ 116-143.3. Tuition of ~~active-duty personnel in the armed services.~~armed**
36 **services personnel and their dependents.**

37 (a) Definitions. – The following definitions apply in this section:

38 (1) The term "abode" shall mean the place where a person actually lives,
39 whether temporarily or permanently; the term "abide" shall mean to
40 live in a given place.

41 (2) The term "armed services" shall mean the United States Air Force,
42 Army, Coast Guard, Marine Corps, and Navy; the North Carolina
43 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 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 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, ~~Carolina or retires,~~ 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) (b2) Repealed by Session Laws 2004-130, s. 1, effective August 1, 2004.

(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 is reassigned outside of North Carolina, ~~Carolina or retires,~~ 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. The person applying for the benefit of this section has the burden of proving entitlement to the benefit.~~

(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)."

PART IX. A STUDENT IS ELIGIBLE TO BE CONSIDERED FOR ADMISSION INTO THE SCHOOL OF SCIENCE AND MATHEMATICS IF THE STUDENT'S PARENT IS AN ACTIVE DUTY MEMBER OF THE ARMED SERVICES STATIONED IN THIS STATE AT THE TIME THE STUDENT'S APPLICATION IS SUBMITTED.

SECTION 9.1. G.S. 116-235(b)(1) reads as rewritten:

"(1) Admission of Students. – The School shall admit students in accordance with criteria, standards, and procedures established by the Board of Trustees. To be eligible to be considered for admission, an applicant must be either a legal resident of the State, as defined by ~~G.S. 116-143.1(a)(1);~~ G.S. 116-143.1(a)(1), or a student whose parent

1 is an active duty member of the armed services, as defined by
2 G.S. 116-143.3(2), who is abiding in this State incident to active
3 military duty at the time the application is submitted, provided the
4 student shares the abode of that parent; eligibility to remain enrolled in
5 the School shall terminate at the end of any school year during which a
6 student becomes a nonresident of the State. The Board of Trustees
7 shall ensure, insofar as possible without jeopardizing admission
8 standards, that an equal number of qualified rising high school juniors
9 is admitted to the program and to the residential summer institutes in
10 science and mathematics from each of North Carolina's congressional
11 districts. In no event shall the differences in the number of rising high
12 school juniors offered admission to the program from each of North
13 Carolina's congressional districts be more than two and one-half
14 percentage points from the average number per district who are offered
15 admission."

16 **SECTION 9.2.** This part is effective when it becomes law and applies to the
17 2005-2006 academic year and each subsequent academic year.

18
19 **PART X. EFFECTIVE DATE.**

20 **SECTION 10.** Except as provided otherwise, this act is effective when it
21 becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA



BILL NUMBER: Senate Bill 1117 (Third Edition)

SHORT TITLE: 2005 Military Support Act.

SPONSOR(S):

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
REVENUES:					
EXPENDITURES:					
Highway Fund (Part II)					
Fort Bragg/Pope RLUAC		\$35,000	\$35,000	\$35,000	\$35,000
Military Installations		\$2,239,630	\$2,239,630	\$2,239,630	\$2,239,630
Conservation Grant Fund		<u>\$2,239,630</u>	<u>\$2,239,630</u>	<u>\$2,239,630</u>	<u>\$2,239,630</u>
Highway Fund Total		\$4,514,260	\$4,514,260	\$4,514,260	\$4,514,260
General Fund					
Dept. of Public					
Instruction (Part VI):					
Salary	\$61,678	\$61,678	\$61,678	\$61,678	\$61,678
Operating Expenses	<u>\$18,000</u>	<u>\$12,000</u>	<u>\$12,000</u>	<u>\$12,000</u>	<u>\$12,000</u>
DPI Total	\$79,678	\$73,678	\$73,678	\$73,678	\$73,678
POSITIONS (DPI)					
(cumulative):	1	1	1	1	1
Minimal Impact (See assumptions and Methodology) UNC and Community Colleges					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Highway Fund, Conservation Grant Fund, certain Occupational Licensing Boards, State Board of Community Colleges, Department of Public Instruction, State Board of Education, University of North Carolina, School of Science and Mathematics; Fort Bragg/Pope AFB Regional Land Use Advisory Commission.					
EFFECTIVE DATE: Part II is effective July 1, 2006; otherwise, when the bill becomes law.					

BILL SUMMARY:

Third Edition makes the following changes to the Second Edition: (1) Distribution is one-half (Second Edition had one-third) the motor fuels tax rate times the number of gallons sold at the military installation exchanges. \$35,000 of the Distribution is to the Fort Bragg/Pope AFB Regional Land Use Advisory Commission for operating expenses. Half of the remaining funds go to the military installation exchanges and half to the Conservation Grant Fund created by G.S. 113A-232. (Second Edition had entire distribution to military installation exchanges.)

Second Edition

Adopts the following provisions to further support US military bases and installations in NC: (1) Enacts new GS 105-449.128 requiring that the Secretary of Revenue annually distribute to each State military installation exchange an amount equal to the amount of motor fuel the exchange reports that it sold during the previous fiscal year, multiplied by the distribution rate (defined in act as 1/3 of the motor fuels tax in effect for the year). Requires that funds distributed be deposited in the Military Morale, Recreation, and Welfare Fund and used for community services for military members and their families. Requires that military installation exchanges report annually on the amount of motor fuel sold during the previous fiscal year. First reports are due October 15, 2006 and first distribution is made within ninety days. (2) Urges NC occupational licensing boards to develop policies to expedite the licensing process for military spouses, except does not apply to health professions or to teaching. (3) Enacts new GS 115D-5(o) to authorize State Board of Community Colleges to adopt rules that allow the New and Expanding Industry Training Program and the Focused Industrial Training Program to use funds to support training projects for the various branches of the US Armed Forces. (4) Amends GS 42-45(a) to allow members of the Armed Forces to terminate rental agreements early when being deployed. (5) Requires that the Department of Public Instruction (DPI) appoint a liaison to the military bases in NC to facilitate communication between DPI and military families and public schools and military families. (6) Requires that the State Board of Education review transfer credit policies to ensure that students, especially children of Armed Forces members, receive credit for courses taken outside NC, and report review results and policy modifications to the Joint Legislative Education Oversight Committee by December 15, 2005. (7) Amends GS 116-143.3 to provide that active duty members of the US armed services and their dependents will continue to be eligible for the in-state tuition rate upon member's retirement. (8) Provides that the child of an active duty member of the military stationed in NC need not satisfy the residency requirements of the NC School of Science and Mathematics, effective beginning with the 2005-06 academic year.

Source: Bill Digest S.B. 1117.

ASSUMPTIONS AND METHODOLOGY: Parts II and VI are expected to have a fiscal impact:

PART II. WAIVE 1/2 OF MILITARY BASE GAS TAX

Sections 2.1 through 2.3 require the distribution of one-half of the amount of motor fuels tax collected from sales on military installations. The estimated total distribution is \$4,514,259, as shown below. \$35,000 is distributed to the Fort Bragg/Pope AFB Regional Land Use Advisory Commission for operating expenses, leaving \$4,479,259. One-half of that amount, \$2,239,630, would go to the military installations based on their share of the motor fuels sold and one-half to the Conservation Grant Fund to be used for compatible land use and conservation easement type acquisitions of land adjacent to military bases and flyways. The first distribution will be in FY 2006-07. The distribution is from the Highway Fund allocation of the motor fuels tax.

Motor Fuels Tax Rate

The Office of State Budget and Management forecasts that the motor fuels tax rate (fixed rate of 17.5 cents per gallon plus variable rate) will average 26.3 cents per gallon over the next five fiscal years. One-half of 26.3 is 13.2 cents per gallon (rounded) and that number is used for the estimates in this fiscal note.

Gallons sold

Marine Corps Community Services at Camp Lejeune has compiled and reported the gallons of motor fuels sold at each installation in North Carolina (see table below). The total is 34,198,932 gallons for the twelve-month period ending January 31, 2005. While this quantity is higher than it has been in recent years (29.8 million gallons in fiscal year 2002 and 28.4 million in fiscal year 2003) there is not enough information available to determine whether increases or decreases can be expected in the future. Therefore the most recent number is assumed to continue.

Disbursement

The total annual disbursement expected under this bill is 34,198,932 gallons times 13.2 cents per gallon, or \$4,514,259. A total of \$35,000 will go to the Fort Bragg/Pope RLUAC, \$2,239,630 will be distributed to the Conservation Grant Fund, and \$2,239,630 will be distributed to the military installations. If current consumption patterns continue, the disbursement by installation will be as shown in the table.

Motor Fuel Sold at North Carolina Installations and Projected Disbursement

Location	Gallons (12 month period ending 1/31/05)	Percent of Total Gallons	Projected Disbursement
USCG Elizabeth City	385,200	1.1%	\$25,226
USMC Camp Lejeune	9,228,588	27.0%	\$604,365
US Army Fort Bragg	18,400,548	53.8%	\$1,205,021
USAF Pope AFB	1,930,380	5.6%	\$126,417
USAF Seymour Johnson AFB	2,784,072	8.1%	\$182,324
USMC Cherry Point MCAS	1,470,144	4.3%	\$96,277
TOTAL	34,198,932	100.0%	\$2,239,630

PART VI. DIRECTING THE DEPARTMENT OF PUBLIC INSTRUCTION TO APPOINT A LIAISON TO THE MILITARY BASES IN NORTH CAROLINA

Section 6 of the bill directs that DPI appoint an employee to serve as its liaison to the military bases in NC. DPI estimates that this position would need to be full-time in order to perform the specific functions directed in the bill. DPI estimates that such a position would require an employee of State pay grade 75. At midpoint of the pay range, that position would cost approximately \$61,678 plus operating expenses of \$18,000 in the first year and \$12,000 annually thereafter. No funds are appropriated in the bill to support an additional position.

Part VII of the bill would not directly require additional expenditures. It would direct the State Board to review certain policies and practices and report the results to the Joint Legislative Education Oversight Committee. DPI could perform the review with existing staff.

PART VIII. ALLOWING IN-STATE TUITION AT STATE UNIVERSITIES AND COMMUNITY COLLEGES FOR ARMED SERVICES PERSONNEL AND THEIR DEPENDENTS

Based on information provided by East Carolina University it appears that the fiscal impact of Part VIII would be minimal. East Carolina has a large number of military enrollments due to its proximity to bases and reports that for the academic year Fall 2003 through 2nd Summer Session 2004, 231 military waivers were granted for military personnel and their dependents. Retired military personnel petitioning for legal residence were given in-state tuition status according to G.S. 116-143.1. One case might have fallen in the category affected by this Part. A student was denied in-state status because the military member was to be discharged prior to the first day of class but had taken few steps toward establishing North Carolina as the permanent legal domicile.

SOURCES OF DATA: USMC Community Services; Office of State Budget and Management; Department of Public Instruction; University of North Carolina

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Bob Weiss

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



DATE: July 27, 2005

Signed Copy Located in the NCGA Principal Clerk's Offices



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1117

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S1117-ASH-9 [v.2]

Page 1 of 1

Date _____, 2005

Comm. Sub. [YES]
Amends Title [NO]
Third Edition

Representative Dickson

1 moves to amend the bill on page 2, line 35, through page 4, line 5, by deleting Part II of
2 the bill;
3 and by renumbering the remaining parts and sections accordingly;
4
5 and on page 5, lines 10 through 12 by rewriting the lines to read:
6 "STUDY THE FEASIBILITY OF A LIAISON TO THE MILITARY BASES IN
7 NORTH CAROLINA.
8 **SECTION 6.** The Department of Public Instruction shall study the feasibility
9 of designating an employee to serve as its liaison to the military bases in North Carolina
10 and report to 2006 Regular Session of the 2005 General Assembly. It shall be the"

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED TABLED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1117

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

S1117-ASH-7 [v.1]

Page 1 of 2

Date _____, 2005

Comm. Sub. [NO]
Amends Title [NO]
Third Edition

Representative _____

1 moves to amend the bill on page 5, lines 7-8, by inserting the following between the
2 lines:

3 "(a1) Any member of the United States Armed Forces who is deployed with a
4 military unit for a period of not less than 90 days may terminate his rental agreement for
5 a dwelling unit by providing the landlord with a written notice of termination. The
6 notice to the landlord must be accompanied by either a copy of the official military
7 orders or a written verification signed by the member's commanding officer.
8 Termination of a lease pursuant to this subsection is effective 30 days after the first date
9 on which the next rental payment is due or 45 days after the landlord's receipt of the
10 notice, whichever is shorter, and payable after the date on which the notice of
11 termination is delivered.

12 (a2) Upon termination of a rental agreement under this section, the tenant is liable
13 for the rent due under the rental agreement prorated to the effective date of the
14 termination payable at such time as would have otherwise been required by the terms of
15 the rental agreement. The tenant is not liable for any other rent or damages due to the
16 early termination of the tenancy except the liquidated damages provided in subsection
17 (b) of this section. If a member terminates the rental agreement pursuant to this section
18 14 or more days prior to occupancy, no damages or penalties of any kind shall be due.

19 (b) In consideration of early termination of the rental agreement, the tenant is
20 liable to the landlord for liquidated damages provided the tenant has completed less than
21 nine months of the tenancy and the landlord has suffered actual damages due to loss of
22 the tenancy. The liquidated damages shall be in an amount no greater than one month's
23 rent if the tenant has completed less than six months of the tenancy as of the effective
24 date of termination, or one-half of one month's rent if the tenant has completed at least
25 six but less than nine months of the tenancy as of the effective date of termination.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1117

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1117-ASH-7 [v.1]

Page 2 of 2

- 1 (c) The provisions of this section may not be waived or modified by the
2 agreement of the parties under any circumstances. Nothing in this section shall affect
3 the rights established by G.S. 42-3."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ☒ _____ FAILED _____ TABLED _____

*As amended
and perfected by Rep Stamm*

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

DATE _____

S. B. No. 1117

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) Stam

Sen.) Dickson Amendment No. 2

1 moves to amend the bill on page 2 of the Amendment, line 4

2 () WHICH CHANGES THE TITLE

3 by adding a line 4

4

5 Section 5.1 ~~the~~ Section 5 applies to leases
6 rental agreements entered into or
7 renewed ^{on or} after September 1, 2005

8

9

10

11 and on P 4 line 42 of the bill
12 by deleting "(a)"

13

14

15

16

17

18

19

SIGNED Stam

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

JOINT APPROPRIATIONS

8-24-05

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rick Zechini	NCAssn of Realtors
Crystal Horson	The Covenant w/ NC's Children
Dyan Pinsky	Shutem
Earl East	UCSR
Kevin Leonard	UCSR
Joe Hanon	UCBS
WGBH	NCA
WBSH	Robert A. Kuper
David Dey	David Dey - OSBM
Greg McL	NC ABO
H A Webb	Raleigh

Shirley Winstead (Rep. Clary)

From: Linda Winstead (Rep. Jim Crawford)
Sent: Thursday, August 25, 2005 10:52 AM
Cc: Evelyn Costello (Sen. Rand); Judy Tardiff (Sen. Rand); Sue Buehlmann (Rep. Dickson)
Subject: Meeting Notice & Bill Sponsor Notice
Importance: High

**NORTH CAROLINA HOUSE OF REPRESENTATIVES
COMMITTEE MEETING NOTICE
2005-2006 SESSION**

You are hereby notified that the Committee on **APPROPRIATIONS** will meet as follows:

DAY & DATE: Monday, August 29, 2005

TIME: 6:30 p.m.

LOCATION: 643

The following bills will be considered (Bill # & Short Title & Bill Sponsor):
SB 1117 2005 MILITARY SUPPORT ACT

Respectfully,

Representatives Clary, Crawford, Earle, Nye, Owens,
Sherrill
Co-chairs

I hereby certify this notice was filed by the committee clerk at the following offices at **11:00 a.m.** on **August 25, 2005.**

____ Principal Clerk
____ Reading Clerk - House Chamber

Linda Winstead (Committee Assistant)

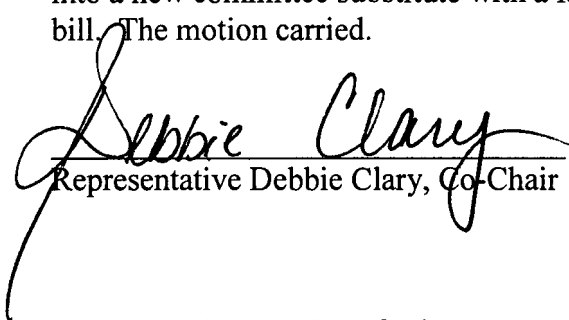
Minutes
House Appropriations Committee Meeting
Monday, August 29, 2005
6:30 pm
643 LOB

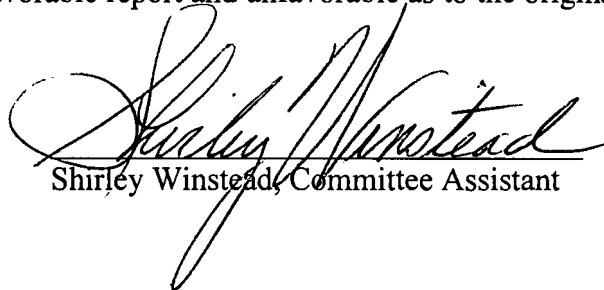
The House Appropriations Committee met on Monday, August 29, 2005 in Room 643 of the Legislative Office Building at 6:30 p.m. Chairperson Representative Debbie Clary presided. Fifty-two (52) members of the committee were present as well as staff to the committee, Karen Hammonds Blank, Phyllis Pickett and Sean Dail.

Representative Clary called the meeting to order and thanked the Sergeant at Arms' staff for their services. A visitor registration list is attached and made part of these minutes.

SB 1117 2005 MILITARY SUPPORT ACT

Representative Dickson was recognized to explain the bill. Representative Crawford moved to consider a proposed committee substitute and the motion carried. Representative Dickson offered an amendment that appropriated \$2 million for military support. Representative Crawford moved for adoption of the amendment, and the motion carried. Representative Dickson offered a second amendment of a technical nature that was explained by Representative Glazier. Representative Dickson moved for adoption and the motion carried. Representative Pate was recognized to clarify several points on the education portion of the bill. Representative Dickson moved to roll the amendments into a new committee substitute with a favorable report and unfavorable as to the original bill. The motion carried.


Representative Debbie Clary, Co-Chair


Shirley Winstead, Committee Assistant

Representative Jim Crawford
Representative Beverly Earle
Representative Ed Nye
Representative Bill Owens
Representative Wilma Sherrill

Rida

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☒ Committee Substitute # 2 for

SB 1117

A BILL TO BE ENTITLED AN ACT TO ENACT THE 2005
SOLDIER, SAILOR, MARINE, AIRMEN, AND GUARDSMEN SUPPORT ACT.

☒ With a favorable report as to House committee substitute bill, unfavorable as to Senate
committee substitute bill 2.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution
(No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____)
is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the
Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute
Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

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SENATE BILL 1117

Rules and Operations of the Senate Committee Substitute Adopted 5/12/05

Appropriations/Base Budget Committee Substitute Adopted 7/27/05

Short Title: 2005 Military Support Act.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

**AN ACT TO ENACT THE 2005 SOLDIER, SAILOR, MARINE, AIRMEN, AND
GUARDSMEN SUPPORT ACT.**

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 2nd 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% of the total military payroll, and 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; Now, therefore, The General Assembly of North Carolina enacts:

PART I. FINDINGS.

SECTION 1.1. 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 1.2. 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 1.3. The General Assembly has enacted several recent acts to accommodate the military and intends to continue:

- (1) S.L. 2004-203, Section 80 (deployed personnel get extension to renew occupational licenses).
- (2) S.L. 2004-130 (active duty personnel get in-State tuition rate at universities and community colleges; dependent relative continues to receive in-State rate if member reassigned; nonresident North Carolina National Guard members get in-State rate).
- (3) S.L. 2003-152 (DMV to have a military designation for drivers licenses; allow renewal by mail).
- (4) S.L. 2003-248 (allow redaction of personal identifying information from military discharges filed with register of deeds).
- (5) S.L. 2003-300 (extend drivers license to 90 days following end of deployment; waive civil penalties and fees for lapsed motor vehicle liability insurance; extend property tax filing deadline; extend property listing deadline; grant full refund of tuition and fees from UNC system and community colleges if deployed; waive repayment of North Carolina Legislative Tuition Grants if student called to active duty).

PART II. WAIVE 1/2 MILITARY BASE GAS TAX.

SECTION 2.1. Part 7 of Article 36C of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-449.128. Distribution of part of Highway Fund allocation to military installations and to the Conservation Grant Fund.

(a) Distributable Amount. – The Secretary must annually distribute for the purposes described in this section an amount equal to the amount of motor fuel sold within the military installation exchanges during the previous fiscal year, as reported pursuant to subsection (b) of this section, multiplied by the distribution rate. The distribution rate is one-half of the sum of the flat cents-per-gallon rate in effect during

the year for which the distribution is made and the average of the two variable cents-per-gallon rates in effect during that year.

(b) Report. – Each military installation exchange in this State must report to the Secretary by October 15 of each year the amount of motor fuel sold by the exchange within the military installation during the previous fiscal year. The report must be in the form required by the Secretary. No distribution will be made to a military installation exchange under subsection (c) of this section for reports filed after the due date.

(c) Distribution to RLUAC. – On or before February 1 of each year, the Secretary must distribute from the amount determined under subsection (a) of this section the sum of thirty-five thousand dollars (\$35,000) to Fort Bragg/Pope Air Force Base Regional Land Use Advisory Commission, Inc., a nonprofit corporation. The Regional Land Use Advisory Commission must use the distribution for operating expenses incurred while fostering compatible land use in areas impacted by both proposed civilian development and military training activities around Fort Bragg and Pope Air Force Base.

(d) Distribution of Remainder. – On or before February 1 of each year, the Secretary must distribute the amount determined under subsection (a) of this section less the amount distributable under subsection (c) of this section, as provided in this subsection:

(1) Military installations. – The Secretary must distribute one-half of the remaining distributable amounts to the military installation exchanges that filed a timely report under subsection (b) of this section. The amount distributed to each military installation exchange is its proportionate share based upon the amount of motor fuel sold by the exchange within the military installation during the previous fiscal year. Funds distributed to a military installation exchange under this subdivision must be deposited in the Military Morale, Recreation, and Welfare Fund for that installation and used only for community services and other expenditures to improve quality-of-life programs for military members and their families in North Carolina.

(2) Conservation Grant Fund. – The Secretary must distribute one-half of the remaining distributable amounts to the Conservation Grant Fund established under G.S. 113A-232. Funds distributed to the Conservation Grant Fund under this subdivision must be used for compatible land use and conservation easement type acquisitions of land adjacent to military bases and flyways."

SECTION 2.2. G.S. 105-449.62 reads as rewritten:

"§ 105-449.62. Nature of tax.

This Article imposes a tax on motor fuel to provide revenue for the State's transportation ~~needs and needs~~, for the other purposes listed in Part 7 of this ~~Article~~ Article, and for the purposes provided in G.S. 105-449.128. The tax is collected from the supplier or importer of the fuel because this method is the most efficient way to collect the tax. The tax is designed, however, to be paid ultimately by the person who

consumes the fuel. The tax becomes a part of the cost of the fuel and is consequently paid by those who subsequently purchase and consume the fuel."

SECTION 2.3. This part becomes effective July 1, 2006, and applies to motor fuel sold on or after that date. The first reports under G.S. 105-449.128, as enacted by this act, are due by October 14, 2006.

PART III. ENCOURAGE CERTAIN OCCUPATIONAL LICENSING BOARDS TO DEVELOP POLICIES FOR EXPEDITING THE LICENSING PROCESS FOR MILITARY SPOUSES.

SECTION 3.1. Findings. – The General Assembly finds that:

- (1) According to the Department of Defense, the unemployment rate of military spouses is three times greater than the average American spouse in the same age group;
- (2) The mobile military lifestyle causes some military spouses to endure long periods of unemployment and, thus, loss of income; and
- (3) Professional licensing requirements often differ among states, which in turn may limit career advancement or deter reentry into the workforce for military families moving to new locations.

SECTION 3.2.(a) In an effort to support military personnel and their families, each occupational licensing board in this State is encouraged to develop policies that would make the licensing process for military spouses more efficient and expedient. In expediting the licensing process, an occupational licensing board shall review its current licensing process especially as it relates to military personnel. After reviewing the licensing process, the licensing board may develop and implement policies regarding licensure that provide for assistance to military spouses and dependents to ensure a smooth process when military families move into this State or are transferred out of this State. Implementation of these policies shall not apply to occupational licensing boards regulating health care professionals.

SECTION 3.2.(b) This section does not apply to health professions or to teaching.

PART IV. NEIT/FIT.

SECTION 4. G.S. 115D-5 is amended by adding a new subsection to read:

"(o) Notwithstanding any other provision of law, the State Board of Community Colleges may adopt rules and guidelines that allow the New and Expanding Industry Training Program and the Focused Industrial Training Program to use funds appropriated for those programs to support training projects for the various branches of the United States Armed Forces."

PART V. ALLOWING MEMBERS OF THE ARMED FORCES TO TERMINATE RENTAL AGREEMENTS EARLY WHEN BEING DEPLOYED.

SECTION 5. G.S. 42-45(a) reads as rewritten:

"(a) Any member of the United States Armed Forces who (i) is required to move pursuant to permanent change of station orders to depart 50 miles or more from the

location of the dwelling unit, ~~or~~ (ii) is prematurely or involuntarily discharged or released from active duty with the United States Armed Forces, or (iii) is required to move due to deployment may terminate his rental agreement for a dwelling unit by providing the landlord with a written notice of termination to be effective on a date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's commanding officer."

PART VI. DIRECTING THE DEPARTMENT OF PUBLIC INSTRUCTION TO
APPOINT A LIAISON TO THE MILITARY BASES IN NORTH CAROLINA.

SECTION 6. The Department of Public Instruction shall appoint an employee to serve as its liaison to the military bases in North Carolina. It shall be the responsibility of the liaison to facilitate communication and cooperation between (i) military personnel and their families and the Department and (ii) military personnel and their families and the North Carolina public schools.

PART VII. DIRECTING THE STATE BOARD OF EDUCATION AND THE BOARD
OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO REVIEW
AND REVISE THE POLICIES AND PROCEDURES REGARDING CREDIT FOR
HIGH SCHOOL COURSES TO ENSURE THAT ALL STUDENTS, ESPECIALLY
THE CHILDREN OF MILITARY PERSONNEL, RECEIVE CREDIT FOR
COURSES TAKEN OUT-OF-STATE.

SECTION 7. The State Board of Education shall review and revise the policies and practices related to students receiving credit for high school courses to ensure that all students, especially the highly mobile children of members of the armed forces, receive credit in the North Carolina public schools for comparable courses taken out-of-State. The State Board shall report the results of this review and any actions taken as a result of the study to modify its policies and practices to the Joint Legislative Education Oversight Committee prior to December 15, 2005.

PART VIII. ALLOWING IN-STATE TUITION AT STATE UNIVERSITIES AND
COMMUNITY COLLEGES FOR ARMED SERVICES PERSONNEL AND THEIR
DEPENDENTS.

SECTION 8. G.S. 116-143.3 reads as rewritten:

"§ 116-143.3. ~~Tuition of active duty personnel in the armed services.~~ armed services personnel and their dependents.

(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 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 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, Carolina or retires, 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) (b2) Repealed by Session Laws 2004-130, s. 1, effective August 1, 2004.

(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 is reassigned outside of North Carolina, Carolina or retires, 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.~~ The person applying for the benefit of this section has the burden of proving entitlement to the benefit.

(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)."

PART IX. A STUDENT IS ELIGIBLE TO BE CONSIDERED FOR ADMISSION INTO THE SCHOOL OF SCIENCE AND MATHEMATICS IF THE STUDENT'S PARENT IS AN ACTIVE DUTY MEMBER OF THE ARMED SERVICES STATIONED IN THIS STATE AT THE TIME THE STUDENT'S APPLICATION IS SUBMITTED.

SECTION 9.1. G.S. 116-235(b)(1) reads as rewritten:

"(1) Admission of Students. – The School shall admit students in accordance with criteria, standards, and procedures established by the Board of Trustees. To be eligible to be considered for admission, an applicant must be either a legal resident of the State, as defined by G.S. 116-143.1(a)(1); G.S. 116-143.1(a)(1), or a student whose parent

is an active duty member of the armed services, as defined by G.S. 116-143.3(2), who is abiding in this State incident to active military duty at the time the application is submitted, provided the student shares the abode of that parent; eligibility to remain enrolled in the School shall terminate at the end of any school year during which a student becomes a nonresident of the State. The Board of Trustees shall ensure, insofar as possible without jeopardizing admission standards, that an equal number of qualified rising high school juniors is admitted to the program and to the residential summer institutes in science and mathematics from each of North Carolina's congressional districts. In no event shall the differences in the number of rising high school juniors offered admission to the program from each of North Carolina's congressional districts be more than two and one-half percentage points from the average number per district who are offered admission."

SECTION 9.2. This part is effective when it becomes law and applies to the 2005-2006 academic year and each subsequent academic year.

PART X. EFFECTIVE DATE.

SECTION 10. Except as provided otherwise, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

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SENATE BILL 1117

Rules and Operations of the Senate Committee Substitute Adopted 5/12/05
Appropriations/Base Budget Committee Substitute Adopted 7/27/05
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1117-PCS35277-LR-45

Short Title: 2005 Military Support Act.

(Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO ENACT THE 2005 SOLDIER, SAILOR, MARINE, AIRMEN, AND
GUARDSMEN SUPPORT ACT.

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 2nd 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% of the total military payroll, and 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; Now, therefore,
The General Assembly of North Carolina enacts:

PART I. FINDINGS.

SECTION 1.1. 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 1.2. 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 1.3. The General Assembly has enacted several recent acts to accommodate the military and intends to continue:

- (1) S.L. 2004-203, Section 80 (deployed personnel get extension to renew occupational licenses).
- (2) S.L. 2004-130 (active duty personnel get in-State tuition rate at universities and community colleges; dependent relative continues to receive in-State rate if member reassigned; nonresident North Carolina National Guard members get in-State rate).
- (3) S.L. 2003-152 (DMV to have a military designation for drivers licenses; allow renewal by mail).
- (4) S.L. 2003-248 (allow redaction of personal identifying information from military discharges filed with register of deeds).
- (5) S.L. 2003-300 (extend drivers license to 90 days following end of deployment; waive civil penalties and fees for lapsed motor vehicle liability insurance; extend property tax filing deadline; extend property listing deadline; grant full refund of tuition and fees from UNC system and community colleges if deployed; waive repayment of North Carolina Legislative Tuition Grants if student called to active duty).

PART II. ENCOURAGE CERTAIN OCCUPATIONAL LICENSING BOARDS TO DEVELOP POLICIES FOR EXPEDITING THE LICENSING PROCESS FOR MILITARY SPOUSES.

SECTION 2.1. Findings. – The General Assembly finds that:

- (1) According to the Department of Defense, the unemployment rate of military spouses is three times greater than the average American spouse in the same age group;
- (2) The mobile military lifestyle causes some military spouses to endure long periods of unemployment and, thus, loss of income; and

- (3) Professional licensing requirements often differ among states, which in turn may limit career advancement or deter reentry into the workforce for military families moving to new locations.

SECTION 2.2.(a) In an effort to support military personnel and their families, each occupational licensing board in this State is encouraged to develop policies that would make the licensing process for military spouses more efficient and expedient. In expediting the licensing process, an occupational licensing board shall review its current licensing process especially as it relates to military personnel. After reviewing the licensing process, the licensing board may develop and implement policies regarding licensure that provide for assistance to military spouses and dependents to ensure a smooth process when military families move into this State or are transferred out of this State. Implementation of these policies shall not apply to occupational licensing boards regulating health care professionals.

SECTION 2.2.(b) This section does not apply to health professions or to teaching.

PART III. NEIT/FIT.

SECTION 3. G.S. 115D-5.1 is amended by adding a new subsection to read:

"(b1) Notwithstanding any other provision of law, the State Board of Community Colleges may adopt rules and guidelines that allow the New and Expanding Industry Training Program and the Focused Industrial Training Program to use funds appropriated for those programs to support training projects for the various branches of the United States Armed Forces."

PART IV. ALLOWING MEMBERS OF THE ARMED FORCES TO TERMINATE RENTAL AGREEMENTS EARLY WHEN BEING DEPLOYED.

SECTION 4.1. G.S. 42-45 reads as rewritten:

"§ 42-45. Early termination of rental agreement by military personnel.

(a) Any member of the United States Armed Forces who (i) is required to move pursuant to permanent change of station orders to depart 50 miles or more from the location of the dwelling unit, ~~or~~ (ii) is prematurely or involuntarily discharged or released from active duty with the United States Armed Forces, or (iii) is required to move due to deployment may terminate his rental agreement for a dwelling unit by providing the landlord with a written notice of termination to be effective on a date stated in the notice that is at least 30 days after the landlord's receipt of the notice. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's commanding officer.

(a1) Any member of the United States Armed Forces who is deployed with a military unit for a period of not less than 90 days may terminate his rental agreement for a dwelling unit by providing the landlord with a written notice of termination. The notice to the landlord must be accompanied by either a copy of the official military orders or a written verification signed by the member's commanding officer. Termination of a lease pursuant to this subsection is effective 30 days after the first date on which the next rental payment is due or 45 days after the landlord's receipt of the

1 notice, whichever is shorter, and payable after the date on which the notice of
2 termination is delivered.

3 (a2) Upon termination of a rental agreement under this section, the tenant is liable
4 for the rent due under the rental agreement prorated to the effective date of the
5 termination payable at such time as would have otherwise been required by the terms of
6 the rental agreement. The tenant is not liable for any other rent or damages due to the
7 early termination of the tenancy except the liquidated damages provided in subsection
8 (b) of this section. If a member terminates the rental agreement pursuant to this section
9 14 or more days prior to occupancy, no damages or penalties of any kind shall be due.

10 (b) In consideration of early termination of the rental agreement, the tenant is
11 liable to the landlord for liquidated damages provided the tenant has completed less than
12 nine months of the tenancy and the landlord has suffered actual damages due to loss of
13 the tenancy. The liquidated damages shall be in an amount no greater than one month's
14 rent if the tenant has completed less than six months of the tenancy as of the effective
15 date of termination, or one-half of one month's rent if the tenant has completed at least
16 six but less than nine months of the tenancy as of the effective date of termination.

17 (c) The provisions of this section may not be waived or modified by the
18 agreement of the parties under any circumstances. Nothing in this section shall affect
19 the rights established by G.S. 42-3."

20 SECTION 4.2. Section 4.1 of this act applies to rental agreements entered
21 into or renewed on or after the date this act becomes law.

22
23 PART V. DIRECTING THE DEPARTMENT OF PUBLIC INSTRUCTION TO
24 STUDY THE FEASIBILITY OF A LIAISON TO THE MILITARY BASES IN
25 NORTH CAROLINA.

26 SECTION 5. The Department of Public Instruction shall study the feasibility
27 of designating an employee to serve as its liaison to the military bases in North Carolina
28 and report to the 2006 Regular Session of the 2005 General Assembly. It shall be the
29 responsibility of the liaison to facilitate communication and cooperation between (i)
30 military personnel and their families and the Department and (ii) military personnel and
31 their families and the North Carolina public schools.

32
33 PART VI. DIRECTING THE STATE BOARD OF EDUCATION AND THE BOARD
34 OF GOVERNORS OF THE UNIVERSITY OF NORTH CAROLINA TO REVIEW
35 AND REVISE THE POLICIES AND PROCEDURES REGARDING CREDIT FOR
36 HIGH SCHOOL COURSES TO ENSURE THAT ALL STUDENTS, ESPECIALLY
37 THE CHILDREN OF MILITARY PERSONNEL, RECEIVE CREDIT FOR
38 COURSES TAKEN OUT-OF-STATE.

39 SECTION 6. The State Board of Education shall review and revise the
40 policies and practices related to students receiving credit for high school courses to
41 ensure that all students, especially the highly mobile children of members of the armed
42 forces, receive credit in the North Carolina public schools for comparable courses taken
43 out-of-State. The State Board shall report the results of this review and any actions

1 taken as a result of the study to modify its policies and practices to the Joint Legislative
2 Education Oversight Committee prior to December 15, 2005.

3
4 PART VII. ALLOWING IN-STATE TUITION AT STATE UNIVERSITIES AND
5 COMMUNITY COLLEGES FOR RETIRED ARMED SERVICES PERSONNEL
6 AND THEIR DEPENDENTS.

7 SECTION 7. G.S. 116-143.3 reads as rewritten:

8 "**§ 116-143.3. Tuition of ~~active duty personnel in the armed services.~~armed**
9 **services personnel and their dependents.**

10 (a) Definitions. – The following definitions apply in this section:

- 11 (1) The term "abode" shall mean the place where a person actually lives,
12 whether temporarily or permanently; the term "abide" shall mean to
13 live in a given place.
14 (2) The term "armed services" shall mean the United States Air Force,
15 Army, Coast Guard, Marine Corps, and Navy; the North Carolina
16 National Guard; and any Reserve Component of the foregoing.
17 (3) The term "tuition assistance" shall be used as defined in the United
18 States Department of Defense Directive 1322.8, implementing 10
19 U.S.C. § 2007.

20 (b) Any active duty member of the armed services qualifying for admission to an
21 institution of higher education as defined in G.S. 116-143.1(a)(3) but not qualifying as a
22 resident for tuition purposes under G.S. 116-143.1 shall be charged the in-State tuition
23 rate and applicable mandatory fees for enrollments while the member of the armed
24 services is abiding in this State incident to active military duty in this State. In the event
25 the active duty member of the armed services is reassigned outside of North ~~Carolina,~~
26 Carolina or retires, the member shall continue to be eligible for the in-State tuition rate
27 and applicable mandatory fees so long as the member is continuously enrolled in the
28 degree or other program in which the member was enrolled at the time the member is
29 reassigned.

30 (b1) (b2) Repealed by Session Laws 2004-130, s. 1, effective August 1, 2004.

31 (c) Any dependent relative of a member of the armed services who is abiding in
32 this State incident to active military duty, as defined by the Board of Governors of The
33 University of North Carolina and by the State Board of Community Colleges while
34 sharing the abode of that member shall be eligible to be charged the in-State tuition rate,
35 if the dependent relative qualifies for admission to an institution of higher education as
36 defined in G.S. 116-143.1(a)(3). The dependent relatives shall comply with the
37 requirements of the Selective Service System, if applicable, in order to be accorded this
38 benefit. In the event the member of the armed services is reassigned outside of North
39 ~~Carolina,~~ Carolina or retires, the dependent relative shall continue to be eligible for the
40 in-State tuition rate and applicable mandatory fees so long as the dependent relative is
41 continuously enrolled in the degree or other program in which the dependent relative
42 was enrolled at the time the member is reassigned.

1 (d) ~~The burden of proving entitlement to the benefit of this section shall lie with~~
2 ~~the applicant therefor.~~ The person applying for the benefit of this section has the burden
3 of proving entitlement to the benefit.

4 (e) A person charged less than the out-of-state tuition rate solely by reason of this
5 section shall not, during the period of receiving that benefit, qualify for or be the basis
6 of conferring the benefit of G.S. 116-143.1(g), (h), (i), (j), (k), or (l)."

7
8 PART VIII. A STUDENT IS ELIGIBLE TO BE CONSIDERED FOR ADMISSION
9 INTO THE SCHOOL OF SCIENCE AND MATHEMATICS IF THE STUDENT'S
10 PARENT IS AN ACTIVE DUTY MEMBER OF THE ARMED SERVICES
11 STATIONED IN THIS STATE AT THE TIME THE STUDENT'S APPLICATION IS
12 SUBMITTED.

13 **SECTION 8.1.** G.S. 116-235(b)(1) reads as rewritten:

14 "(1) Admission of Students. – The School shall admit students in
15 accordance with criteria, standards, and procedures established by the
16 Board of Trustees. To be eligible to be considered for admission, an
17 applicant must be either a legal resident of the State, as defined by
18 G.S. 116-143.1(a)(1); G.S. 116-143.1(a)(1), or a student whose parent
19 is an active duty member of the armed services, as defined by
20 G.S. 116-143.3(2), who is abiding in this State incident to active
21 military duty at the time the application is submitted, provided the
22 student shares the abode of that parent; eligibility to remain enrolled in
23 the School shall terminate at the end of any school year during which a
24 student becomes a nonresident of the State. The Board of Trustees
25 shall ensure, insofar as possible without jeopardizing admission
26 standards, that an equal number of qualified rising high school juniors
27 is admitted to the program and to the residential summer institutes in
28 science and mathematics from each of North Carolina's congressional
29 districts. In no event shall the differences in the number of rising high
30 school juniors offered admission to the program from each of North
31 Carolina's congressional districts be more than two and one-half
32 percentage points from the average number per district who are offered
33 admission."

34 **SECTION 8.2.** This part is effective when it becomes law and applies to the
35 2005-2006 academic year and each subsequent academic year.

36
37 PART IX. EFFECTIVE DATE.

38 **SECTION 9.** Except as provided otherwise, this act is effective when it
39 becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2005

FISCAL ANALYSIS MEMORANDUM

[This confidential fiscal memorandum is a fiscal analysis of a draft bill, amendment, committee substitute, or conference committee report that has not been formally introduced or adopted on the chamber floor or in committee. This is not an official fiscal note. If upon introduction of the bill you determine that a formal fiscal note is needed, please make a fiscal note request to the Fiscal Research Division, and one will be provided under the rules of the House and the Senate.]

DATE: August 29, 2005

TO: House Appropriations Committee

FROM: Richard Bostic 
Fiscal Research Division

RE: PCS S1117-CSLR-45[V3]

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
REVENUES: UNC and Community College Tuition					
	Minimal Impact (See Assumptions and Methodology)				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Certain Occupational Licensing Boards, State Board of Community Colleges, Department of Public Instruction, State Board of Education, University of North Carolina, School of Science and Mathematics.					
EFFECTIVE DATE: This act is effective when it becomes law.					

BILL SUMMARY:

The bill adopts the following provisions to further support US military bases and installations in NC: (2) Urges NC occupational licensing boards to develop policies to expedite the licensing process for military spouses, except does not apply to health professions or to teaching. (3) Authorizes State Board of Community Colleges to adopt rules that allow the New and Expanding Industry Training Program and the Focused Industrial Training Program to use funds to support training projects for the various branches of the US Armed Forces. (4) Allows members of the Armed Forces to terminate rental agreements early when being deployed. (5) Directs the Department of Public Instruction (DPI) to study the appointment of a liaison to the military bases in NC to facilitate communication between DPI and military families and public schools and military families. (6) Requires that the State Board of Education review transfer credit policies to

ensure that students, especially children of Armed Forces members, receive credit for courses taken outside NC, and report review results and policy modifications to the Joint Legislative Education Oversight Committee by December 15, 2005. (7) Provides that active duty members of the US armed services and their dependents will continue to be eligible for the in-state tuition rate upon member's retirement. (8) Provides that the child of an active duty member of the military stationed in NC need not satisfy the residency requirements of the NC School of Science and Mathematics, effective beginning with the 2005-06 academic year.

Source: Bill Digest S.B. 1117.

ASSUMPTIONS AND METHODOLOGY:

Only Section 7 of this act has a potential impact on state revenues. Based on information provided by Fayetteville State University and East Carolina University, two campuses with a large number of military enrollments due to their proximity to military bases, it appears that the fiscal impact of Section 7 will be minimal. Fayetteville State University did not have any students that would benefit from this bill. East Carolina reported that for the academic year Fall 2003 through 2nd Summer Session 2004, 231 military waivers were granted for military personnel and their dependents. Retired military personnel petitioning for legal residence were given in-state tuition status according to G.S. 116-143.1. One case might have fallen in the category affected by this Part. A student was denied in-state status because the military member was to be discharged prior to the first day of class but had taken few steps toward establishing North Carolina as the permanent legal domicile.

SOURCES OF DATA: University of North Carolina

TECHNICAL CONSIDERATIONS: None



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1117

AMENDMENT NO. 1
(to be filled in by
Principal Clerk)

S1117-ALR-28 [v.2]

Page 1 of 2

Date 8/29, 2005

Comm. Sub. [YES]
Amends Title [NO]
PCS35277-LR-45

Representative Dickson

1 moves to amend the bill on page 2, line 34, by adding the following:

2 "PART IA. MILITARY MORALE, RECREATION AND WELFARE FUNDS,
3 CONSERVATION GRANT FUNDS.

4 **SECTION 1A.1.(a)** There is appropriated from the General Fund to a
5 Reserve for the Military Morale, Recreation, and Welfare Fund in the Office of State
6 Budget and Management for the 2006-2007 fiscal year the sum of one million dollars
7 (\$1,000,000).

8 **SECTION 1A.1.(b)** The Office of State Budget and Management shall
9 distribute for the purposes described in this section the amount appropriated by
10 subsection (a) of this section. That amount shall be distributed to each military
11 installation on a per capita basis.

12 **SECTION 1A.1.(c)** Funds distributed to a military installation exchange
13 under this section must be deposited in the Military Morale, Recreation, and Welfare
14 Fund for that installation and used only for community services and other expenditures
15 to improve quality of life programs for military members and their families in North
16 Carolina.

17 **SECTION 1A.2.** There is appropriated from the General Fund to the
18 Conservation Grant Fund established under G.S. 113A-232 for the 2006-2007 fiscal
19 year the sum of one million dollars (\$1,000,000). Funds distributed to the Conservation
20
21
22
23
24
25



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1117

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S1117-ALR-28 [v.2]

Page 2 of 2

- 1 Grant Fund under this section must be used for compatible land use and conservation
- 2 easement type acquisitions of land adjacent to military bases and flyways.
- 3 **SECTION 1A.3.** This part becomes effective July 1, 2006."

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1117

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

S1117-ALR-27 [v.1]

Page 1 of 1

Date 8/29, 2005

Comm. Sub. [NO]
Amends Title [NO]
PCS35277

Representative ~~Robert Dixon~~ Dickson

- 1 moves to amend the bill on page 3, lines 31-33, by rewriting the lines to read:
2
3 "location of the dwelling unit, or (ii) is prematurely or involuntarily discharged or
4 released from active duty with the United States Armed Forces, may terminate his rental
5 agreement for a dwelling unit by"
6

SIGNED Robert Dixon
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Appropriations

Name of Committee

8-29-05
Date 6:30 pm

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Chris Fitzsim

NE Pol. & Health

Ardis Watkins

SEANC

Johanna Reese

DE NR

Lisa Martin

NCHBA

Saul Sauls

WCSR

John McCall

AFAS

Montezuma

NMRS

VISITOR REGISTRATION SHEET

Appropriations

Name of Committee

Date

7.29.05

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Cam Owen

BPM HL

Elizabeth Self

Sierra Club

John Bowditch

Bone & Assoc

John Bowditch

Astra Zeneca

John Bowditch

NCPC

Richard S. Lee

Richard Lee & Assoc.

Andrew W. Lee

NCCES

Jim Blackburn

NC Association of
County Commissioners

John Lee

Gov Affairs

Zach Abruzzo

CT GOV

John Lee

PR

Kathy Hawkes

Progress Energy

VISITOR REGISTRATION SHEET

Appropriations

Name of Committee

Date

8-29-05

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Michael Houser	NCAE
Brian Lewis	Covenant w/ NC's children
Donna Alderman	DOR
Chris Sinha	DAHS/DSS
JD Ann Lee	PHS/DSS
Robbman	HHS
Susan Coward	NC DOT
Mark Beason	Capital Group
John Hill	PLT
Colleen Kochanek	AVANC

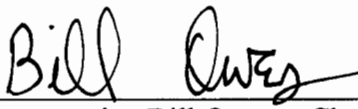
MINUTES
HOUSE COMMITTEE ON APPROPRIATIONS
AUGUST 29, 2005

The House Committee on Appropriations met on Monday, August 29, 2005, in Room 643 of the Legislative Office Building at 8:55 p.m. Chairman Owens convened the meeting. There were 63 House members present as well as staff. A visitor registration is attached and made a part of these minutes.

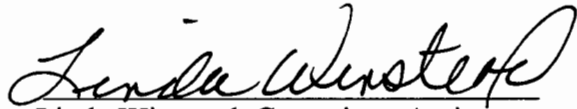
HB 575 INCREASE COMM.COLL.FACULTY SALARIES

Chairman Owens recognized Representative Coleman to explain the bill. Representative Crawford moved to consider a proposed committee substitute that changed the bill to give certain state employees an additional \$150 bonus, and the motion carried. Representative Nye moved to give the proposed committee substitute a favorable report. A show of hands passed the motion by a count of 46 to 12.

The meeting adjourned at 9:15 pm.



Representative Bill Owens, Chair



Linda Winstead, Committee Assistant

Representative Debbie Clary
Representative Jim Crawford
Representative Beverly Earle
Representative Edd Nye
Representative Wilma Sherrill

**2005 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

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

By Representative Clary, Crawford, Earle, Nye, Owens, Sherrill (Chairs) for the
Committee on APPROPRIATIONS.

☐ Committee Substitute for

HB 575 A BILL TO BE ENTITLED AN ACT TO APPROPRIATE FUNDS TO
IMPLEMENT THE SECOND YEAR OF THE PLAN TO INCREASE THE SALARIES OF
FULL-TIME, CURRICULUM COMMUNITY COLLEGE FACULTY AND PROFESSIONAL
STAFF.

☒ With a favorable report as to the committee substitute bill, which changes the title,
unfavorable as to the original bill.

(FOR JOURNAL USE ONLY)

_____ Pursuant to Rule 32(a), the bill/resolution is re-referred to the Committee on
_____.

_____ Pursuant to Rule 36(b), the (House/Senate) committee substitute bill/(joint) resolution
(No. _____) is placed on the Calendar of _____. (The original bill resolution No. _____)
is placed on the Unfavorable Calendar.

_____ The (House) committee substitute bill/(joint) resolution (No. _____) is re-referred to the
Committee on _____. (The original bill/resolution) (House/Senate Committee Substitute
Bill/(Joint) resolution No. _____) is placed on the Unfavorable Calendar.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

H

D

HOUSE BILL 575
PROPOSED COMMITTEE SUBSTITUTE H575-PCS30380-LR-44

Short Title: Lump-Sum Bonuses for Certain State Employees. (Public)

Sponsors:

Referred to:

March 10, 2005

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING A COMPENSATION BONUS OF ONE HUNDRED FIFTY
3 DOLLARS FOR THE 2005-2006 FISCAL YEAR TO CERTAIN STATE
4 EMPLOYEES EARNING LESS THAN FIFTY THOUSAND DOLLARS PER
5 YEAR.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** Except as provided by subsection (d) of this section, any
8 employee (i) whose salary is set pursuant to the State Personnel Act or under Part 29 of
9 S.L. 2005-276 and (ii) who was hired into a State-funded position on or before June 30,
10 2005, and is employed in that position on December 1, 2005, shall be awarded a
11 one-time, lump-sum compensation bonus for the 2005-2006 fiscal year in the amount of
12 one hundred fifty dollars (\$150.00). The compensation bonus shall be payable in the
13 final December 2005 payroll. The compensation bonus shall be adjusted pro rata for
14 permanent part-time employees.

15 **SECTION 1.(b)** There is appropriated from the General Fund to the Reserve
16 for Compensation Increases the sum of twenty-one million dollars (\$21,000,000) for
17 fiscal year 2005-2006 to implement this act. There is appropriated from the Highway
18 Fund to the Reserve for Compensation Increases the sum of one million seven hundred
19 thousand dollars (\$1,700,000) for fiscal year 2005-2006 to implement this act. Except as
20 provided by subsection (d) of this section, the compensation bonus shall be awarded to
21 eligible employees without regard to an employee's placement within the salary range,
22 including employees at the top of the salary range.

23 **SECTION 1.(c)** Notwithstanding G.S. 135-1(7a), the compensation bonus
24 provided by this act is not compensation under Article 1 of Chapter 135 of the General
25 Statutes; the Teachers' and State Employees' Retirement System. The compensation
26 bonus awarded by this act shall not be administered under G.S. 126-7.

27 **SECTION 1.(d)** The following employees shall not be eligible for the
28 compensation bonus authorized by this section:

- 1 (1) Any public school employee or State employee paid on the Teacher
- 2 Salary Schedule or the School Based Administrator Salary Schedule.
- 3 (2) Any employee earning a salary of fifty thousand dollars (\$50,000) per
- 4 year or more on June 30, 2005.
- 5 (3) Any permanent part-time employee who would have earned a salary of
- 6 fifty thousand dollars (\$50,000) per year or more on June 30, 2005, if
- 7 the employee's position was full-time.

8 **SECTION 2.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H

1

HOUSE BILL 575

Short Title: Increase Comm. Coll. Faculty Salaries.

(Public)

Sponsors: Representatives Tolson, McLawhorn, Warren, Bordsen (Primary Sponsors); B. Allen, L. Allen, Carney, Cleveland, Cole, Coleman, Dickson, Dockham, England, Faison, Farmer-Butterfield, Fisher, Frye, Gibson, Gillespie, Glazier, Goforth, Goodwin, Holliman, Justice, Langdon, LaRoque, Luebke, McGee, Parmon, Rapp, Ray, Ross, Underhill, Wainwright, Walend, Weiss, Womble, and Wray.

Referred to: Appropriations.

March 10, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO APPROPRIATE FUNDS TO IMPLEMENT THE SECOND YEAR OF
3 THE PLAN TO INCREASE THE SALARIES OF FULL-TIME, CURRICULUM
4 COMMUNITY COLLEGE FACULTY AND PROFESSIONAL STAFF.

5 Whereas, in 2004, the General Assembly reformed community college
6 faculty salary policy by introducing a minimum salary and an incentive scale; and

7 Whereas, in 2004, the General Assembly appropriated funds for a 4.5% salary
8 increase to implement the first year of a plan to increase the salaries of full-time,
9 curriculum community college faculty; and

10 Whereas, as a result of the policy reforms and the appropriation, full-time,
11 curriculum community college salaries increased 6.8% last year; and

12 Whereas, despite this increase, community college salaries in North Carolina
13 are still among the lowest in the nation; Now, therefore,

14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** There is appropriated from the General Fund to the
16 Community Colleges System Office the sum of twenty-five million eight hundred
17 seventy thousand two hundred seventy-seven dollars (\$25,870,277) for the 2005-2006
18 fiscal year and the sum of twenty-five million eight hundred seventy thousand two
19 hundred seventy-seven dollars (\$25,870,277) for the 2006-2007 fiscal year to
20 implement the second year of the plan to increase the salaries of full-time, curriculum
21 community college faculty and professional staff.

22 **SECTION 2.(a)** The minimum salaries for community college faculty shall
23 be based on the following education levels:

- (1) Vocational Diploma/Certificate or Less. – This education level includes faculty members who are high school graduates, have vocational diplomas, or have completed one year of college.
- (2) Associates Degree or Equivalent. – This education level includes faculty members who have an associates degree or have completed two or more years of college but have no degree.
- (3) Bachelors Degree.
- (4) Masters Degree or Education Specialist.
- (5) Doctoral Degree.

SECTION 2.(b) For the 2005-2006 school year, the minimum salaries for nine-month, full-time, curriculum community college faculty shall be as follows:

Education Level	Minimum Salary
Vocational Diploma/Certificate or Less	\$28,512
Associates Degree or Equivalent	\$28,944
Bachelors Degree	\$30,817
Masters Degree or Education Specialist	\$32,478
Doctoral Degree	\$34,874.

No full-time faculty member shall earn less than the minimum salary for his or her education level.

The pro rata hourly rate of the minimum salary for each education level shall be used to determine the minimum salary for part-time faculty members.

SECTION 2.(c)

- (1) It is the intent of the General Assembly to encourage community colleges to make faculty salaries a priority and to reward colleges that have taken steps to achieve the national average, therefore:
 - a. If the average faculty salary at a community college is one hundred percent (100%) or more of the national average community college faculty salary, the college may transfer up to eight percent (8%) of the State funds allocated to it for faculty salaries.
 - b. If the average faculty salary at a community college is at least ninety-five percent (95%) but less than one hundred percent (100%) of the national average community college faculty salary, the college may transfer up to six percent (6%) of the State funds allocated to it for faculty salaries.
 - c. If the average faculty salary at a community college is at least ninety percent (90%) but less than ninety-five percent (95%) of the national average community college faculty salary, the college may transfer up to five percent (5%) of the State funds allocated to it for faculty salaries.
 - d. If the average faculty salary at a community college is at least eighty-five percent (85%) but less than ninety percent (90%) of the national average community college faculty salary, the

college may transfer up to three percent (3%) of the State funds allocated to it for faculty salaries.

- e. If the average faculty salary at a community college is eighty-five percent (85%) or less of the national average community college faculty salary, the college may transfer up to two percent (2%) of the State funds allocated to it for faculty salaries.

Except as provided by subdivision (2) of this subsection, a community college shall not transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by this subsection.

- (2) With the approval of the State Board of Community Colleges, a community college at which the average faculty salary is eighty-five percent (85%) or less of the national average may transfer a greater percentage of the State funds allocated to it for faculty salaries than is authorized by sub-subdivision e. of subdivision (1) of this subsection. The State Board shall approve the transfer only for purposes that directly affect student services.

The State Board of Community Colleges shall adopt rules to implement the provisions of this subdivision.

- (3) A local community college may use all State funds allocated to it except for Literacy Funds and Funds for New and Expanding Industries to increase faculty salaries.

SECTION 2.(d) As used in this section:

- (1) "Average faculty salary at a community college" means the total nine-month salary from all sources of all nine-month, full-time, curriculum faculty at the college, as determined by the North Carolina Community College System on October 1 of each year.
- (2) "National average community college faculty salary" means the nine-month, full-time, curriculum salary average, as published by the Integrated Postsecondary Education Data System (IPEDS), for the most recent year for which data are available.

SECTION 2.(e) The State Board of Community Colleges shall adopt rules to implement the provisions of this section.

SECTION 2.(f) The State Board of Community Colleges shall report to the appropriations subcommittees on education, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Fiscal Research Division, and the Office of State Budget and Management by December 1, 2005, and every year thereafter through December 1, 2009, on the implementation of this section.

SECTION 2.(g) 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. These funds shall not be transferred by the State Board or used for any other budget purpose by the community colleges.

SECTION 3. This act becomes effective July 1, 2005.

VISITOR REGISTRATION SHEET

Name of Committee

Date

8-29-05

8:55 pm

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Tom Harris

WCPSS

W. H. Howell

NCICU

H. Johnson

Smarter Anderson

Art Britt

NCDA

Jim. Hardy

NCPC

Herb Leonard

WCSR

Andy Elka

NCMA

John H. H.

NCFPC

BILL SLOGIN

KCLH